

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2017/0249
Responsible Officer:	Daniel Milliken
Land to be developed (Address):	Lot 1 DP 1208984, 6 Lagoon Street NARRABEEN NSW 2101
Proposed Development:	Modification of Development Consent DA2016/0850 granted for Alterations and additions for shop top housing including basement carparking and strata subdivision
Zoning:	Warringah LEP2011 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Volcano Pty Ltd
Applicant:	Volcano Pty Ltd

Application lodged:	25/09/2017
Integrated Development:	No
Concurrence Required:	No
State Reporting Category:	Residential - New multi unit
Notified:	06/10/2017 to 25/10/2017
Advertised:	07/10/2017
Submissions Received:	0
Recommendation:	Approval

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant

Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 1 DP 1208984 , 6 Lagoon Street NARRABEEN NSW 2101
Detailed Site Description:	<p>The site is located between Pittwater Road and Lagoon Street (i.e. the site has two street frontages), on the eastern side of Pittwater Road and the western side of Lagoon Street. The site has an area of 616.1sqm.</p> <p>The site is irregular in shape having an angled frontage addressing Pittwater Road of 13.51 metres. The site has a variable depth of between 47.605 and 53.345 metres and a secondary frontage to Lagoon Street. The western portion of the site is generally flat before rising approximately 3.0m across its surface to the Lagoon Street frontage. The site does not contain any trees or significant landscape features.</p> <p>The western portion of the site is currently occupied by a two storey brick and rendered mixed use building containing three ground floor commercial tenancies, associated shared bathroom and laundry facilities with an external stair providing access to 2 × one and 1 × two bedroom apartments above. A timber staircase provides pedestrian access from Lagoon Street to the rear portion of the site.</p> <p>The surrounding development consists of:</p> <ul style="list-style-type: none"> • Similar shop top housing developments to the north, south and east, and; • Pittwater Road car parking facilities and a public reserve to the west.

Map:



SITE HISTORY

Mod2017/0159

Section 96 (1) Misdescription - Modification of Development Consent DA2016/0850 granted for Alterations and additions for shop top housing including basement carparking and strata subdivision. Approved : 30/08/2017

Mod2017/0074

Section 96 (1) Misdescription - Modification of Development Consent DA2016/0850 granted for Alterations and additions for shop top housing including basement carparking and strata subdivision. Approved : 20/04/2017

Mod2017/0008

Section 96 (1) Misdescription - Modification of Development Consent DA2016/0850 granted for Alterations and additions for shop top housing including basement carparking and strata subdivision. Approved : 31/01/2017

Mod2016/0339

Section 96 (1) Misdescription - Modification of DA2016/0850 granted for alterations and additions for shop top housing including basement carparking and strata subdivision. Approved : 06/01/2017

DA2016/0850

Alterations and additions for shop top housing including basement carparking and strata subdivision. Approved : 18/11/2016

PROPOSED DEVELOPMENT IN DETAIL

The modification seeks the following changes:

- Unit 1 – the proposed study will not be built on the balcony of unit 1. It will remain as a balcony.
- The proposed small balcony fronting units 1 and 3 will not be built and the existing building

- will remain in its current form facing Pittwater Road, retaining the current streetscape.
- Unit 2 - the balcony will be slightly reduced in size.
- Shop 3 - reduction of the proposed size of the rear of the shop due to the retention of the fire stairs.
- Shop 2 – the existing rear exit retained.

The modification also seeks to include the strata plan as part of the stamped set of plans and correct the description of the development to read: *Alterations and additions to shop top housing including, new units, basement car parking and strata subdivision.*

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 DA2016/0850, MOD2016/0339, MOD2017/0008, MOD2017/0074 and MOD2017/0159, 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	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 DA2016/0850, MOD2016/0339, MOD2017/0008, MOD2017/0074 and MOD2017/0159.

Section 96(1A) - Other Modifications	Comments
modified (if at all), and	
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(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</p>	<p>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.</p>
<p>(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.</p>	<p>No submissions were received in relation to this application.</p>

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)	Division 8A 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.

Section 79C 'Matters for Consideration'	Comments
	<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 documentation was submitted with the original 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 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 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 matter has been addressed via a condition in the original consent.</p>
<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>	<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>

Section 79C 'Matters for Consideration'	Comments
	(iii) The proposed development will not 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
Building Assessment - Fire and Disability upgrades	The 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. <i>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i>
Development Engineers	The proposal to modify the consent in order carry out the alterations and additions to the development has no impact on the previous assessment and approval by Development Engineering. No objection to approval and no modified or additional conditions of consent are recommended
Environmental Investigations (Acid Sulphate)	No Objections or additional conditions

Internal Referral Body	Comments
Landscape Officer	No objections to the proposed modification.
Natural Environment (Flood)	The proposed modifications are not considered to increase flood risk. No flood related development controls applied.
Natural Environment (Riparian Lands/Creeks)	No objection to the modification as the proposal will have no impact on Narrabeen Lagoon.
Strategic Planning - Urban Design	From an urban design point of view, there is no objection to the proposal.
Traffic Engineer	The proposed modifications to the original development applications are minor and do not affect the car parking requirements or traffic generation. Accordingly there are no objections to this modification on traffic and parking grounds.
Waste Officer	No objections raised.

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 65 - Design Quality of Residential Apartment Development

The modifications do not alter the new shop top housing element (on Lagoon Street) of the development. As such, the assessment conducted under DA2016/0850 remains relevant.

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	Complies
Height of Buildings:	11m	14.81m	14.81m (no change)	Yes (no change)

Compliance Assessment

Clause	Compliance with Requirements
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B2 Number of storeys	3	4	4	Yes (no change)
B5 Side Boundary Setbacks	Merit assessment	Nil to both side boundaries	Nil to both side boundaries	Yes (no change)
B7 Front Boundary Setbacks	Lagoon street boundary - Ground and first floor maintain street front, second floor up - 5.0m	Ground floor - Nil First floor: Balcony - Nil Wall - 2.43m Second floor: Balcony - Nil Wall - 2.43m	Ground floor - Nil First floor: Balcony - Nil Wall - 2.43m Second floor: Balcony - Nil Wall - 2.43m	Yes (no change)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	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
D12 Glare and Reflection	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes
F1 Local and Neighbourhood Centres	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

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. Mod2017/0249 for Modification of Development Consent DA2016/0850 granted for Alterations and additions for shop top housing including basement carparking and strata subdivision on land at Lot 1 DP 1208984,6 Lagoon Street, NARRABEEN, 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
a1001 Issue: ao	25 July 2017	RFA Architects
a2102 Issue: ao	25 July 2017	RFA Architects
a3001 Issue: ao	25 July 2017	RFA Architects
a3002 Issue: ao	25 July 2017	RFA Architects
12160D STRATA 4 sheet 1 of 5	12 October 2017	CMS Surveyors
12160D STRATA 4 Sheet 2 of 5	12 October 2017	CMS Surveyors
12160D STRATA 4 Sheet 3 of 5	12 October 2017	CMS Surveyors
12160D STRATA 4 Sheet 4 of 5	12 October 2017	CMS Surveyors
12160D STRATA 4 Sheet 5 of 5	12 October 2017	CMS Surveyors

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. Amend the description of the development to read:

Alterations and additions to shop top housing including, new units, basement car parking and strata subdivision

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

Signed




Daniel Milliken, Principal Planner

The application is determined under the delegated authority of:




Anna Williams, Manager Development Assessments

ATTACHMENT A

Notification Plan	Title	Date
 2017/364198	Plan - Notification	26/09/2017

ATTACHMENT B

Notification Document	Title	Date
 2017/382750	Notification Map	06/10/2017

ATTACHMENT C

Reference Number	Document	Date
 2017/364126	Report - Statement of Environmental Effects - Revised	22/09/2017
 2017/364124	Plans - Survey	22/09/2017
 2017/364208	Plans - Master Set	22/09/2017
 MOD2017/0249	6 Lagoon Street NARRABEEN NSW 2101 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	25/09/2017
 2017/363132	invoice for ram applications - Volcano Pty Ltd	25/09/2017
 2017/363135	DA Acknowledgement Letter - Volcano Pty Ltd	25/09/2017
 2017/364119	Modification Application Form	26/09/2017
 2017/364121	Applicant Details	26/09/2017
 2017/364214	DA Quote Estimate	26/09/2017
 2017/364198	Plan - Notification	26/09/2017
 2017/364202	Plans - External	26/09/2017
 2017/364204	Plans - Internal	26/09/2017
 2017/373062	Environmental Investigations (Acid Sulphate) - Assessment Referral - Mod2017/0249 - 6 Lagoon Street NARRABEEN NSW 2101	29/09/2017
 2017/375709	Building Assessment - Fire and Disability upgrades - Assessment Referral - Mod2017/0249 - 6 Lagoon Street NARRABEEN NSW 2101 - PR	29/09/2017
 2017/372789	Waste Referral Response	29/09/2017
 2017/373315	Environmental Investigations Referral Response - acid sulfate soils	29/09/2017
 2017/373440	Development Application Advertising Document - Volcano Pty Ltd	29/09/2017
 2017/380546	6 Lagoon Street – Mod20170249 – Site Signs	05/10/2017
 2017/381750	Natural Environment Referral Response - Flood	06/10/2017
 2017/382129	Notification Letter - Mod (118)	06/10/2017
 2017/382750	Notification Map	06/10/2017
 2017/382155	ARP Notification Map	06/10/2017
 2017/394105	Building Assessment Referral Response	13/10/2017
 2017/449939	Strata plan	13/11/2017
 2017/482726	Urban Design Referral Response	28/11/2017
 2017/483634	Development Engineering Referral Response	28/11/2017
 2017/498560	Traffic Engineer Referral Response	05/12/2017