

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2014/0091
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Responsible Officer:	Mitchell Drake
Land to be developed (Address):	Lot 6 DP 111254 , 1142 Pittwater Road COLLAROY NSW 2097
Proposed Development:	Modification of Development Consent DA2014/0276 granted for Construction of a swimming pool and rear deck additions
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	Malcolm Alexander McGuinness
Applicant:	Malcolm Alexander McGuinness

Application lodged:	16/05/2014
Application Type:	Local
State Reporting Category:	Residential - Alterations and additions
Notified:	26/05/2014 to 10/06/2014
Advertised:	Not Advertised in accordance with A.7 of WDCP
Submissions:	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 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 Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 6 DP 111254 , 1142 Pittwater Road COLLAROY NSW 2097
Detailed Site Description:	<p>The subject site is legally known as Lot 6, Section 13 DP 111254, and commonly referred to as 1142 Pittwater Road Collaroy. The site is generally regular in shape with an average site depth of 38m and a site width of 15.24m equating to an overall site area of 561sqm. The site generally flat and features a rear boundary adjoining Collaroy Beach. The site is identified as being impacted upon or being within areas influenced by:</p> <ul style="list-style-type: none"> • Reduced Foundation Capacity, • Acid Sulphate Soils Class 4 and 5, • The Wave Impact Zone, and • The Coastal Zone as identified within NSW Protection Act 1979, <p>The site is currently occupied by a single dwelling with an attached garage, and landscaping. Pedestrian and vehicle access is from Pittwater Road at the site frontage.</p>

Map:



SITE HISTORY

Apart from the original Development Application being DA2014/0276, a review of Council records indicates that there are no other works or applications relevant to the subject modification.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks approval to modify the existing consent by changing the materials of the pool construction from fiber glass to reinforced concrete. The change results in a raising of the pool coping by 0.15m to be a total height of 0.75m above ground level. Additionally, the pool shape is to be modified from the approved Oval shape to a rectangular design. The deck areas surrounding the pool are to be reduced in area to accommodate the shape change and the setbacks from this deck area remain as approved. No other works are proposed.

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 A.

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 DA2014/0276, 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 DA2014/0276
(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.	No submissions were received in relation to this application.

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. 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 authority to consider insurance requirements under the Home Building Act</p>

Section 79C 'Matters for Consideration'	Comments
	<p>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	(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. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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 are not applicable to this 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 Warringah 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

Internal Referral Body	Comments
Natural Environment (Coastal)	This property is on land located in an area at risk of coastal erosion and wave impact during severe storms. DA2014/0276 or this modification have not addressed the impact of these coastal processes on the proposed pool. As the pool is to be located within the area of wave impact it is likely to be damaged during a coastal storm. This would create a hazard for the property at 1142 Pittwater Road, adjoining properties and the beach. To address this the proposal will be conditioned to ensure it is suitably designed.
Parks, reserves, beaches, foreshore	Parks Reserves and Foreshores raises no objection to the modification.

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 71 - Coastal Protection

The original proposal, DA2014/0276, was assessed against the Coastal Protection Policy by Councils Natural Environment Unit. The assessment and the imposed condition with regards to the wave impact zone, remain in place as part of the modification and the provisions of this policy remain satisfied.

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 Environment 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:	8.5m	0.6m	0.75m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
5.5 Development within the coastal zone	Yes
Part 6 Additional Local Provisions	Yes
6.1 Acid sulfate soils	Yes
6.5 Coastline hazards	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B3 Side Boundary Envelope (North)	4m @ 45 Degrees	Complies	Complies	Yes - No Change
B3 Side Boundary Envelope (South)	4m @ 45 Degrees	Complies	Complies	Yes - No Change
B5 Side Boundary Setbacks (North)	0.9m	2.7m	2.7m	Yes - No Change
B5 Side Boundary Setbacks	0.9m	2.7m	2.7m	Yes - No

(South)				Change
B9 Rear Boundary Setbacks	6m	2m min- 5m max	2m min - 5m max Refer to Clause B9 Exception	Yes - No Change
D1 Landscaped Open Space and Bushland Setting	40% (224.4sqm)	36.5% (200.04sqm)	36.5% (200.04sqm)	No - No Change

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Built Form Controls	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
Rear Boundary Exceptions - R2	Yes	Yes
Part C Siting Factors	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D8 Privacy	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
E9 Coastline Hazard	Yes	Yes

Detailed Assessment

D8 Privacy

The 0.15m change in pool coping height will not impact upon the privacy of the adjoining dwellings.

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. Mod2014/0091 for Modification of Development Consent DA2014/0276 granted for Construction of a swimming pool and rear deck additions on land at Lot 6 DP 111254, 1142 Pittwater Road, COLLAROY, 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
2659/1 Site Plan	May 2014	S. Polycarpou
2659/2 Swimming Pool R.C. Details	May 2014	S. Polycarpou

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. (DACPLB01)

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

Mitchell Drake, Planner


The application is determined under the delegated authority of:

Steven Findlay, Development Assessment Manager















ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

Notification Document	Title	Date
 2014/154385	Notification Map	26/05/2014

ATTACHMENT C

Reference Number	Document	Date
 2014/134665	DA Acknowledgement Letter - Malcolm Alexander McGuinness	16/05/2014
 2014/134667	invoice for ram applications - Malcolm Alexander McGuinness	16/05/2014
 2014/145231	Modification Application Form	21/05/2014
 2014/145238	Applicant Details	21/05/2014
 2014/145242	Plan - Notification	21/05/2014
 2014/145247	Statement of Environmental Effects	21/05/2014
 2014/145249	Plans - Master Set	21/05/2014
 2014/149763	File Cover	22/05/2014
 2014/149765	Referral to AUSGRID - SEPP - Infrastructure 2007	22/05/2014
 2014/154379	Notification Letters - 22	26/05/2014
 2014/154385	Notification Map	26/05/2014
 2014/165585	Natural Environment Referral Response - Coastal	05/06/2014
 2014/168545	Parks, Reserves and Foreshores Referral Response	10/06/2014
 2014/172480	Assessment Report	12/06/2014