

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2017/0265
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Responsible Officer:	Nick England
Land to be developed (Address):	Lot 406 DP 14137, 29 Condoover Street NORTH BALGOWLAH NSW 2093
Proposed Development:	Modification of Development Consent DA2017/0225 granted for alterations and additions to an existing dwelling house
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Sharon Sutton Chris Orlando Huggett
Applicant:	Sharon Sutton Chris Orlando Huggett

Application lodged:	13/10/2017
Integrated Development:	No
Concurrence Required:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	17/10/2017 to 03/11/2017
Advertised:	Not Advertised, in accordance with A.7 of WDCP
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.

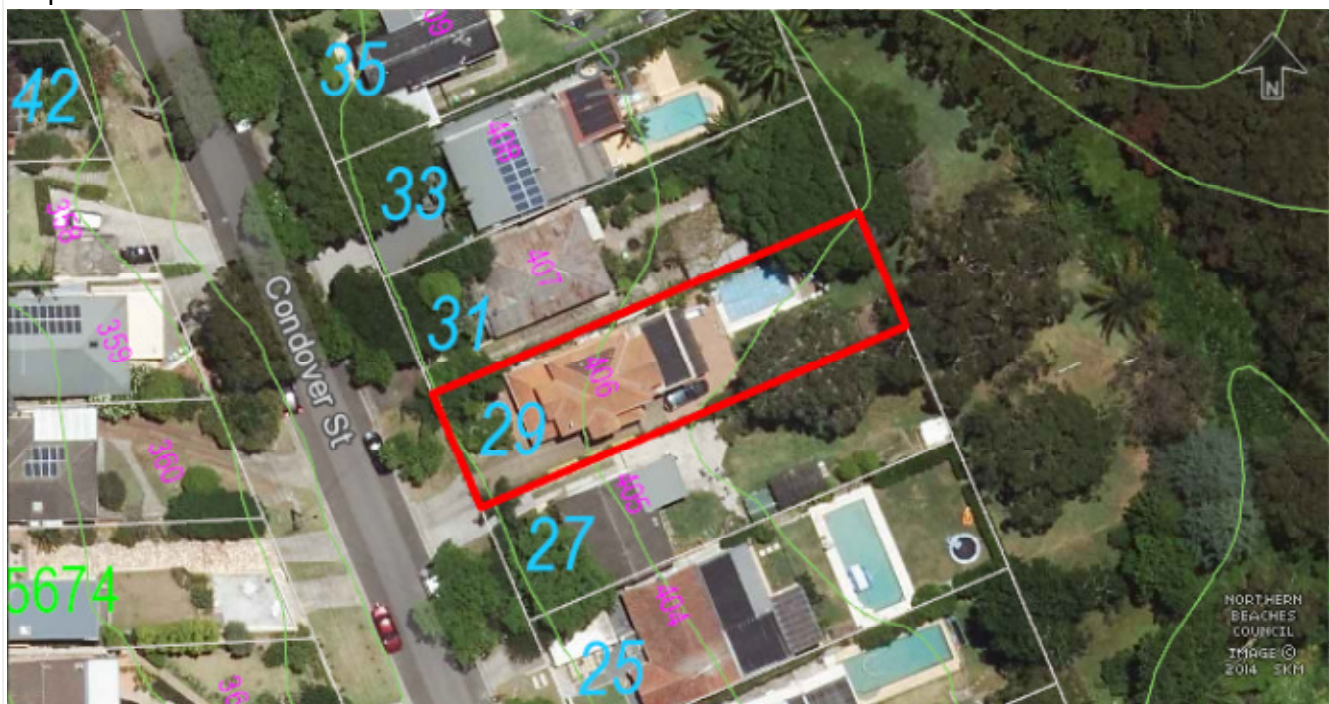
SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 406 DP 14137 , 29 Condover Street NORTH BALGOWLAH NSW 2093
Detailed Site Description:	The subject site consists of one (1) allotment located on the eastern side of Condover Street. The site is regular in shape with a surveyed area of 557m². The site is located within the R2 Low Density Residential zone and accommodates a two storey residential dwelling, outbuildings and swimming pool. The site adjoins public open space to the east.

Map:



SITE HISTORY

Site history relevant to the proposed development:

XC2012/00982: Complying Development Certificate issued for a swimming pool issued on 13 March 2012. This application resulted in a total landscaped open space of approximately 192m² or 35% of the site area.

DA2017/0225: Development consent granted for alterations and additions to an existing dwelling house on 27 June 2017.

PROPOSED DEVELOPMENT IN DETAIL

The application is made pursuant to Section 96(2) of the EP&A Act 1979 and seeks to modify development consent DA2017/0225.

In detail, the modification involves the following:

- re-positioning of Window 4 on the south (side) elevation;
- north east bifold doors (3) to increase from 5.4m width x 2.1m high to 6.1m width x 2.3m high;
- filling in three windows and new window (5) on the west (front) elevation; and
- reduction in size of window 2 on north (side) elevation.

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 DA2017/0225, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(2) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(2) - 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 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 DA2017/0225.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2017/0225 did not require concurrence from the relevant Minister, public authority or approval body.
(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	None applicable.

Section 79C 'Matters for Consideration'	Comments
instrument	
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – 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)	<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. <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. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, permits Council to requested additional information. However, no additional information was requested. <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. <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. <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. <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. <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.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts	(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)

Section 79C 'Matters for Consideration'	Comments
on the natural and built environment and social and economic impacts in the locality	The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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

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 (Building Sustainability Index: BASIX) 2004

An amended BASIX certificate has been submitted with the application (see Certificate No.A275436 dated 11 October 2017). The BASIX Certificate demonstrates compliance with the sustainability requirements of the SEPP.

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

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Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6.2m	No change	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	7.4	No change	No*
B3 Side Boundary Envelope	4m (north)	No breach	No change	Yes
	4m (south)	No breach	No change	Yes
B5 Side Boundary Setbacks	0.9m (north)	1.25m	No change	Yes
	0.9m (south)	3.46m	No change	Yes
B7 Front Boundary Setbacks	6.5m	7m	No change	Yes
B9 Rear Boundary Setbacks	6m	16.95m	No change	Yes
D1 Landscaped Open Space and Bushland Setting	40%	192m ² or 35%	No change	No*

***Note:** The variation was considered in the original application, hence no further assessment is required.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D8 Privacy	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E10 Landslip Risk	Yes	Yes

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. Mod2017/0265 for Modification of Development Consent DA2017/0225 granted for alterations and additions to an existing dwelling house on land at Lot 406 DP 14137,29 Condoover Street, NORTH BALGOWLAH, subject to the conditions printed below:

A. Add Condition No.1A - 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
DA 1A Amendment A	August 2017	JJ Drafting
DA 2A Amendment A	August 2017	JJ Drafting
DA 4A Amendment A	August 2017	JJ Drafting
DA 5A Amendment A	August 2017	JJ Drafting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No.A275436_02	11 October 2017	JJDrafting

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)

B. Add Condition No. 2A - 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
RFS NSW	Referral - RFS - 29 Condover Street North Balgowlah

(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 Department, Authority or Body's. (DACPLB02)

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

Signed

Nick England, Planner

The application is determined under the delegated authority of:

Phil Lane, Acting Development Assessment Manager

ATTACHMENT A

Notification Plan	Title	Date
 2017/395446	Plan - Notification	26/09/2017

ATTACHMENT B

Notification Document	Title	Date
 2017/398803	Notification Map	17/10/2017

ATTACHMENT C

Reference Number	Document	Date
 2017/395453	Report - Statement of Environmental Effects	26/09/2017
 2017/395476	Plans - Master Set	26/09/2017
 2017/395446	Plan - Notification	26/09/2017
 2017/395471	Plans - External - Revised	26/09/2017
 2017/395474	Plans - Internal - Revised	26/09/2017
 2017/395462	Report - BASIX Certificate	11/10/2017
 MOD2017/0265	29 Condoover Street NORTH BALGOWLAH NSW 2093 - Section 96 Modifications - Section 96 (2) Environmental Impact	13/10/2017
 2017/393871	DA Acknowledgement Letter - Chris Orlando Huggett - Sharon Sutton	13/10/2017
 2017/395435	Modification Application Form	16/10/2017
 2017/395437	Applicant Details	16/10/2017
 2017/398792	DA Acknowledgement Letter (not integrated) - Chris Orlando Huggett - Sharon Sutton	17/10/2017
 2017/398803	Notification Map	17/10/2017
 2017/398818	Notification Letter - Mod - 17	17/10/2017
 2017/437026	Confirmation of notification sign - 29 Condoover Street North Balgowlah	04/11/2017
 2017/448068	Assessment Report	10/11/2017