

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2019/0384
Responsible Officer:	Claire Ryan
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
Land and Environment Court Action:	No
Owner:	Adrenaline Angling Pty Ltd
Applicant:	Adrenaline Angling Pty Ltd
Application Lodged:	12/08/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Industrial
Notified:	06/09/2019 to 20/09/2019
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent to modify Development Consent DA2017/0388 in relation to conditions applied in accordance with referral comments provided by the NSW Rural Fire Service (RFS). The application seeks the NSW RFS to review its referral response in light of recently prepared detailed design documents and an updated bushfire assessment. The application also provides updated architectural plans and a revised window and door schedule.

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

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 907 DP 867091 , 8 Narabang Way BELROSE NSW 2085
Detailed Site Description:	<p>The Assessing Officer visited the site on 26 September 2019.</p> <p>The subject site consists of one allotment located on the northern side of Narabang Way, Belrose.</p> <p>The site is irregular in shape with a curved frontage of 45.22m along Narabang Way 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 and E2 Environmental Conservation zones and is currently under construction (DA2017/0388).</p> <p>The site slopes approximately 23m from the rear to the street frontage along Narabang Way.</p> <p>The site is classified as bushfire prone land, is heavily vegetated at the rear, and does not contain any threatened species.</p> <p>Detailed Description of Adjoining/Surrounding</p>

Development

Adjoining and surrounding development is characterised by a mix of office, industrial and warehouse style development set within a landscaped, bushland setting.

Map:



SITE HISTORY

A search of Council's records has revealed the following relevant recent history:

- Pre-lodgement Meeting PLM2015/0132 was held on 17/12/2015 to discuss construction of a mixed use development, use of premises as a warehouse storage and childcare on 17 December 2015. The proposal was not supported given the limited front setback, nil side setbacks, traffic and truck movement impacts, landscaping inadequacies, and the urban design outcome.
- Planning Proposal PEX2016/0004 was lodged to propose rezoning of the portion of E2 Environmental Conservation land to B7 Business Park.
- DA2017/0388 for construction of a mixed use development including industrial units, warehouse units and storage units with associated offices, caretakers residence, car parking and landscaping was approved on 8 November 2017 by the former Northern Beaches Development Application Panel.
- Pre-lodgement Meeting PLM2016/0027 was held on 1 April 2016 to discuss rezoning of the portion of E2 Environmental Conservation land to B7 Business Park.
- Mod2018/0331 for Modification of Development Consent DA2017/0388 was approved on 7 November 2018 by the Northern Beaches Local Planning Panel.
- Mod2019/0300 for Modification of Development Consent DA2017/0388 was approved on 19 September 2019 under staff delegation.
- Mod2019/0321 for Modification of Development Consent DA2017/0388 was withdrawn by the Applicant on 6 August 2019.
- DA2019/0801 for Use of part of the premises as a cafe is currently under assessment.

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 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(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 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 2011.
(d) it has considered any submissions	No submissions were received in relation to this

Section 4.55(1A) - Other Modifications	Comments
made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	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>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 allow Council to request additional information. No additional information was requested in this case.</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</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>consent authority to consider insurance requirements under the Home Building Act 1989. 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 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>
<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>	<p>(i) Environmental Impact 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) 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>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

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. An amended bushfire assessment was submitted with this modification application (prepared by Travers Bushfire & Ecology, dated 24 June 2019). This modification application was referred to the NSW Rural Fire Service (RFS) for assessment. The NSW

RFS raised no objections to approval, subject to conditions. The recommendations of the bushfire assessment, along with the conditions from the NSW RFS have been included as part of the recommended conditions of consent.

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.

REFERRALS

External Referral Body	Comments
NSW Rural Fire Service – local branch (s79BA EPAA)	<p>The application was referred to the NSW Rural Fire Service (RFS). The NSW RFS provided the following comments:</p> <p><i>The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:</i></p> <p>Asset Protection Zones <i>The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:</i></p> <p><i>1. At the commencement of building works and for the life of the development, the vegetation to the south of the E2 Environmental Zone shall be managed as an inner protection area (IPA) outlined within Appendices 2 & 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.</i></p> <p>Evacuation and Emergency Management <i>The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:</i></p> <p><i>2. A Bush Fire Emergency Management and Evacuation Plan shall be prepared for the Unit complex, and shall be in accordance with 'Development Planning - A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014'.</i></p> <p>Design and Construction <i>The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:</i></p> <p><i>3. Proposed Unit 86 Caretaker's Residence, shall comply with Sections 3 and 9 (BAL FZ) of Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate. Except for windows, flaming of</i></p>

External Referral Body	Comments
	<p><i>the specimen is not permitted and there shall be no exposed timber.</i></p> <p><i>4. The most northern window in Unit No.87 on the eastern elevation shall comply with Sections 3 and 9 (BAL FZ) of Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate. Except for windows, flaming of the specimen is not permitted and there shall be no exposed timber.</i></p> <p><i>5. The remaining windows and external doors within the building shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.</i></p> <p>Landscaping</p> <p><i>6. Landscaping within the site shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.</i></p> <p><u>Assessing Officer's Comment:</u> Development Consent DA2017/0388 is recommended to be modified in accordance with the above comments and conditions.</p>

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)

Nil

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

There are no principal development standards to consider under Part 4 of the Warringah Local Environmental Plan 2011 as part of this assessment.

Warringah Development Control Plan

Built Form Controls

There are no built form controls to consider under the Warringah Development Control Plan 2011 as part of this assessment.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes

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 Section 7.12 Contributions Plan 2019

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. Mod2019/0384 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.1C - 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 Reports / Documentation

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Assessment	24 June 2019	Travers Bushfire & Ecology

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.

B. Modify Condition 2 Compliance with Other Department, Authority or Service Requirements to read as follows:

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
NSW Rural Fire Service	Referral - NSW Rural Fire Service - 30 August 2019	30 August 2019

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's

website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

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

Signed



Claire Ryan, Principal Planner

The application is determined on 26/09/2019, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments