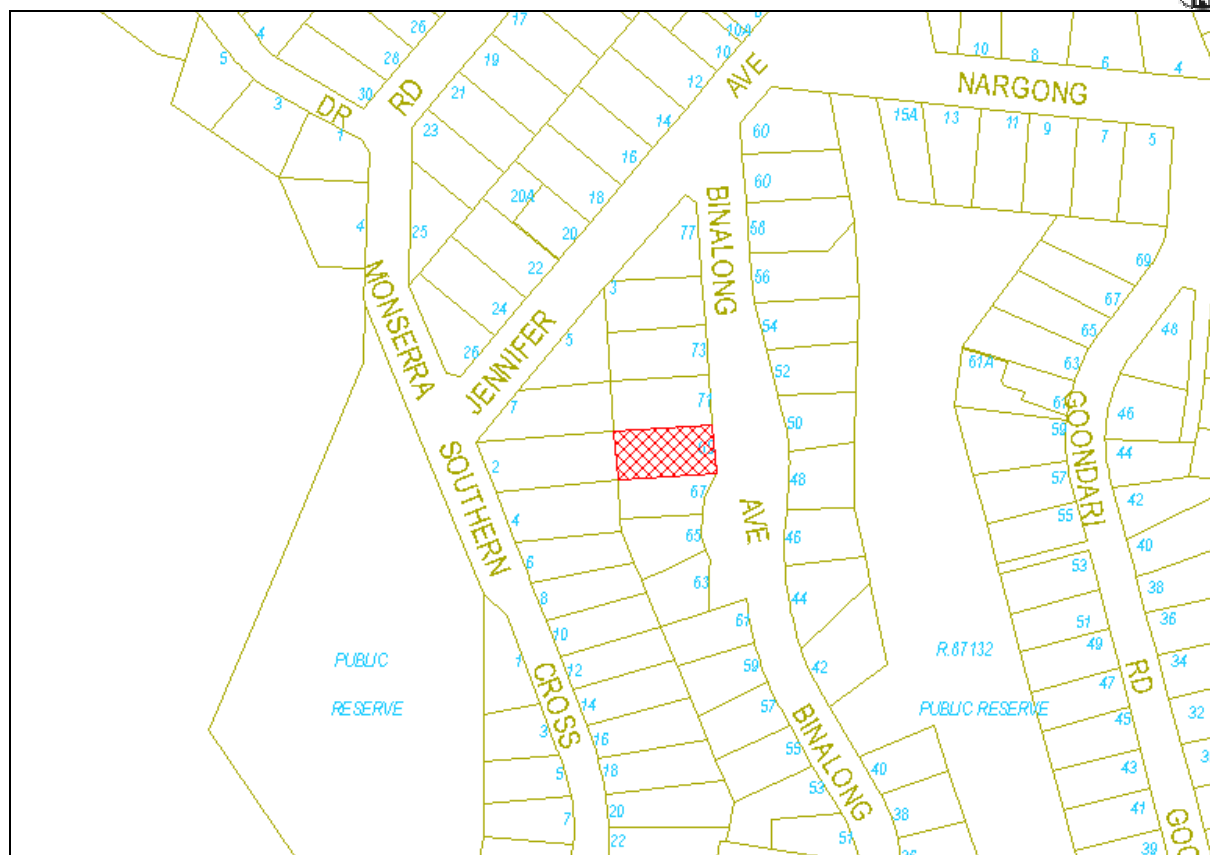




## DEVELOPMENT APPLICATION ASSESSMENT REPORT SECTION 96(1A) MODIFICATION

<b>Assessment Officer:</b>	Keith Wright
<b>Address / Property Description:</b>	Part Lot 2317, DP 752038, No. 69 Binalong Avenue, Allambie Heights
<b>Proposed Development:</b>	Modification 3 to install a window in the southern wall
<b>Development Application No:</b>	MOD2009/0029
<b>Plans Reference:</b>	36059 (Sheets 3/10 and 5/10).
<b>Previous Modifications:</b>	Yes Mod 1 (MOD 2008/0056) – 31/03/08 – Amend finished floor levels Mod 2 (MOD 2008/0152) – 22/05/08 – Correct description of works
<b>Approved Development:</b>	Construction of a two storey dwelling with an air conditioner following demolition works.
<b>Approved Application No:</b>	DA2007/1203
<b>Approved Plans Reference:</b>	36059 (Sheets 1 – 6)
<b>Applicant:</b>	Sam & Sara Bowtell
<b>Owner:</b>	Sam & Sara Bowtell
<b>Application Lodged:</b>	12/02/2009
<b>Amended Plans:</b>	N/A
<b>Locality:</b>	G3 Manly Lagoon Suburbs
<b>Category:</b>	Category 1 (Housing)
<b>Clause 20 Variations:</b>	N/A
<b>Land and Environment Court Action:</b>	No
<b>Referred to IHAP:</b>	No
<b>Referred to ADP:</b>	No
<b>SUMMARY</b>	
<b>Notification:</b>	17/02/09 to 4/03/09 – No submissions
<b>Submission Issues:</b>	N/a
<b>Assessment Issues:</b>	Nil
<b>Recommendation:</b>	Approval
<b>Attachments:</b>	Nil

# **LOCALITY PLAN** (not to scale)



**Subject Site:** Part Lot 2317, DP 752038, No. 69 Binalong Avenue, Allambie Heights

**Notified Residences:** In accordance with Warringah Development Control Plan the development was notified for a period of no less than 14 days between 17/02/09 to 04/03/2009 to 8 adjacent properties.



## **SITE DESCRIPTION**

The subject site is located on the western side of Binalong Avenue and is legally known as Part Lot 2317, DP 752038, No. 69 Binalong Avenue, Allambie Heights.

The site is regular in shape with a width of 20.115m, a length of 40.235m and an area of 809m<sup>2</sup>. The site has an approximate 8.0m diagonal slope from the south-western corner (RL 18.6) to the north-eastern corner (RL 26.6).

The site currently accommodates a detached two storey dwelling with associated car parking, outbuildings and landscaping. Vehicular access is via a 3.4m wide driveway situated in the eastern half of the front boundary.

Surrounding development is of a similar scale and form.

## **RELEVANT BACKGROUND**

DA2007/1203 for the construction of a new two storey dwelling on the subject site, following the demolition of the existing dwelling, was approved on 18/01/2008 subject to standard conditions.

Application DA2008/0024, for the installation of a below-ground swimming pool within the front setback of the approved dwelling was withdrawn by the applicant on 14/03/2008, following advice from Council that the application would be refused.

## **PROPOSAL IN DETAIL**

The applicant seeks to modify DA2007/1203 via MOD2009/0029 in the following manner:

- Install a window to the southern wall of the dwelling on first floor level for the living room.

## **AMENDMENTS TO THE PLAN**

Nil

## **REFERRALS**

No referrals were required for the development.

## **NOTIFICATION & SUBMISSIONS RECEIVED**

In accordance with Warringah Development Control Plan the development was notified for a period of no less than 14 days between 17/02/09 to 04/03/2009 to 8 adjacent properties. No submissions were received in response to the notification.

## **MEDIATION**

Has mediation been requested? No

Has the applicant agreed to mediation? N/A

## STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulations 2000
- c) Warringah Local Environment Plan 2000
- d) Warringah Development Control Plan
- e) Draft Environmental Planning Instruments

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 96(1A)	Comments
<b>Section 96(1A) (a)</b> – Is the Modification to Consent of Minimal Environmental Impact?	The modification, as proposed in this application, is considered to be of minimal environmental impact.
<b>Section 96(1A) (b)</b> – Would the consent as proposed to be modified be substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was previously modified?	The modification, as proposed in this application, would result in a development which is substantially the same as that approved in the original Notice of Determination.
<b>Section 96(1A) (c) &amp; (d)</b> – Public Exhibition of subject application / submission	Given the minor nature of the modification and its consistency with the approved development the application was not notified under the provisions of Clause 90(1) of the EP&A Regulations 2000.
<b>Section 96 (3)</b> - Consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application	See discussion on “Matters for Consideration under Section 79C” in this report.

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

Section 79C 'Matters for Consideration'	Comments
<b>Section 79C (1) (a)(i)</b> – Provisions of any environmental planning instrument	See discussion on “WLEP 2000” in this report.
<b>Section 79C (1) (a)(ii)</b> – Provisions of any draft environmental planning instrument	Refer to discussions on Draft Environmental Planning Instruments in the body of the report.
<b>Section 79C (1) (a)(iii)</b> – Provisions of any development control plan	None applicable.
<b>Section 79C (1) (a)(iia)</b> - Provisions of any Planning Agreement or Draft Planning Agreement	None applicable.
<b>Section 79C (1) (a)(iv)</b> - Provisions of the	Clause 7 of the EPA Regulations 2000

Section 79C 'Matters for Consideration'	Comments
regulations	requires the consent authority to consider the provisions of the Building Code of Australia. Accordingly, an appropriate condition of consent was included with the consent. Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i> . This matter is not relevant to this application.
<b>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</b>	<ul style="list-style-type: none"> <li>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report.</li> <li>(ii) The proposed development will not have a detrimental social impact in the locality considering the residential character of the proposal.</li> <li>(iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the existing and proposed land use.</li> </ul>
<b>Section 79C (1) (c) – The suitability of the site for the development</b>	The site is considered suitable for the proposed development.
<b>Section 79C (1) (d) – Any submissions made in accordance with the EPA Act or EPA Regs</b>	In regards to public submissions refer to the discussion on "Notification & Submissions" within this report.
<b>Section 79C (1) (e) – The public interest</b>	The wider public interest is served by the continued maintenance of the site, and its ability to provide an appropriate land use within this locality.

### State Environmental Planning Policies

There are no State Environmental Planning Policies that are relevant to the subject proposal.

### Regional Environmental Plans

There are no Regional Environmental Plans that are relevant to the subject proposal.

### Local Environmental Plans

#### Warringah Local Environmental Plan 2000

#### Desired Future Character

The subject site is located in the G3 Manly Lagoon Suburbs Locality under Warringah Local Environmental Plan 2000. The Desired Future Character Statement for this locality is as follows:

*The Manly Lagoon Suburbs locality will remain characterised by detached style housing with a*



*pocket of apartment style housing in landscaped settings interspersed by a range of complementary and compatible uses. The development of further apartment style housing will be confined to the “medium density areas” shown on the map.*

*Substantial regional parklands and bushland will remain significant elements of the locality.*

*Future development will maintain the visual pattern and predominant scale of existing detached style housing in the locality except in areas marked as “medium density areas” on the map. The street will be characterised by landscaped front gardens and consistent building setbacks. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.*

*The relationship of the locality with the surrounding bushland will be reinforced by protecting and enhancing the spread of indigenous tree canopy and preserving remnants of the natural landscape such as rock outcrops, bushland and natural watercourses. The use of materials that blend with the colours and textures of the natural landscape will be encouraged. Development on hillsides, or in the vicinity of ridgetops, will integrate with the natural landscape and topography.*

*The locality will continue to be served by the existing local retail centres in the areas shown on the map. Future development in these centres will be in accordance with the general principles of development control provided in clause 39.*

The proposed development is identified as Category 1 development in this locality as it is ancillary to ‘Housing’.

The proposed additional window is consistent with the Desired Future Character Statement.

### **Built Form Controls for the G3 Manly Lagoon Suburbs Locality**

The following table is unchanged with the proposal and outlines the Built Form Controls approved under DA2007/1203:

<b>Standard</b>	<b>Required</b>	<b>Approved</b>	<b>Proposed</b>	<b>Comment</b>	<b>Compliant</b>
<b>Building Height:</b> Ground to roof	8.5m	8.5m	No change	No change	<b>Yes</b>
<b>Building Height:</b> Ground to ceiling	7.2m	6.7m	No change	No change	<b>Yes</b>
<b>Front Setback</b>	6.5m	10.0m	No change	No change	<b>Yes</b>
<b>Housing Density</b>	1/600sqm	1/809sqm	No change	No change	<b>Yes</b>
<b>Landscaping</b>	40% (324m <sup>2</sup> )	51% (413m <sup>2</sup> )	No change	No change	<b>Yes</b>
<b>Rear Setback</b>	6.5m	10.0m	No change	No change	<b>Yes</b>
<b>Side Boundary Envelope:</b> North South	4.0m x 45°	4.0m x 45°	No change	No change	<b>Yes</b>



Warringah Council

Standard	Required	Approved	Proposed	Comment	Compliant
	4.0m x 45°	4.0m x 45°	No change	No change	Yes
<b>Side Setbacks:</b>					
North	0.9m	1.5m	No change	No change	Yes
South	0.9m	1.9m	No change	No change	Yes

## Clause 20 Variation

Clause 20 Variations are not applicable to this development.

## GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

The following General Principle of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 is relevant to the proposed development:

Principle	Applies	Comments	Complies
CL65 Privacy	Yes	The modified Development does not cause unreasonable direct overlooking of habitable rooms and principal private open spaces of adjoining dwellings and is satisfactory in addressing the General Principle.	Yes

## SCHEDULES

None applicable.

## DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

None applicable.

## POLICY CONTROLS

Section 94A Development Contributions were sufficiently addressed in DA2007/1203. This modification will not alter the outcome of that assessment.

## CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, Warringah Local Environmental Plan 2000 and the relevant codes and policies of Council.

It is considered now that the proposed development, as modified in this application, satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

Accordingly, the proposal is recommended for approval.

## RECOMMENDATION (APPROVAL)



THAT the Development Application No: 2007/1203 for the construction of a two storey dwelling and air conditioner be modified by Section 96(1) Application 2009/0029 to install a window in the southern wall at Part Lot 2317, DP 752038, No. 69 Binalong Avenue, Allambie Heights be approved as follows:

➤ **Modification of Condition No. 1 to read:**

**1. Approved Plans and Supporting Documentation**

The development is to be carried out in compliance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of consent:

Drawing Number	Title	Dated	Prepared By
36059 1/6	Site plan	20/09/2007	Masterton Homes Pty Ltd
36059 2/6	Ground floor plan	20/09/2007	Masterton Homes Pty Ltd
36059 3/6	First floor plan	20/09/2007	Masterton Homes Pty Ltd
36059 4/6	Section	20/09/2007	Masterton Homes Pty Ltd
36059 5/6	Elevations	20/09/2007	Masterton Homes Pty Ltd
36059 6/6	Elevations	20/09/2007	Masterton Homes Pty Ltd
36059 1/1	Demolition plan	30/10/2007	Masterton Homes Pty Ltd

Except as modified by the following plans:

Drawing Number	Title	Dated	Prepared By
36059 3/10 (Issue B)	First floor plan	30/04/08	Masterton Homes Pty Ltd
36059 5/10 (Issue B)	Elevations	30/04/08	Masterton Homes Pty Ltd

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

**Note:** Further information on Construction Certificates can be obtained by contacting Council's Call Centre on 9942 2111, Council's website or at the Planning and Assessment Counter.

**Reason:** To ensure the work is carried out in accordance with the determination of Council and approved plans. **[A1 (1)]**

Signed

Date:

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**Keith Wright**  
**Development Assessment Officer**

**05/03/09**

Signed

Date:

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**Ailsa Prendergast**  
**Team Leader Development Assessment**

**05/03/09**