

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2015/0237
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Responsible Officer:	Luke Perry
Land to be developed (Address):	Lot 104 DP 597544, 56 - 58 Glen Street BELROSE NSW 2085 Lot 4 DP 548285, 56 - 58 Glen Street BELROSE NSW 2085
Proposed Development:	Modification of Development Consent DA2013/1447 granted for Demolition Works, Construction of a Retail Centre and Signage (Glenrose Shopping Centre)
Zoning:	LEP - Land zoned B2 Local Centre LEP - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	Fabcot Pty Limited The Trust Company Limited
Applicant:	Fabcot Pty Limited

Application lodged:	23/10/2015
Application Type:	Local
State Reporting Category:	Other
Notified:	03/11/2015 to 18/11/2015
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

There are no assessment issues.

SITE DESCRIPTION

Property Description:	<p>Lot 104 DP 597544 , 56 - 58 Glen Street BELROSE NSW 2085</p> <p>Lot 4 DP 548285 , 56 - 58 Glen Street BELROSE NSW 2085</p>
Detailed Site Description:	<p>The site is known as Lot 4, DP 548285 and Lot 104, DP 597544, Nos. 56-58 Glen Street, Belrose.</p> <p>The site is located on the northern side of Glen Street and has an area of 23,145 square metres.</p> <p>The site has a frontage to Glen Street which is 165.15 metres in length and a frontage to Glenrose Place that is over 90 metres in length. The topography of the site is characterised by a fall of approximately 6 metres towards the northern (rear) boundary.</p> <p>The Glenrose Shopping Centre currently occupies the site. The western side of the shopping centre has been demolished and remediation works have been completed on this area of the site. Approximately two thirds of the shopping centre has been demolished with only the existing Woolworths supermarket and 8 specialty retail tenancies retained.</p> <p>The majority of the site is built upon with extensive car parking areas surrounding the centre. Sporadic tree planting and landscaping has been provided within the at grade car park adjoining Glen Street.</p> <p>The site is located within Glen Street Village which is characterised by a variety of land uses. A shop top housing development at No.54 Glen Street adjoins the south-east corner of the site, Belrose Library and a service station are located on the western side of Glenrose Place. Directly opposite the site on the southern side of Glen Street is Glen Street Theatre and Lionel Watts Park.</p> <p>The development surrounding Glen Street Village is predominantly characterised by detached single dwellings.</p> <p>Two (2) primary areas of open space are located within close proximity to the site. Wingara Reserve adjoins the site to the north and Lionel Watts Reserve is located on the southern side of Glen Street opposite the south-eastern corner of the site.</p>

Five (5) vehicular crossings from Glen Street enable vehicles to access and egress the site. Vehicles are also able to exit the site from a crossing which adjoins the northern end of Glenrose Place.

Map:



SITE HISTORY

MOD2015/0236

This application modified DA2013/1447. The modifications included the removal of four trees located along Glen Street and Glenrose Place. The application was determined on 21 December 2015.

MOD2015/0205

This application modified DA2013/1447. The modifications included the removal of a number of trees located within the adjoining Wingara Reserve. The application was determined Application Determination Panel on 3 December 2015.

MOD2015/0150

This application modified DA2013/1447. The modifications included the modification of two conditions relating to the occupation of the individual tenancies and the hours of operation to allow for restaurants and cafes to occupy 7 of the tenancies and to allow them to operate until 11.00pm. The application was determined on 6 November 2015.

MOD2014/0225

This application modified DA2013/1447. The modifications included the removal/satisfaction of the deferred commencement condition, introduce a staging plan for the works and some built form changes including the addition of roof top plant. The application was approved by the Application

Determination Panel on 5 March 2015.

DA2013/1447

This application was lodged with Council for the redevelopment of the Glenrose Shopping Centre. This application was granted Deferred Commencement Approval by the Joint Regional Planning Panel (JRPP) on 14 July 2014. The deferred commencement condition has been satisfied and an operative consent was issued on 8 May 2015.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks to modify Development Consent No. 2013/1447, granted approval by the Sydney East Joint Regional Planning Panel on 17 July 2014 for the Construction of Shopping Centre (Glenrose Shopping Centre) comprising of Woolworths Supermarket, specialty shops and associated signage, Parking and Landscape works including Demolition works.

Specifically, the modifications involve the modification of Condition No. 63 Separate Development Application for other uses to allow for the individual tenancies to be occupied by business premises and for two additional tenancies located within the internal mall to be occupied as a cafe.

Condition No. 63 is proposed to be amended to read as follows:

'63. Separate Development Applications for other uses

This consent relates to the occupation of the building and including individual tenancies as a 'shop', 'takeaway food and drink premises', 'business premises', or restaurant/cafe (as shown on the approved plans) as defined under Warringah Local Environmental Plan 2011.

Any other proposed uses beyond the above definitions or beyond the provision of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, shall be the subject of a separate Development Application.'

Note:

It should be noted that the application, as submitted, included the addition of two medical premises and an indoor recreation facility. The applicant was informed by way of letter dated 12 January 2016 that the proposal to permit medical premises and an indoor recreation facility will not be 'substantially the same development' as required under Section 96 of the Environmental Planning and Assessment Act 1979 (EP & A Act) and therefore cannot be supported. A request for the applicant to withdraw the application was made under the same letter.

In response to the letter the applicant requested that the medical premises and indoor recreation facility modifications be removed from the application and that the application be assessed and determined on the modifications of business premises and two restaurant/cafe premises.

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 DA2014/1337, 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 DA2013/1447.
(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, Warringham Local Environment Plan 2011 and Warringham 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.	See discussion on "Public Exhibition" in this report.

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.</p> <p>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 the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 79C (1) (b) – the likely impacts of the development, including environmental	(i) The environmental impacts of the proposed development on the natural and built environment are

Section 79C 'Matters for Consideration'	Comments
impacts on the natural and built environment and social and economic impacts in the locality	<p>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> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
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	No objection to the subject proposal.
Environmental Investigations (Industrial)	No objections are raised to the proposed modifications.
Health and Protection (Food Premises)	No objections are raised to the proposed development.
Natural Environment (Flood)	The proposed modification to permit additional uses is not considered to increase flood risk. No flood related development controls applied.
Traffic Engineer	The traffic comments provided here is based on the understanding that the medical premises and indoor recreational facility no longer form part of this application and the modification is just for change of use from two currently approved kiosks with the total of about 80m2 GFA

Internal Referral Body	Comments
	to cafes. Applying the WDCP parking requirements proposed for a café, the proposed change of use will require 2 additional spaces. Having regards to the parking figures provided in MOD2015/0150, as and the location of cafes at the middle of shopping centre aisles with no provision of any seats outside the cafe, no objections is raised on the proposal on traffic grounds.

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) of SEPP 55 states that a Consent Authority must not consent to the carrying out of any development on land unless;

- It has considered whether the land is contaminated, and
- If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

On 18 January 2008 the Department of Environment and Climate Change (DECC) declared the site a 'remediation site' under Section 21 of the Contaminated Lands Management Act 1997. Under the provisions of this Act, the property owner has prepared a Voluntary Management Proposal (VMP) which was approved by the NSW Environment Protection Authority (EPA) on 21 June 2013. The EPA has responsibility of regulating the VMP.

The owners of the site have engaged an EPA accredited site auditor to review the on-going work and provide a site audit statement required by the EPA's agreement to the VMP and other site audit statements as required to facilitate redevelopment of the site.

DA2013/1447 was accompanied by a updated Remediation Action Plan (RAP) prepared by Douglas Partners dated March 2013, that provided an on-going plan for the remediation works and monitoring that is overseen by and the responsibility of the EPA. At the completion of these works, subject to concurrence by the EPA, the site will be suitable for development.

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

There are no changes proposed to the height of the building and therefore no development standards applicable to the proposal.

Compliance Assessment

Clause	Compliance with Requirements
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

There are no built form controls applicable to this development.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D3 Noise	Yes	Yes
D18 Accessibility	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. Mod2015/0237 for Modification of Development Consent DA2013/1447 granted for Demolition Works, Construction of a Retail Centre and Signage (Glenrose Shopping Centre) on land at Lot 104 DP 597544,56 - 58 Glen Street, BELROSE, Lot 4 DP 548285,56 - 58 Glen Street, BELROSE, 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
A06.03 General Arrangement - Retail Level Rev S96-5	19/01/2016	BN Group Pty Ltd

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

B. Modify Condition No.63 Separate Development Applications for other uses to read as follows:

63. Separate Development Applications for other uses

This consent relates to the occupation of the building and including individual tenancies as a 'shop', 'takeaway food and drink premises', 'business premises', or restaurant/cafe (as shown on the approved plans) as defined under Warringah Local Environmental Plan 2011.

Any other proposed uses beyond the above definitions or beyond the provision of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, shall be the subject of a separate Development Application.

Reason: Reason: To ensure the use of the building is consistent with the given consent.

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

Luke Perry, 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
 2015/325013	Notification map	03/11/2015

ATTACHMENT C

Reference Number	Document	Date
 2015/316626	Report Traffic and Parking Statement	16/10/2015
 MOD2015/0237	56-58 Glen Street BELROSE NSW 2085 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	23/10/2015
 2015/315328	DA Acknowledgement Letter - Fabcot Pty Limited	23/10/2015
 2015/316623	Plans - Architectural	26/10/2015
 2015/316610	Modification Application Form	26/10/2015
 2015/316613	Applicant Details	26/10/2015
 2015/316617	Report Statement of Environmental Effects	26/10/2015
 2015/319190	Health and Protection (Food Premises) - Assessment Referral - Mod2015/0237 - 56 - 58 Glen Street BELROSE NSW 2085	28/10/2015
 2015/319567	File Cover	28/10/2015
 2015/322132	Building Assessment Referral Response	30/10/2015
 2015/324266	OBSOLETE DOCUMENT, PLEASE REFER TO 2015/330426 Environmental Health and Protection Referral Response - commercial use	02/11/2015
 2015/325010	Notification letter 124	03/11/2015
 2015/325013	Notification map	03/11/2015
 2015/330407	Environmental Investigations (Industrial) - Assessment Referral - Mod2015/0237 - 56 - 58 Glen Street BELROSE NSW 2085	06/11/2015
 2015/330426	Environmental Health and Protection Referral Response - commercial use	06/11/2015
 2015/335686	Natural Environment Referral Response - Flood	11/11/2015
 2015/340232	PLANS - 56-58 Glen Street BELROSE - Van Der Meer Consulting	16/11/2015
 2015/340256	DOCS/PLANS 1 - 56-58 Glen Street BELROSE - Van Der Meer Consulting	16/11/2015
 2015/340263	DOCS/PLANS 2 - 56-58 Glen Street BELROSE - Van Der Meer Consulting	16/11/2015
 2015/340270	DOCS/PLANS 3 - 56-58 Glen Street BELROSE - Van Der Meer Consulting	16/11/2015
 2015/354957	Traffic Engineer Referral Response	30/11/2015
 2015/383015	Request for Withdrawal of Development Application - Fabcot Pty Limited	22/12/2015