

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0331
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Responsible Officer:	Adam Mitchell
Land to be developed (Address):	Lot 907 DP 867091, 8 Narabang Way BELROSE NSW 2085
Proposed Development:	Modification of Development Consent DA2017/0388 granted for Construction of a mixed use development including industrial units warehouse units and storage units with associated offices caretakers residence car parking and landscaping
Zoning:	Warringah LEP2011 - Land zoned B7 Business Park Warringah LEP2011 - Land zoned E2 Environmental Conservation WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011
Development Permissible:	Yes - Zone B7 Business Park Yes - Zone E2 Environmental Conservation
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Adrenaline Angling Pty Ltd
Applicant:	Adrenaline Angling Pty Ltd

Application lodged:	29/06/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Industrial
Notified:	18/07/2018 to 12/08/2018
Advertised:	21/07/2018
Submissions Received:	0
Recommendation:	Approval

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 (the subject of 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, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
 Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - C3 Parking Facilities

SITE DESCRIPTION

Property Description:	Lot 907 DP 867091 , 8 Narabang Way BELROSE NSW 2085
Detailed Site Description:	<p>The subject site is a single allotment located on the northern side of Narabang Way, Belrose.</p> <p>The site is irregular in shape with an arced front boundary (south) to Narabang Way of 45.22m and a depth of up to 169m. The site has a surveyed area of 7,237m².</p> <p>The site is located within the B7 Business Park zone and E2 Environmental Conservation zone pursuant to the Warringah Local Environmental Plan 2011.</p> <p>At present, the site has been cleared of vegetation and has had significant excavation works commenced pursuant to a current development consent on the land.</p> <p>Surrounding developments consist of large industrial and office premises within a landscaped setting within a business park. Surrounding the business park is extensive bushland and Mona Vale Road to the north, and Forest Way to the east.</p>

Map:



SITE HISTORY

The subject site has an extensive history that is detailed in the parent Assessment Report of DA2017/0388. Accordingly, the scope of this Section 4.55 application only warrants the site history beyond that detailed in other reports.

Development Application no. 2017/0388

Application for construction of a mixed use development including industrial units, warehouse units and storage units with associated offices, caretakers residence, car parking and landscaping.

The application was presented to the Northern Beaches Independent Assessment Panel with a recommendation for approval, and was determined by the Panel by way of approval on 8 November 2017.

Since the issuing of this approval, works on site have commenced by virtue of land clearing and excavation.

PROPOSED DEVELOPMENT IN DETAIL

This modification application lodged pursuant to Section 4.55 (1A) of the Environmental Planning and Assessment Act 1979 seeks to amend the approved DA2017/0388.

The scope of works sought under this application do not materially change the external appearance of the building (height, setbacks, provision of landscaping), but rather rationalise and reconfigure the internal layout of the building. The works include:

- increase in the number of storage units from 66 to 69 (no additional GFA)
- reconfiguration of storage units
- amendments to eastern egress pathway and stair
- deletion of mezzanine office spaces from 17 Units across the first and second floor
- installation of awnings above loading bays

The magnitude of works sought under this application remain substantially the same as the approved development.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2017/0388, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.15(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is 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), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2017/0388.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan 2011.

Section 4.15(1A) - Other Modifications	Comments
advertising of applications for modification of a development consent, and	
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, 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	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> 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 in the original consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, 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> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent</p>

Section 4.15 'Matters for Consideration'	Comments
	authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.
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) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah/Manly/Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
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.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the parent development application (prepared by Travers Bushfire & Ecology, dated 28 April 2017) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report were included as conditions of consent in the parent development consent, and remain applicable to this Section 4.55 application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><i>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</i></p> <p><i>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i></p>
Environmental Health (Industrial)	<i>No objections to the development, and no conditions recommended.</i>
NECC (Development Engineering)	<p><i>The proposed modifications do not alter the approval of the drainage system or access to the development.</i></p> <p><i>No objection to approval with no additional or modified conditions of consent recommended.</i></p>
Traffic Engineer	<p><i>The modification seeks to increase the number of storage units from 66 to 69 through the reconfiguration/ reduction in size of a number of larger storage units. No additional GFA is proposed. Further, the application also seeks the deletion of a number of approved mezzanine office areas, minor BCA internal stair and external egress modifications and the introduction of awnings above the loading bays.</i></p> <ul style="list-style-type: none"> <i>Traffic: The additional of the storage units and deletion of the mezzanine offices balance and therefore no additional vehicle movements are anticipated. Traffic Team raise no objection.</i> <i>Parking: No change to GFA. Therefore no changes to parking numbers is required. Traffic Team raise no objection.</i> <i>Parking layout: No change to the site or numbers. Therefore no change to the car park is required. Traffic Team raise no objection.</i> <i>Pedestrian: No change to the site access. Traffic Team raise no objection.</i>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <i>Servicing: Servicing is to occur as per the original development. Traffic Team raise no objection.</i>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal 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.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 19 - Bushland in Urban Areas

The SEPP is not applicable as the bushland surrounding the allotment is not zoned or reserved for public open space.

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been vacant of development for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the industrial land use.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal 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.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	11m	14.51m to 17.5m	No change to approved	39.1% to 59% (approved)	No (approved)

This Section 4.55 application does not seek modification to the previously approved Height of Buildings in DA2017/0388. Accordingly, no further assessment on the provisions of this clause are applicable in this assessment.

Compliance Assessment

Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	N/A
4.3 Height of buildings	No (see detail under Clause 4.6 below)
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B4 Site Coverage	33.3% of site area (2,388.21m ²)	49.1% (3,559.64m ²)	No change to approved	No (approved)

B5 Side Boundary Setbacks	East - 5m	Ground Floor - 3.53m - 5.25m	No change to approved	No (approved)
		First Floor - 2.3m - 8m	No change to approved	No (approved)
		Second Floor - 2.3m - 8m	No change to approved	No (approved)
	West - 5m	Ground Floor - 5m	No change to approved	Yes / No / N/A
		First Floor - 7.98m	No change to approved	Yes
		Second Floor - 0.33m to car parking area 7.98m to building walls	No change to approved	No (approved)
B7 Front Boundary Setbacks	6.5m	Ground Floor - 5m	No change to approved	No (approved)
		First Floor - 6.54m	No change to approved	Yes
		Second Floor - 6.54m	No change to approved	Yes
B9 Rear Boundary Setbacks	Merit Assessment	48.11m to 50.69m	No change to approved	Yes (merit)
D1 Landscaped Open Space and Bushland Setting	33.3% (2,388.21m ²)	35.6% (2,577.4m ²)	No change to approved	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B4 Site Coverage	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B5 Side Boundary Setbacks

This modification application rationalises some of the external fire stairwells on the eastern side of the allotment, but does not change the setbacks approved under the parent development consent. Accordingly, no further assessment on this setback is required.

C3 Parking Facilities

The proposed modification sought result in a reduction of GFA by virtue of the removal of mezzanine office spaces. Accordingly, the development retains a provision of car parking in excess of the ration stipulated by Appendix H of the WDCP 2011.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Council Contributions Plan 2018

Section 7.12 contributions were levied on the Development Application.

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;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2018/0331 for Modification of Development Consent DA2017/0388 granted for Construction of a mixed use development including industrial units warehouse units and storage units with associated offices caretakers residence car parking and landscaping on land at Lot 907 DP 867091,8 Narabang Way, BELROSE, subject to the conditions printed below:

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		
Drawing No.	Dated	Prepared By
100 Rev. G	5 April 2018	MSK Architects
101 B Rev. J	18 June 2018	MSK Architects
102 Rev. K	1 May 2018	MSK Architects
103 Rev. I	5 April 2018	MSK Architects
104 Rev. L	18 June 2018	MSK Architects
105 Rev. I	5 April 2018	MSK Architects
106 Rev. I	5 April 2018	MSK Architects
107 Rev. I	5 April 2018	MSK Architects
108 Rev. I	5 April 2018	MSK Architects
109 Rev. I	5 April 2018	MSK Architects
110 Rev. E	12 September 2017	MSK Architects
111 Rev. E	12 September 2017	MSK Architects
200 Rev. E	12 September 2017	MSK Architects
201 Rev. G	5 April 2018	MSK Architects
202 Rev. E	12 September 2017	MSK Architects
300 Rev. E	12 September 2017	MSK Architects
301 Rev. E	12 September 2017	MSK Architects
302 Rev. E	12 September 2017	MSK Architects
303 Rev. E	12 September 2017	MSK Architects
304 Rev. H	18 June 2018	MSK Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Traffic and Parking Assessment (Ref. 17084)	26 June 2018	TTPP Transport Planning

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.