

1 July 2015

The General Manager
Warringah Council
Civic Centre
725 Pittwater Road
DEE WHY NSW 2099

Dear Sir,

SECTION 96(1a) APPLICATION

Premises: Lot 1 in DP 514220, No. 12 Toronto Avenue,
Cromer
Amendments: Amend Plans – Timber Screen
Development Application: 2014/0612

INTRODUCTION

On behalf of Mr Gee and Ms Betts I seek Council consent pursuant to Section 96(1a) of the *Environmental Planning & Assessment Act* 1979 to amend the plans of Development Application No. 2014/0612 relating to the construction of alterations and additions to an approved dwelling at No. 12 Toronto Avenue, Cromer.

PROPOSED MODIFICATION

This proposal to amend the approved plans as follows:

- Construct timber screen along the Eastern Elevation of existing pool in lieu of approved glass pool fence.



View of Timber Screen

LEGISLATION

Section 96(1a) of the Act states:

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*

Comment: The Consent granted approval for the construction of alterations and additions to an approved dwelling house including a new pool fence. The proposed amendment seeks approval of a timber screen which has not environmental impact. This is considered to be of no negative 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 the consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: The original consent granted approval to the construction of alterations and additions to an approved dwelling including a new pool fence. This application seeks to alter the approved pool from glazed fencing to a timber screen. This is considered to be substantially the same development.

- (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 that requires the notification or advertising of applications for modification of a development consent, and*
- (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.*

Comment: The application will be notified in accordance with Council guidelines.

WARRINGAH LOCAL ENVIRONMENTAL PLAN 2012

The site is zoned R2 Low Density Residential. Dwelling alterations/additions are permissible in this zone with the consent of Council. The objectives of the R2 Low Density Residential Zone is as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

The proposed amendments to the plans achieves the objectives by retaining a low density residential environmental within a landscaped setting.

The following provisions of the LEP are relevant to the proposed development:

Clause	Development Standard	Proposal	Compliance
4.3 Height	8.5m	<8.5m	Yes

There are no other provisions of the Warringah Local Environmental Plan 2011 that apply to the proposed development.

4.3 Warringah Development Control Plan 2011

The Warringah Development Control Plan (DCP) has been prepared by Council and was due to come into effect upon the gazettal of the LEP 2011. The new DCP contains detailed planning controls that support LEP 2011.

The following table provides a summary of the relevant controls of the DCP:

Clause	Requirement	Compliance
B3 - Side Boundary Envelope	Building envelope 45 degrees from 5m. Eaves up to 675mm are an allowable encroachment	Yes
B5 - Side Boundary setbacks	Minimum: 0.9m	The proposed screen is setback 0.47m to the side boundary. It is noted that the screen is located on existing pool coping and replacing existing fencing. It is considered that the setback is appropriate in this instance.
B9- Rear Boundary Setbacks & B10 Merit Assessment of Rear Setbacks	Rear setback required: 6.0m	The proposal provides for a screen to replace an existing pool fence. The existing rear setback is not altered. The screen is a lightweight ancillary structure and does not have a detrimental impact on the adjoining rear property.
C4 - Stormwater	To be provided in accordance with Council's Stormwater Drainage Design Guidelines for Minor Developments & Minor Works Specification	Yes All collected stormwater will continue to drain to the existing system in the street gutter.
C5 – Erosion and Sedimentation	Soil and Water Management required	Yes The approved soil and water management plan will be implemented.
D1 – Landscaped Open Space and Bushland	Min 40% Landscaped Area to be maintained	There is no change to the existing approved landscaped area.

Clause	Requirement	Compliance
D2 - Private Open Space	Dwelling houses with three or more bedrooms Min 60m ² with min dimension 5m	Yes No change to approved private open space.
D3 - Noise	Mechanical noise is to be attenuated to maintain adjoin unit amenity. Compliance with NSW Industrial Noise Policy Requirements	Not Applicable
D6 – Access to sunlight	The controls require that sunlight to at least 50% of the private open space of both the subject and adjoining properties' private open space receives not less than three hours sunlight between 9am – 3pm on 21 June winter solstice.	Given the north south orientation of the allotment the timber screen will not result in unreasonable overshadowing.
D7 - Views	View sharing to be maintained	Yes The timber screen will not obstruct any significant views.
D8 - Privacy	This clause specifies that development is not to cause unreasonable overlooking of habitable rooms and principle private open space of adjoining properties.	Yes The existing pool coping is approximatey 1-1.5m above existing ground level and the original consent granted approval for a glass pool fence to be erected along the eastern elevation of the coping. This allowed for direct views into the adjoining property and for the adjoining residents to view those people utilizing the pool.

Clause	Requirement	Compliance
		The timber screen proposed with this modification will prevent overlooking and improve the current level of privacy.
D9 – Building Bulk	This clause requires buildings to have a visual bulk and architectural scale that is consistent with structures on nearby properties & not to visually dominate the street.	Yes The timber screen is a lightweight structure and does not result in unreasonable bulk or scale.
D10 – Building Colours and materials	External finishes and colours sympathetic to the natural and built environment	Yes
D14 – Site Facilities	Garbage storage areas and mailboxes to have minimal visual impact to the street Landscaping to be provided to reduce the view of the site facilities.	Yes Existing facilities retained.
D15 – Side and Rear Fences	Side and rear fences to be maximum 1.8m and have regard for Dividing Fences Act 1991.	The proposal is for a screen that is setback from the side boundary.
D16 – Swimming Pools and Spa Pools	Pool not to be located in front yard or where site has two frontages, pool not to be located in primary frontage. Siting to have regard for neighbouring trees.	Not Applicable

Clause	Requirement	Compliance
E1 – Private Property Tree Management	Arboricultural report to be provided to support development where impacts to trees are presented.	Not applicable – proposal does not require the removal of any vegetation
E4 – Wildlife Corridors	Subject site is identified as being within a wildlife corridor.	Yes Whilst the proposal is located within an existing wildlife corridor, the timber screen will not impact on local wildlife. The screen is located on the existing pool coping and has no impact on vegetation or fauna. See discussion at end of table.
E7 – Development on land adjoining public open space	See discussion at end of table	See discussion at end of table
E8 – Waterways and Riparian Lands	Rear northeast corner of the site identified on map.	See comments at end of table.
E10 – Landslip Risk	Identified on map as B	The recommendations of the original Geotechnical Assessment will be implemented.
E11 – Flood Prone Land	Not Applicable	Not Applicable

E4 Wildlife Corridors

The site is identified as being within a wildlife corridor. The timber screen is located on the existing pool coping and will not affect wildlife and achieves the objectives of this clause for the following reasons:

- The timber screen is located on an existing pool coping and does not reduce the landscaped area of the site.
- The proposal does not result in the removal of any significant vegetation.

- The proposal maintains appropriate setback to the adjoining public open space thereby having no impact on the vegetation within that open space.

E7 – Development on land adjoining public open space

The site is located adjacent to land zoned public open space. It is considered that the proposal achieves the objectives of this clause for the following reasons:

- The proposed works maintain the existing setback provided to the adjoining public open space with the timber screen located on top of the existing pool coping.
- The works do not affect existing public access to the adjoining open space.
- The works do not obstruct views to the adjoining open space.
- The proposal does not have a detrimental impact on views from the adjoining private open space. The works are relatively minor and do not result in unreasonable bulk.
- The dwelling is orientated towards the open space and Cromer Golf Course to maximise opportunities for casual surveillance.
- The proposal does not result in the removal of any significant vegetation from the site.

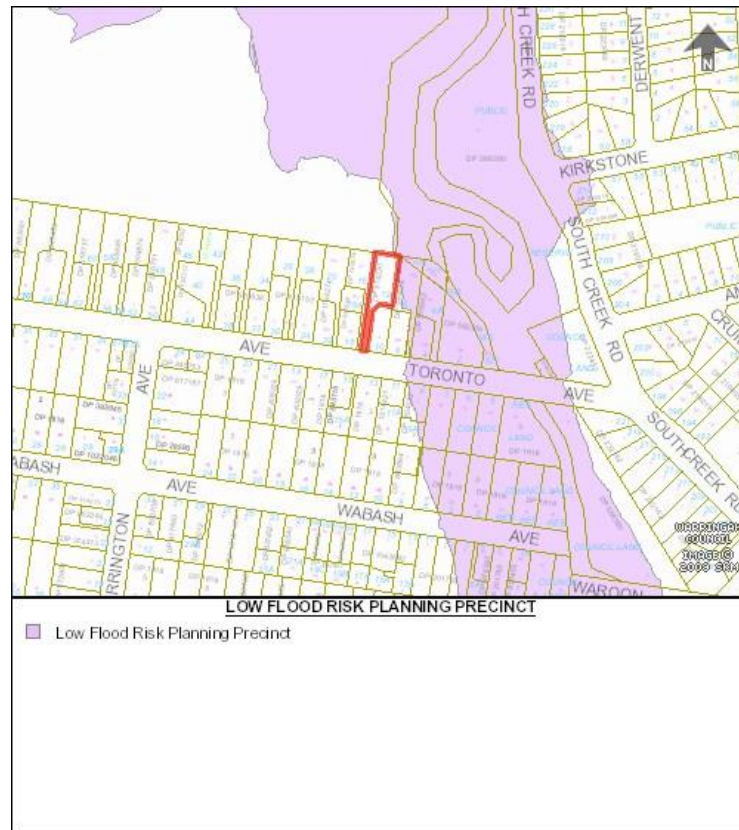
E8 – Waterways and Riparian Lands

The site is mapped as being within land identified as affected by Waterway and Riparian Lands. However, it is considered that the proposal achieves the objectives of this clause and that a Water Impact Statement is not required for the following reasons:

- The works do not encroach the existing setback to the waterway/riparian land. In this regard the timber screen is located on the existing pool coping.
- The works will not have any impact on the biodiversity of the waterway/riparian land as the proposal retains the existing setback to the adjoining public open space and does not result in the removal or impact of any vegetation on the public open space.
- The works will not change the course of the waterway nor impact on any vegetation in the riparian zone.

E11 – Flood Prone Land

The site is partially within the Low Flood Risk Planning Precinct as depicted below:



As depicted a very small portion of the rear northeast corner of the site. For residential development within the Low Flood Risk Precinct Clause E11 does not require any specific measures/works. Further it is considered that the proposal is acceptable and meets the objectives of this clause for the following reasons:

- The timber screen is located on top of the existing pool coping and elevation above ground level.
- The proposal retains the existing floor levels.
- The proposal does not alter approved habitable floor levels.
- The area identified as Low Flood Risk is a small portion of the rear northeast corner. The works do not encroach this area.

There are no other provisions of the DCP that apply to the development.

JUSTIFICATION

The proposed amendments to the plans are considered justified for the following reasons:

- The alterations are relatively minor.
- The timber screen improves privacy to the subject and adjoining properties.
- The amendments continue to ensure at least 3 hours of solar access to the adjoining properties living areas and private open space.

CONCLUSION

The proposed amendments to the plan requires consent from Council.

For the reasons stated above it is considered that this application should be supported. Should you require any further information please do not hesitate to contact me.

Yours faithfully,



Natalie Nolan