



APPLICATION FOR MODIFICATION ASSESSMENT REPORT

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| Application Number: | Mod2019/0507 |
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| Responsible officer: | Geoff Goodyer - external planning consultant, Symons Goodyer Pty Ltd |
| Land to be developed (address): | Part Lot 2743, DP 752038, Campbell Parade, Manly Vale – Nolans Reserve |
| Proposed development: | Modification of consent to DA2017/0353 granted for demolition and construction of a new sports amenities building. |
| Proposed modification: | Section 4.55 (1a) minor modification for selected changes including floor level, roof form and internal layout. |
| Zoning: | Warringah LEP 2011 – Land zoned RE1 Public Recreation |
| Development permissible: | Yes – Recreation facilities (outdoors) |
| Existing use rights: | No |
| Consent authority: | Northern Beaches Council |
| Delegation level: | Development Determination Panel |
| Land and Environment Court action: | No |
| Owner: | Northern Beaches Council |
| Applicant: | Northern Beaches Council |

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| Application lodged: | 18 October 2019 |
| Integrated development: | No |
| Designated development: | No |
| Notified: | 5/11/2019 to 19/11/2019 |
| Advertised: | Not advertised |
| Submissions received: | Nil |
| Recommendation: | Approval |

EXECUTIVE SUMMARY

On 4 August 2017 Council approved DA2017/0353 for “*demolition works and construction of new sports amenities buildings*”. The original development application was determined by Council’s Application Determination Panel (ADP) being a Council facility. Since this is a minor modification and no contentious issues have been raised by submissions or the assessment the matter may be referred to the DDP for determination. This is because the applicant and land owner is Council and recent directions regarding Section 4.55 of the Act, by the Minister of Planning “do not extend to modifications”

During the construction certificate phase the proposal has gone through a process of design refinement which has resulted in a number of minor changes to the design of the amenities building.

The author of this report (independent external consultant) concludes that the proposal will have no additional or unreasonable impacts and the changes are consistent with that compared to the original approval. The proposal is considered to be substantially the same development as that which was originally approved. Consequently, the proposal is recommended for approval pursuant to s. 4.55(1A) of the EPA Act 1979.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (ie: this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011
Warringah Development Control Plan 2011

SITE DESCRIPTION

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| Property description: | Part lot 2743, DP 752038, Campbell Parade, Manly Vale – Nolan Reserve |
| Detailed site description: | Nolan Reserve is bounded by Pittwater Road to the east and Manly Creek to the west. It adjoins the North |

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| | <p>Manly Bowling Club to the north and residential development to the south.</p> <p>Nolan Reserve is used for playing fields and contains a number of existing amenities buildings and a bicycle track. It is fringed by trees.</p> <p>Nolan Reserve is owned by Northern Beaches Council and is classified as Community Land under the Local Government Act 1993.</p> |
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LOCALITY PLAN (not to scale)



Figure 1 – Location of Site

SITE HISTORY

The existing playing fields were created in the mid-1900's on the site of former farm lands, predominantly market gardens and dairies. The land has been extensively levelled, reclaimed and turfed.

Consent to DA2017/0353 was granted on 4 August 2017 Council approved DA2017/0353 for “*demolition works and construction of new sports amenities buildings*”.

Approval was granted to Mod2017/0209 on 14 August 2017 to correct the numbering of the conditions of Consent DA2017/0353.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is to modify the design of the proposed amenities building as follows:

- Raising of ground floor level by 50mm to allow for future settlement of the building (ensuring building levels stay above flood level).
- Removal of under slab rainwater tank.
- Amendment to accessible walkway to change to accessible ramp which will further reduce the amount of soil mounding required.
- Amendments internally to Canteen and Storeroom for a more functional arrangement of space.
- Conversion of sliding entry gates to hinged.
- Simplification of roof form to remove uplift in structure and changes to roof levels to accommodate this (lowered from RL 9.5m to RL8.4m)
- Amendment to replace wire mesh infill with frameless anodised aluminium louvres.

The application is made pursuant to s. 4.55(1A) of the Environmental Planning and Assessment Act 1979 which relates to modifications involving minimal environmental impact.

STATUTORY CONTROLS

- a) **Environmental Planning and Assessment Act 1979**
- b) **Environmental Planning and Assessment Regulation 2000**
- c) **Warringah Local Environmental Plan 2011**
- d) **Warringah Development Control Plan 2011**

REFERRALS

External Referrals

| Referral Body External | Comments | Consent Recommended |
|---------------------------|--|------------------------|
| Ausgrid | The modification application was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended. | N/A |

Internal Referrals

| Referral officer | Comments | Consent Recommended |
|---------------------|--|------------------------|
| Building Assessment | The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below. | Yes |

| Referral officer | Comments | Consent Recommended |
|---|---|---------------------|
| | <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p> <p>Assessment Officer comment: The recommended condition regarding disability access has not been included in the recommendation of this report as it is already provided in the proposed structure. The recommended condition requiring the submission of a Construction Certificate has not been included in the recommendation of this report as it exists on the current consent.</p> | |
| Development Engineering | <p>The proposed modification does not alter the original assessment by Development Engineering.</p> <p>No objection to approval with no additional or modified conditions of consent recommended.</p> | Yes |
| Environmental Health – Acid sulfate soils | The proposed modifications will not impact Acid Sulfate soils. | Yes |
| Environmental Health – Industrial use | The proposed changes (including canteen and store) will not alter the existing assessment. | Yes |
| Heritage | <p>This application is a modification of the amenities block approved by DA 2017/0353. The new amenities block is located some 80 metres away from the heritage item located near the Passmore Reserve playground and therefore this development is technically not located in the vicinity of a heritage item and therefore does not require heritage comment.</p> <p>Therefore, no objection on heritage grounds and no conditions.</p> | Yes |
| Landscape | The proposed reduction of the extent of mounding around the building does not alter previous assessment with regard to landscape issues. No objections are raised to the proposed modification. Existing landscape conditions are still relevant and do not require alteration. | Yes |



| Referral officer | Comments | Consent Recommended |
|-------------------------------------|--|---------------------|
| Natural Environment – Biodiversity | <p>The proposed reduction of the extent of mounding around the building does not alter previous assessment with regard to biodiversity issues. No objections are raised to the proposed modification.</p> <p>No conditions required.</p> | Yes |
| Natural Environment – Coastal | <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p>On internal assessment the DA satisfies the requirements under clauses 13, 14 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018 and is supported without condition.</p> | Yes |
| Natural Environment – Riparian | <p>This application has been assessed under:</p> <ul style="list-style-type: none"> • Warringah DCP 2011 C4 – Stormwater • Warringah DCP 2011 C5 – Erosion and Sedimentation • Warringah Council PL 850 Water Management Policy <p>Rainwater tanks are encouraged and could be plumbed into toilets as an alternative water supply.</p> <p>Water efficient fittings (WELS) rated are required and have been conditioned.</p> <p>Assessment Officer comment: The recommended condition regarding water efficient fittings has not been included in the recommendation of this report as these interior fit-out specifications have already been included as appropriate for the construction contract.</p> | Yes |
| Property and Commercial Development | <p>The proposal is for a modification to consent for a previously approved amenities block at Nolan Reserve, Manly Vale.</p> | Yes |

| Referral officer | Comments | Consent Recommended |
|------------------|--|---------------------|
| | Property have no objection to the proposed as submitted. | |

NOTIFICATION & SUBMISSIONS

The subject application was notified to surrounding and nearby properties in accordance with the EPA Regulation 2000 and Warringah Development Control Plan 2011.

In response, Council received no submissions.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 4.15 of the EPAA are:

| Section 4.15 'Matters for Consideration' | Comments |
|--|---|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on "Environmental Planning Instruments" in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | None applicable. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | See discussion on "Warringah Development Control Plan 2011" in this report. |
| Section 4.15 (1) (a)(iiiia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the regulations | <p>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent on the original approval.</p> <p>Clauses 54 and 109 of the EP&A Regulation 2000, relates to whether Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations. No additional information was requested.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the proposed modification.</p> |



| Section 4.15 'Matters for Consideration' | Comments |
|--|---|
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is zoned for the proposed purpose and has been developed for this purpose. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Public Exhibition” in this report. |
| Section 4.15 (1) (e) – the public interest | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

The relevant matters for consideration under Section 4.55 of the EPAA are:

| Section 4.55 'Matters for Consideration' | Comments |
|---|--|
| Section 4.55(1A)(a) – satisfied that the proposed modification is of minimal environmental impact | The proposed modification results in minor changes to the design of the building that are considered to have minimal environmental impact. |
| Section 4.55(1A)(b) – substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all) | <p>The power to modify a consent is beneficial and facultative. To be “substantially the same” a comparison is required between the originally approved development and the development as now proposed to be modified. The development must be essentially or materially the same. The comparison involves an appreciation, qualitative as well as quantitative, of the developments being compared.</p> <p>In quantitative terms the proposal is essentially unchanged with no discernible difference in height, setbacks or building footprint.</p> <p>In qualitative terms there is no discernible difference in impacts arising from the proposal in terms of views, privacy, solar access, flooding or impacts on the natural environment.</p> <p>Consequently, it is considered that the proposal is substantially the same development pursuant to Council must not approve the application, pursuant to Section 4.55(1A)(b) of the EPA Act.</p> |
| Section 4.55(1A)(c) – Notify the application in accordance with the regulations and WDCP 2011 | The proposal has been notified as required. |
| Section 4.55(1A)(d) – Consider any submissions made within the period prescribed by the WDCP 2011 | No submissions were received. |
| Section 4.55(3) – Consider matters in S. 4.15(1) as are relevant to the proposal. | <p>See above.</p> <p>The original report, any submissions and approval have been considered with this modification assessment.</p> |

ENVIRONMENTAL PLANNING INSTRUMENTS

Local Environment Plans (LEP's)

Warringah Local Environmental Plan 2011 (WLEP 2011)

Consideration of proposal against Warringah Local Environment Plan 2011:

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| Definition of proposed development: (ref. WLEP 2011 Dictionary) | Recreation facility (outdoors) |
| Zone: | RE1 Public Recreation |
| Permitted with Consent or Prohibited: | Permissible with consent |
| Height of Buildings: | Not applicable (Approved height 8.15m / Modification 6.7m, due to lower roof form) |

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| Objectives of the Zone | |
| <ul style="list-style-type: none"> To enable land to be used for public open space or recreational purposes. To provide a range of recreational settings and activities and compatible land uses. To protect and enhance the natural environment for recreational purposes. To protect, manage and restore public land that is of ecological, scientific, cultural or aesthetic value. To prevent development that could destroy, damage or otherwise have an adverse effect on those values. | |
| <p>The development is considered to be consistent with the relevant objectives of the zone for the following reasons:</p> <ul style="list-style-type: none"> The proposal enhances the use of the land for recreational purposes. The proposal has no undesirable impacts on the natural environment. <p>The proposal has no adverse effects on the ecological, scientific, cultural or aesthetic values of the land.</p> | |

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| Relevant Miscellaneous Provisions | |
| Provision | Comment |
| Preservation of trees or vegetation | The proposed modification does not require the removal of any additional trees. |

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| Relevant Additional Local Provisions | |
| Provision | Comment |
| Acid Sulfate Soils | The site is within a Class 2 Acid Sulfate Soil area. An Acid Sulfate Soil Management Plan was submitted with the original development application and was reviewed by Council's Environmental Investigations Officer who raised no objections subject to recommended conditions, including the implementation of the Acid Sulfate Soil Management Plan. The modification proposal does not change this situation. |
| Earthworks | The proposed modification does not change the extent to which earthworks are proposed. Conditions were included in the original consent to satisfy the matters for consideration in clause 6.2(3) of WLEP 2011. |
| Flood Planning | The proposed modification has been reviewed by Council Natural Environment Officer – Flood who raises no objections to the proposed modification. |

| Relevant Schedules | |
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| Schedule | Comment |
| Schedule 5 Environmental heritage | The site of the proposed amenities building does not contain a heritage item and is not within a Conservation Area. It is located approximately 80 metres from a heritage item in Passmore Reserve. This separation distance is sufficient to ensure that there will be no impact on the heritage significance of that item. |

Warringah Development Control Plan 2011 (WDCP 2011)

Compliance Assessment

| Part B: Built Form Controls | | | |
|-----------------------------|----------------|-----------|----------|
| Control | Requirement | Proposed | Complies |
| B1. Wall heights | Not applicable | 6.3m | Yes |
| B7. Front setback | Not applicable | No change | Yes |
| B6. Side setback | Not applicable | No change | Yes |
| B10. Rear setback | Not applicable | No change | Yes |
| B14. Main Roads setback | Not applicable | No change | Yes |

| Part C: Siting Factors | |
|---------------------------------|---|
| Control | Comment |
| C2. Traffic, Access and Safety | The proposed modification raises no issues with regards to traffic, access and safety. |
| C3. Parking Facilities | The proposed modification raises no issues with regards to parking facilities. |
| C4. Stormwater | The site is in a flood plain so on-site detention is not required. Rainwater is stored in tanks for re-use on site and a raingarden is provided for filtration of water prior to it entering the neighbouring creek system. Council's Water Management Officer has raised no objections to the proposed modification. |
| C5. Erosion and Sedimentation | The proposed modification raises no issues with regards to erosion and sedimentation. |
| C7. Excavation and Landfill | The proposed modification raises no issues with regards to excavation and landfill. |
| C8. Demolition and Construction | This issue is managed by conditions included in the original approval. |
| C9. Waste Management | This issue is managed by conditions included in the original approval. |

| Part D: Design | |
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| Control | Comment |
| D1. Landscaped open space and bushland setting | The proposed modification raises no issues with regards to landscaped open space and bushland setting. |



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| D3. Noise | The proposed modification raises no issues with regards to noise. |
| D6. Access to sunlight | The proposed modification will not result in any overshadowing of neighbouring development. |
| D7. Views | No views from residential properties will be affected. |
| D8. Privacy | There is no impact on privacy as the proposed development is separated from the nearest residential development by approximately 200m. |
| D9. Building Bulk | The proposed modification raises no issues with regards to building bulk. |
| D10. Building Colours and Materials | The proposed colours and materials are unchanged from that which were originally approved. |
| D18. Accessibility | The proposed modification raises no issues with regards to accessibility. |
| D20. Safety and Security | The proposed modification raises no issues with regards to safety and security. |
| D21. Provision and Location of Utility Services | All necessary utility services are available to the site. |
| Part E: The Natural Environment | |
| Control | Comment |
| E1. Private Property Tree Management | No trees are affected by the proposed modification of consent. |
| E2. Prescribed Vegetation | The proposed modification raises no issues with regards to prescribed vegetation. |
| E3. Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conversation Habitat | The proposed modification raises no issues with regards to threatened species, etc. |
| E4. Wildlife Corridors | The proposed modification raises no issues with regards to wildlife corridors. |
| E5. Native Vegetation | The proposed modification raises no issues with regards to native vegetation. |
| E6. Retaining Unique Environmental Features | The proposal has been sited so as to have no impact on any unique environmental features. |
| E8. Waterways and Riparian Lands | The proposed modification raises no issues with regards to waterways and riparian lands. |

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

Under clause 6(3)(a) of Council's Section 94A Development Contributions Plan the proposal is exempt from the payment of any section 94A contributions.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- Warringah Local Environment Plan 2011;
- Warringah Development Control Plan 2011; and
- Codes and Policies of Council.

The proposal has been assessed against the relevant matters for consideration under Sections 4.15 and 4.55 of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions.

The assessment concludes that the proposal has minimal environmental impact and is substantially the same development as that which was originally approved and is suitable for approval.

RECOMMENDATION

THAT the Development Determination Panel of Council as the consent authority grant approval to Modification Application No. Mod2019/0507 for Modification of Development Consent DA2017/0353 granted for demolition works and construction of new sports amenities building on land at Part Lot 2743, DP 752038, Campbell Parade, MANLY VALE (Nolans Reserve), subject to the modification to conditions printed below:

CONDITIONS OF APPROVAL

A. Add Condition No. 1A – Modification of Consent – Approved Plans and Supporting Documentation to read as follows:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

| Architectural Plans – Endorsed with Council's stamp | | |
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| Drawing No. | Dated | Prepared By |
| MOD-A-103 Rev B | 16/10/2019 | Smith & Tzannes |
| MOD-A-200 Rev B | 16/10/2019 | Smith & Tzannes |
| MOD-A-201 Rev B | 16/10/2019 | Smith & Tzannes |

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.