

Memo

Environment

To:	Matthew Edmonds , Development Assessment Manager
From:	Adam Mitchell, Planner
Date:	19 December 2018
Application Number:	Mod2018/0635
Address:	Lot 2127 DP 752038 , 8 Nargong Road ALLAMBIE HEIGHTS NSW 2100
Proposed Modification:	Modification of Development Consent DA2018/0559 granted for Demolition work and construction of a dwelling house with a secondary dwelling

Background

The abovementioned development consent was granted by Council on 29 June 2018 for demolition works and construction of a dwelling house with a secondary dwelling.

Details of Modification Application

Under Section 96(1) of the EPA Act 1979, a consent containing an error or mis-description may be amended. Warringah DCP 2011 (A7 Notification) does not require the notification of Section 96(1) modification applications as they are considered to be for minor changes that do not affect the development or the amenity of adjoining properties.

The application seeks to delete condition(s) No. 1 - Registration of Allotment - which reads as follows:

Registration of Allotment

This consent is not to be activated until a time that a Subdivision Certificate for development consent DA2016/0834 for the land has been issued and registered with the NSW Land Registry Services.

Note: This consent is to be read in conjunction with DA2016/0834.

Reason: To ensure the development allotment legally exists.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000.

Consideration of error or mis-description

The subject site has two current development Consents on the land, neither which have been activated. The first Consent is DA2016/0834 which was approved in January 2017 for demolition of the existing dwelling and the torrens title subdivision of one lot into two lots.

Following this approval, DA2018/0559 for the construction of a dwelling house and secondary dwelling was approved, with the building footprint being entirely within one of the future subdivision allotments. However, the application sought to have the structures built in the existing lot, and not the future lot.

Therefore, as the applicant had not requested for the two consents to the linked (as had been done via Condition 1 of DA2018/0559), and that Condition 1 prevents the lawful erection of a dwelling house and secondary dwelling on an existing allotment, it is considered warranted in the circumstances to delete such a condition. In this instance, given the oversight in the staging of Consents and the fact that such a condition was never anticipated by the applicant, it can be considered that the condition was imposed by Council in error. Accordingly, the provisions of Section 4.55 (1) apply.

Conclusion

It is considered that the modification is minor in nature and consistent with the provisions of section 4.55(1) of the EPA Act 1979 and is therefore recommended for approval.

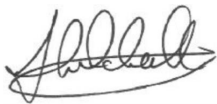
Recommendation

THAT Council as the consent authority approve Modification Application No. Mod2018/0635 for Modification of Development Consent DA2018/0559 granted for Demolition work and construction of a dwelling house with a secondary dwelling on land at Lot 2127 DP 752038,8 Nargong Road, ALLAMBIE HEIGHTS, as follows:

Delete Condition 1 - Registration of Allotment.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Adam Mitchell, Principal Planner

The application is determined on 19/12/2018, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments