

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

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| Application Number: | Mod2016/0077 |
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| Responsible Officer: | Kevin Short |
| Land to be developed (Address): | Lot CP SP 4129, 48 A Queenscliff Road QUEENSCLIFF NSW 2096 |
| Proposed Development: | Modification of Development Consent DA2011/0360 granted for Alterations and additions to a Residential Flat Building |
| Zoning: | LEP - Land zoned R2 Low Density Residential |
| Development Permissible: | No |
| Existing Use Rights: | Yes |
| Consent Authority: | Warringah Council |
| Land and Environment Court Action: | No |
| Owner: | The Owners Sp 4129 |
| Applicant: | C & C Project Management Pty Ltd |

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|----------------------------------|--|
| Application lodged: | 01/04/2016 |
| Application Type: | Local |
| State Reporting Category: | Residential - Alterations and additions |
| Notified: | 14/04/2016 to 29/04/2016 |
| Advertised: | Not Advertised, in accordance with A.7 of WDCP |
| Submissions: | 2 |
| 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 all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential

NORTHERN BEACHES COUNCIL

Warringah Development Control Plan - B5 Side Boundary Setbacks

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - D7 Views

Warringah Development Control Plan - Appendix 1 Car Parking Requirements

SITE DESCRIPTION

| | |
|-----------------------------------|---|
| Property Description: | Lot CP SP 4129 , 48 A Queenscliff Road QUEENSCLIFF NSW 2096 |
| Detailed Site Description: | <p>The subject site is located on the southern side of Queenscliff Road and is battle axe in shape with an area of 1081sqm. Existing apartment style housing adjoins the site to the north-west, west, south-west, west and north-east. These apartment style buildings vary in scale between two and five stories in scale. A one storey dwelling house occupies the site to the north, No.44 Queenscliff Road.</p> <p>The site is currently occupied by an eleven (11) storey residential flat building comprising of 15 units with two units on each floor, a top floor penthouse, foyer level and basement carparking level. All units have cantilevered and wrap around balconies. The apartment building was constructed in the early 1960's.</p> <p>The subject site contains a steep slope which has a diagonal fall of 18% in a north to south direction (from Queenscliff Road) towards Queenscliff Beach. The southern boundary of the site adjoins a landscaped reserve which adjoins Queenscliff Beach. Landscaped open space on site is characterised by areas of rock outcrops within the north-eastern portion of the site and poor quality shrubs, medium size trees ground cover and weeds within the rear (southern) portion of the site.</p> <p>The site has been subject to substantial cut and fill in order to provide a podium terrace for the existing tower like apartment building on the lower southern portion of the site. The building is the tallest structure and most visually prominent structure on the Queenscliff Headland.</p> <p>Vehicular access to the site is provided by a steep driveway from Queenscliff Road. On-site parking is provided on site by an outdoor parking area located to the north of the existing building on the ground floor, within the ground floor foyer area and within the basement level.</p> <p>The subject site is zoned as R2 Low Density Residential and within Land Slip Risk Map - Area B and C.</p> |

Map:



SITE HISTORY

Development Consent - DA2009/1471

Development Application DA2009/1471 for Alterations and additions to an existing residential flat building, comprising new tiling of the ground floor car park area and enclosing an undercroft area as a storeroom on the basement level was approved on 6 January 2010.

Development Consent - DA2011/0360

Development Application DA2011/0360 was lodged for alterations and additions to an existing residential flat building. In summary, the proposal comprised the construction of two (2) units, comprising an undercroft Unit (Unit A) and lower ground level and split level unit (Unit B), within the southern portion of the existing apartment building was approved 16 September 2011. Modification S96 (2) - MOD2012/0262 of Development Consent - DA2011/0360 was approved 8 May 2013.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify Development Consent No.2011/0360 in accordance with the provisions of Section 96 (1A) of the Environmental Planning and Assessment Act 1979. Specifically, the modifications sought to the application are as follows:

Undercroft Level - Unit A

- Reconfiguration of internal layout and resultant increase in floor space; and
- Provision of western elevation window.

Lower Level - Unit B and Carpark Level 1

- Deletion of Unit B and reconfiguration to the parking area; and
- Provision of three (3) garages and three (3) tandem parking spaces.

Ground Floor Level - Unit B and Carpark Level 2

- Reconfiguration of internal and external layout and resultant increase in floor space (over pond);
- Deletion of pond; and

- Addition of one (1) car parking space and two (2) tandem spaces.

First Floor Level - Existing Units 1 and 2 and Carpark Level 3

- Provision of an additional parking space; and
- Minor alterations, including the deletion of planter box and widening of balcony

Second Floor Level - Existing Units 3 and 4 and Terrace

- Amend communal terrace to private terrace; and
- Extend terrace over garage to west.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

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 DA2011/0360, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(1A) of the Environmental Planning and Assessment Act, 1979, are:

| Section 96(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 DA2011/0360. |
| | |

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| Section 96(1A) - Other Modifications | Comments |
|---|---|
| (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 advertising of applications for modification of a development consent, and | 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. |
| (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. | One submission was received. Refer to the Submissions section of the report. |

Section 79C Assessment

In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

| Section 79C 'Matters for Consideration' | Comments |
|--|---|
| Section 79C (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “Environmental Planning Instruments” in this report. |
| Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument | None applicable. |
| Section 79C (1) (a)(iii) – Provisions of any development control plan | Warringah Development Control Plan applies to this proposal. |
| Section 79C (1) (a)(iiia) – Provisions of any planning agreement | None applicable. |
| Section 79C (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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</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.</p> |

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| Section 79C 'Matters for Consideration' | Comments |
|---|---|
| | <p>No Additional information was requested.</p> <p>However, amended plans were received by Council which show the deletion of the south-west corner of the ground floor addition. The amended plans were not required to be re-notified under the requirements of WDCP as the amendments are of minimal environmental impact and do not generate adverse amenity impacts on adjoining properties.</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 authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p> |
| Section 79C (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 section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) 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 79C (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Public Exhibition” in this report. |
| Section 79C (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

The proposal seeks to modify Development Consent No.DA2011/0360 for alterations and additions to a residential flat building under the provisions of WLEP 2011.

Development Consent - DA2011/0360

Consent for Development Application No.DA2011/0360 was granted on 16 September 2011 under the provisions of WLEP 2000.

Environmental Planning Instruments - WLEP 2000 and WLEP 2011

Under WLEP 2000, a residential flat building does not constitute prohibited development. However, WLEP 2000 has subsequently been superseded by WLEP 2011 which has identified the subject site as being located within a R2 Low Density Residential zone. Under WLEP 2011, a residential flat building is a prohibited land use within the R2 zone. Whilst the land use may be prohibited under WLEP 2011, the site benefits from existing use rights.

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 Warringah Development Control Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

| Name: | Address: |
|-----------------------|--|
| Ms Suzanne Lee Plater | 3 Greycliffe Street QUEENSCLIFF NSW 2096 |

One (1) submission was received from the owner of No. 3 Greycliffe Street and is addressed below:

- View loss
- Comment:
The original (and subsequent modified) development was assessed as having a reasonable and acceptable impact on the available views of adjoining and surrounding properties. In determining the extent of view loss to the above properties, the four planning principles outlined within the Land and Environment Court Case Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, were used. This is detailed in the original (and modification) development assessment report.

A view loss assessment was carried out and included a site inspection of the property and dwelling located at No. 3 Greycliffe Street. The site inspection found that the proposed modification to the ground floor addition, including an extension and enclosure of the south-west corner, would cause view loss (albeit negligible). This part of the building is a new building element proposed by the modification and is located outside of the approved building footprint (under Mod2012/0262).

This was conveyed to the Applicant, and in summary, amended plans were received which show the deletion of that part of the building. Subject to the deletion of this section of the building, view sharing to adjoining and surrounding properties is maintained.

Based on the above, the concern raised in relation to view loss does not warrant refusal or further redesign of the application.

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>The modified 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 and original conditions should be satisfactory.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA. Issues such as this however may be determined at Construction Certificate stage.</i></p> |
| Development Engineers | No Development Engineering objection is raised to the proposed Mod. |
| Landscape Officer | No objections to the modification with regard to landscape issues. |
| Natural Environment (Biodiversity) | The proposed Modifications to this development are unlikely to further impact on the mapped Wildlife Corridor in this location. |
| Natural Environment (Coastal) | No objection to the proposed modifications as are not impacted by coastal process. |
| Parks, reserves, beaches, foreshore | |
| Traffic Engineer | <p>The proposal provides a total of 7 additional spaces comprising 4 spaces for the proposed development and an increase of 3 spaces for the existing.</p> <p>There are no objections to the proposal on traffic grounds noting that the proposal will increase car parking provision for the site and reduce demand for on street parking in an area where parking is well utilize.</p> |
| Waste Officer | No concerns raised to the modification application. |

| 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 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 used for residential purposes 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 residential land use.

SEPP 65 - Design Quality of Residential Apartment Development

The proposed development, as modified, does not alter or create any changes to the previous assessment of the original (and modified) development application which was found to satisfy the requirements of the 10 Design Quality Principles contained in Clauses 9-18 of SEPP 65 and the matters contained in the (superseded) Residential Flat Design Code (RFDC) and Apartment Design Guide.

SEPP 71 - Coastal Protection

The proposed development, as modified, does not alter or create any changes to the previous assessment of the original (and modified) application which was found to satisfy the matters set out in Clause 7 of the SEPP.

SEPP (Building Sustainability Index: BASIX) 2004

A revised BASIX certificate (360540M_03 dated 24 March 2016) has been submitted with the modification application and is supported by Nathers Certificate (14734088 dated 24 March 2016).

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.

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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 Environment Plan 2011

| | |
|--|-----|
| Is the development permissible? | No |
| 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 | Complies |
|----------------------|-------------|-----------------------------|---|---------------|
| Height of Buildings: | 8.5m | Existing 11 storey building | Two (2) additional units within the existing lower floor and undercroft level of the building | No (existing) |

Compliance Assessment

| Clause | Compliance with Requirements |
|---|------------------------------|
| Part 1 Preliminary | Yes |
| 4.3 Height of buildings | Yes |
| 5.3 Development near zone boundaries | Yes |
| 5.5 Development within the coastal zone | Yes |
| 6.2 Earthworks | Yes |
| 6.4 Development on sloping land | Yes |

Detailed Assessment

Zone R2 Low Density Residential

Permissible under the provisions of existing use rights (please refer to Existing Use Rights section of the report).

Warringah Development Control Plan

Built Form Controls

| Standard | Requirement | Approved (MOD2012/0262) | Proposed | Complies |
|------------------------|-------------|---|---|------------------|
| Wall Height | 7.2m | 11 storey building (existing) | 11 storey building (existing) | no (as approved) |
| Side Boundary Envelope | 5m | west elevation The proposed units do not project outside of the projected | west elevation Within projected building envelope | yes |

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| | | | | |
|--|------------------------------|--|--|--|
| | | <p>building envelope</p> <p>east elevation</p> <p>The proposed units do not project outside of the projected building envelope</p> | <p>east elevation</p> <p>Within projected building envelope</p> | yes |
| Side Boundary Setbacks | 0.9m | <p>west elevation</p> <p>Unit A: 0.9m to 3.75m (undercroft)</p> <p>Unit B: 5.14m (lower level)</p> <p>Carpark: 0.9m (lower level)</p> <p>Unit B: 5.155m (ground level)</p> <p>Unit 2 & 4: 3.75m (upper & roof terrace level)</p> <p>east elevation</p> <p>Unit A: 2.16m (undercroft)</p> <p>Unit B: 2.16m (lower level)</p> <p>Storage: Nil (lower level)</p> <p>Carpark: 0.9m (lower level)</p> <p>Unit B: 2.2m (ground level)</p> <p>Carpark: 0.9m (ground level)</p> <p>Unit 1: 2.4m (first floor level)</p> <p>Unit 3: 4.5m (roof terrace level)</p> <p>north elevation</p> <p>Carpark: nil</p> <p>Roof terrace common area: 3.482m</p> | <p>west elevation</p> <p>Unit A: 0.9m to 3.75m (undercroft)</p> <p>Unit B: deleted (lower level)</p> <p>Carpark: 3.9m (lower level)</p> <p>Unit B: 3.7m (ground level)</p> <p>Unit 2 & 4: 3.75m (first & roof terrace level)</p> <p>east elevation</p> <p>Unit A: 1.7m (undercroft)</p> <p>Unit B: deleted (lower level)</p> <p>Carpark/Storage: 0.9m to 1.2m (lower level)</p> <p>Unit B: 1.6m (ground level)</p> <p>Carpark/storage: nil (ground level)</p> <p>Unit 1: 2.4m (first floor level)</p> <p>Unit 3: 4.5m (roof terrace level)</p> <p>north elevation</p> <p>Carpark: nil</p> <p>Roof terrace common area: 3.482m</p> | <p>yes</p> <p>n/a</p> <p>yes</p> <p>yes</p> <p>yes</p> <p>yes</p> <p>yes</p> <p>yes</p> <p>yes</p> <p>yes</p> <p>no (no change)</p> <p>yes</p> |
| Front Boundary Setbacks | 6.5m (battle axe shaped lot) | 45.0m | no change | yes |
| Rear Boundary Setbacks | 6m | <p>External walls Unit A and B: 4.1m to 6.4m</p> <p>Balconies Unit A and B: 2.1m to 4.4m</p> | <p>no change</p> <p>no change</p> | <p>no (as approved)</p> <p>no (as approved)</p> |
| Landscaped Open Space and Bushland Setting | 40% | 18.1% (196m ²) | 18.9% (204m ²) | no (total net increase) |

As detailed in the Existing Use Rights section of the report, the existing residential flat building is subject to existing use rights. Therefore, WDCP built form planning controls do not strictly apply to the site as they would to a permitted use. Notwithstanding, an assessment of any new non-compliances is

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provided in the relevant WDCP section of the report.

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| B3 Side Boundary Envelope | Yes | Yes |
| B5 Side Boundary Setbacks | No | Yes |
| B7 Front Boundary Setbacks | Yes | Yes |
| B9 Rear Boundary Setbacks | Yes | Yes |
| Rear Boundary Exceptions on Corner Allotments - R2 | Yes | Yes |
| C2 Traffic, Access and Safety | Yes | Yes |
| C3 Parking Facilities | Yes | Yes |
| C4 Stormwater | Yes | Yes |
| C5 Erosion and Sedimentation | 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 |
| D2 Private Open Space | Yes | Yes |
| 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 |
| D20 Safety and Security | Yes | Yes |
| D21 Provision and Location of Utility Services | Yes | Yes |
| D22 Conservation of Energy and Water | Yes | Yes |
| E1 Private Property Tree Management | Yes | Yes |
| E2 Prescribed Vegetation | Yes | Yes |
| E4 Wildlife Corridors | Yes | Yes |
| E6 Retaining unique environmental features | Yes | Yes |
| E7 Development on land adjoining public open space | Yes | Yes |
| E10 Landslip Risk | Yes | Yes |
| Appendix 1 Car Parking Requirements | | |

Detailed Assessment

B5 Side Boundary Setbacks

Description of non-compliance

The setback to the approved carpark area located on the ground floor level at the northern end of the building is being decreased from a 0.9m to a nil side setback to the eastern boundary. The increase in setback is part of the amendments to the approved Unit B and associated carparking areas. Storage will also be provided on this ground floor level.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To provide opportunities for deep soil landscape areas.*

Comment:

Adequate landscaped open space is provided above the carparking levels (ie. roof terrace area) within the side setback areas of the outdoor garden terrace area.

- *To ensure that development does not become visually dominant.*

Comment:

The new area of non-compliance relates to an enclosed part of the building. Above this section of building is an approved enclosed carparking area with nil setback to the eastern boundary. In this regard, the increase in setback will match the building level above and in any event would not be able to be viewed from any public domain.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

As detailed above, the non-complying element will sit beneath an approved building level and will therefore the bulk and scale of the building will remain acceptable.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment:

Spatial separation to adjoining development will remain satisfactory given that the new area of non-compliance will sit beneath a carparking level above.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment:

A reasonable sharing of views to and from public and private properties is maintained by the development, as modified.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

Please refer to the WDCP Appendix 1 Car Parking Requirements section of the report, where in summary, adequate off-street parking is provided by the modified development.

D7 Views

The original development was assessed as having a reasonable and acceptable impact on the available views of adjoining and surrounding properties, including all the apartments within 1A and 1 Greycliffe Street and No.44 and 42 Queenscliff Road, and other nearby and surrounding properties on Greycliffe Street and Queenscliff Road.

In determining the extent of view loss to the above properties, the four planning principles outlined within the Land and Environment Court Case Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, were used. This is detailed in the original development assessment report.

In summary, the modification application seeks minor amendments to the approved development which will also continue to maintain view sharing to adjoining and surrounding properties.

As detailed under the Submissions section of the report, a submission was received in relation to view loss from the owner of No. 3 Greycliffe Street. Accordingly, a view loss assessment was carried out and it was concluded that the proposed modification to the ground floor addition included an extension and enclosure of the south-west corner. This section of the building is located outside of the approved building footprint (under Mod2012/0262) and would cause view loss (albeit negligible).

This was conveyed to the Applicant, and in summary, amended plans were received which show the deletion of that part of the building. Subject to the deletion of this section of the building, view sharing to adjoining and surrounding properties is maintained.

Accordingly, the development is reasonable and acceptable with regard to the requirements of D7 - View loss.

Appendix 1 Car Parking Requirements

The development provides the following on-site car parking:

| Use | Appendix 1 Calculation | Required | Provided | Difference (+/-) |
|----------------------------|---|------------|----------|------------------|
| Residential flat buildings | 1.2 spaces per 2 bedroom dwelling 1 visitor space per 5 units or part of dwellings | 2.4 0.2 | 6 | + 3 |
| Total | | 3 | 6 | + 3 |

Clause C3 of WLEP 2011 requires that adequate off-street car parking is to be provided within the subject property boundaries in accordance with the use provisions of Appendix 1.

The approved development is for the addition of two (2) units (2 x two bedroom) to the existing apartment building, and therefore, an additional three (3) car parking spaces would be required to be comply with the requirements of the WLEP 2011 Appendix 1 . (detailed in the table above)

The existing building provides a total of 16 (spaces). The original and approved development (DA2011/0360) provided a total of 27 spaces, an increase of an additional 11 car parking spaces including mechanical car stacking on the lower level plan.

This modification application will provide a total of 22 spaces, an increase of an additional six (6) car parking spaces and includes the provision of five (5) tandem parking spaces on the lower and ground floor level plan. All mechanical car stacking has been deleted by this modification application.

Based on the above, the provision of an additional six (6) off-street parking spaces is considered reasonable and acceptable, particularly given the lack of existing on-site car parking spaces and the existing site constraints.

It is noted that Council's Traffic Engineer does not raise concern to the proposed number of carparking spaces provided or the use of tandem parking spaces.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

Section 94 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 Modification Application No. Mod2016/0077 for Modification of Development Consent DA2011/0360 granted for Alterations and additions to a Residential Flat Building on land at Lot CP SP 4129,48 A Queenscliff Road, QUEENSCLIFF, subject to the conditions printed below:

A. Add Condition No.1B - 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 |
| SK.101 | 13.07/2016 | Architectural Projects |
| SK.103 | 13.07/2016 | Architectural Projects |
| SK.104 | 13.07/2016 | Architectural Projects |
| SK.105 | 13.07/2016 | Architectural Projects |
| SK.201 | 13.07/2016 | Architectural Projects |
| SK.202 | 13.07/2016 | Architectural Projects |
| SK.203 | 13.07/2016 | Architectural Projects |
| SK.301 | 13.07/2016 | Architectural Projects |
| SK.302 | 13.07/2016 | Architectural Projects |

No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

B. Add Condition No.1C - Amendments to the approved plans

1C - Amendments to the approved plans

The following amendments are to be made to the approved plans:

The section of the dining room as shown light blue on the Ground Floor Level Plan SK.104 in the south-west corner of the building is not approved as floorspace. In this regard, the southern and western walls of the dining room are to return to the structural column and form a stepped-in corner.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts in accordance with WLEP2011 and WDCP. (DACPLB02)

NORTHERN BEACHES COUNCIL

I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

Signed


Kevin Short, Planner

The application is determined under the delegated authority of:

Steven Findlay, Development Assessment Manager

NORTHERN BEACHES COUNCIL


































ATTACHMENT A

| Notification Plan | Title | Date |
|---|----------------------|------------|
|  2016/109464 | Plans - Notification | 07/04/2016 |

ATTACHMENT B

No notification map.

ATTACHMENT C

| Reference Number | Document | Date |
|---|---|------------|
|  2016/109459 | Plans - Survey | 28/03/2016 |
|  2016/109498 | Report BASIX and NatHERS Certificate | 30/03/2016 |
|  2016/109511 | Plans - Master Set | 30/03/2016 |
|  MOD2016/0077 | 48A Queenscliff Road QUEENSCLIFF NSW 2096 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact | 01/04/2016 |
|  2016/102897 | DA Acknowledgement Letter - C & C Project Management Pty Ltd | 01/04/2016 |
|  2016/109453 | Modification Application Form | 07/04/2016 |
|  2016/109455 | Applicant Details | 07/04/2016 |
|  2016/109464 | Plans - Notification | 07/04/2016 |
|  2016/109476 | Plans - External | 07/04/2016 |
|  2016/109481 | Plans - Internal | 07/04/2016 |
|  2016/109468 | Report Statement of Environmental Effects | 07/04/2016 |
|  2016/109501 | Report - Geotechnical | 07/04/2016 |
|  2016/109505 | Report - BCA - Effective Height | 07/04/2016 |
|  2016/113128 | Building Assessment Referral Response | 12/04/2016 |
|  2016/115633 | Parks, Reserves and Foreshores Referral Response | 13/04/2016 |
|  2016/115693 | SEA Map Notification | 13/04/2016 |
|  2016/115729 | Notification Letter - 126 posted 14/04/2016 | 13/04/2016 |
|  2016/116647 | Development Engineering Referral Response | 14/04/2016 |
|  2016/127508 | Natural Environment Referral Response - Biodiversity | 21/04/2016 |
|  2016/127517 | Natural Environment Referral Response - Biodiversity | 21/04/2016 |
|  2016/134350 | Online Submission - Plater | 29/04/2016 |
|  2016/140940 | Natural Environment Referral Response - Coastal | 05/05/2016 |
|  2016/141601 | Traffic Engineer Referral Response | 05/05/2016 |
|  2016/145025 | Email response by applicant to submission - C & C Project Management Pty Ltd | 10/05/2016 |
|  2016/146537 | Submission Acknowledgement Letter - C & C Project Management Pty Ltd - SA2016/145025 | 11/05/2016 |
|  2016/167170 | Landscape Referral Response | 27/05/2016 |
|  2016/173821 | Traffic Engineer Referral Response | 03/06/2016 |
|  2016/185322 | Waste Referral Response | 15/06/2016 |
|  2016/213732 | Amended plans and options to address view sharing | 29/06/2016 |
|  2016/229807 | Advice requesting amended plans | 11/07/2016 |
|  2016/233299 | Amended plans received | 13/07/2016 |
|  2016/233326 | Advice from applicant | 14/07/2016 |
|  2016/233921 | amended plan | 14/07/2016 |
|  2016/234964 | Stamped Plans | 15/07/2016 |

