

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2013/0118
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Responsible Officer:	Keith Wright
Land to be developed (Address):	Lot 21 DP 270776 , 34 Dawes Road BELROSE NSW 2085
Proposed Development:	Modification of Development Consent DA2013/0518 granted for Construction of fencing, swimming pool and driveway.
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:	Joanne Elizabeth Scaturchio Vincent Eugene Scaturchio
Applicant:	Joanne Elizabeth Scaturchio

Application lodged:	18/07/2013
Application Type:	Local
State Reporting Category:	Residential - Alterations and additions
Notified:	Not Notified
Advertised:	Not Advertised in accordance with A.7 of WDCP
Submissions:	0

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.

RECOMMENDATION

Approval

SITE DESCRIPTION

Property Description:	Lot 21 DP 270776 , 34 Dawes Road BELROSE NSW 2085
Detailed Site Description:	The subject site consists of a single, vacant, residential allotment located on the northern side of Dawes Road. The site is legally known as Lot 21 in DP 270776, No. 34 Dawes Road, Belrose. The site is regular in shape with a frontage of 20m along Dawes Road and a depth of 42m. The site has a surveyed area of 840m². The site is located within the R2 Low Density Residential zone from WLEP 2011 and is vacant. Surrounding development consists of residential dwellings. The site falls away from the street towards the north-eastern corner of the site on a 12% slope. The site has approximately 450sqm of bushland trees.

Map:



SITE HISTORY

The land is an undeveloped allotment from a recent subdivision of land bounded by new development on the western boundary, Dawes Road, Lindrum Street and Perentie Road.

PROPOSED DEVELOPMENT IN DETAIL

It is proposed to delete the swimming pool from consent DA2013/0518. The application thereby seeks to amend the description of works to "Construction of fencing and driveway" and amend or Conditions 1, 11, 12 and 18 as follows:

1. Approved Plans and Supporting Documentation

The development of retaining walls, landscape features, and front and eastern side fences must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
P1 to P7	October 2012	Right Angle Design & Drafting Pty Ltd

NOTE: This approval excludes the driveway and swimming pool (measuring 9.8m long by 6.4m wide).

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

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

11. Side fence amendment

The eastern side fence is to graduate in height above existing ground level from 2.1 metres at the rear boundary to 1.8 metres as the ground level rises along the side of the dwelling.

Details showing the amended design are to be submitted to the Principal Certifying Authority with the application for a Construction Certificate.

Reason: To reduce the impact of height upon the eastern side property. (DACPLCPCC1)

12. Deleted

18. Deleted

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 DA2013/0518 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)	Comments
Section 96(1A) (a) – Is the Modification to Consent of Minimal Environmental Impact?	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact.
Section 96(1A) (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?	Yes 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.
Section 96(1A) (c) & (d) – Public Exhibition of subject application / submission	The application was notified under the provisions Clause 90(1) of the EP&A Regulations 2000.
Section 96 (3) - 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.

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	Warringah Development Control Plan applies to this proposal.

Section 79C 'Matters for Consideration'	Comments
control plan	
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 of consent. <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. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This Clause is not relevant to this application. <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 Clause is not relevant to this application. <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 of consent.
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 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 was not notified.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Natural Environment (Biodiversity)	The application is to delete the swimming pool from the parent approval. Any conditions provided in relation to the swimming pool are to be deleted from this modification consent.
Natural Environment (Riparian Lands/Creeks)	The application is to delete the swimming pool from the parent approval. Any conditions provided in relation to the swimming pool are to be deleted from this modification consent.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The parent application, DA2013/0518, was referred to Ausgrid and no conditions were applied. The current application is to delete part of the works approved under the parent application. Referral to Ausgrid was not required in this instance.

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)

Nil

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
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Principal Development Standards

Not applicable.

Compliance Assessment

Clause	Compliance with Requirements
6.4 Development on sloping land	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.

The proposal has been assessed against the relevant matters for consideration under Section 79C of the EP&A Act 1979. 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 specified in S.5(a)(i) and (ii) 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. Mod2013/0118 for Modification of Development Consent DA2013/0518 granted for Construction of fencing, swimming pool and driveway. on land at Lot 21 DP 270776,34 Dawes Road, BELROSE, subject to the conditions printed below:

A. Modify Condition 1. Approved Plans and Supporting Documentation to read as follows:

1. Approved Plans and Supporting Documentation

The development of retaining walls, landscape features, and front and eastern side fences must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
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NOTE: This approval excludes the driveway and swimming pool (measuring 9.8m long by 6.4m wide).

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

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

B. Modify Condition 11. Side Fence Amendment to read as follows:

11. Side fence amendment

The eastern side fence is to graduate in height above existing ground level from 2.1 metres at the rear boundary to 1.8 metres as the ground level rises along the side of the dwelling. Details showing the amended design are to be submitted to the Principal Certifying Authority with the application for a Construction Certificate

Reason: To reduce the impact of height upon the eastern side property. (DACPLCPCC1)

C. Amend Condition 12 Swimming Pool Amendment to read as follows:

Delete

D. Amend Condition 18 Swimming Pool Requirements to read as follows:

Delete

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

Keith Wright, Senior Development Assessment Officer

The application is determined under the delegated authority of:

Steven Findlay, Development Assessment Manager

ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 MOD2013/0118	34 Dawes Road BELROSE NSW 2085 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	18/07/2013
 2013/213686	DA Acknowledgement Letter - Vincent Eugene Scaturchio - Joanne Elizabeth Scaturchio	18/07/2013
 2013/213715	invoice for ram applications - Joanne Elizabeth Scaturchio	18/07/2013
 2013/214201	Modification Application Form	18/07/2013
 2013/214203	Applicant Details	18/07/2013
 2013/214986	File Cover	19/07/2013
 2013/217008	Assessment Report	23/07/2013