

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2013/0153
Responsible Officer:	Kevin Short
Land to be developed (Address):	Lot 53 DP 774913 , 53 / 0 Yanderra Road DUFFYS FOREST NSW 2084
Proposed Development:	Modification of Development Consent DA2012/1361 granted for Demolition works and alterations and additions to an existing school and construction of new school facilities, an increase in student numbers and signage.
Zoning:	LEP - Land Zoned RU4 Primary Production Small Lots
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	Northern Beaches Christian School
Applicant:	Northern Beaches Christian School

Application lodged:	22/08/2013
Application Type:	Local
State Reporting Category:	Other
Notified:	03/09/2013 to 18/09/2013
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:	Lot 53 DP 774913 , 53 / 0 Yanderra Road DUFFYS FOREST NSW 2084
Detailed Site Description:	The land subject of this application is Lot 53, DP 774913 and is known as Lot 53 Yanderra Road, Duffys Forest. The site is rectangular in shape with a total area of 4.43ha. The Northern Beaches Christian School currently occupy the site which comprises a range of school buildings of varying height, bulk and scale including classrooms, offices and a large grandstand and gym. An open sportsground occupies the westernmost part of the property. The site is located on the north western side of Durumbil Road at the intersection with the northern head of Echunga Road. Yanderra Road adjoining the site to the north east is now closed and has been dedicated to the NSW National Parks and Wildlife Service. Surrounding the site is a dwelling house to the south east, the Sydney Japanese School to the south west, the Terrey Hills Golf and Country Club to the west and north west and the Ku-Ring-Gai Chase National Park to the north east. Vehicular access is obtained of the cul de sac at the head of Echunga Road. 193 parking spaces are currently provided on site and a drop off area is located adjacent to the south eastern boundary.

Map:



SITE HISTORY

- DA1999/1901 was granted for alterations to existing school buildings
- DA1999/3355 was granted for shade structures, playground and re-location of existing sheds
- DA1999/3493 was granted for permanent classrooms (including an increase in student numbers from 750 to 900 and staff numbers from 65 to 100)
- DA2001/1090 was granted for new classrooms and associated amenities
- DA2005/0944 was granted for internal reconfiguration of existing school facilities and erection of awnings over existing walkways
- DA2006/0601 was granted for alterations and additions to the existing Northern Beaches Christian School (including an increase in student numbers from 900 to 1,050 and staff numbers from 111 to 115)
- CDC2010/0064 was granted for a multi purpose community centre
- DA2012/0123 was granted for demolition works and alterations and additions to an existing educational establishment including construction of an administration building (these works are currently under construction)
- DA2012/1361 granted for Demolition works and alterations and additions to an existing school and construction of new school facilities, an increase in student numbers and signage was approved on 12 March 2013

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify Development Consent No.DA2012/1361 in accordance with the provisions of Section 96 (1A) of the Environmental Planning and Assessment Act 1979. Specifically, the modified

proposal seeks to modify Condition Nos. 5, 29 and 37.

In summary, the changes to these conditions will effectively enable a staged construction and interim occupation of the approved school buildings and carpark area.

No amendments are proposed to the approved plans.

The modifications to the Condition are highlighted in bold text and shown below:

Condition No.5 - Policy Controls

5. Policy Controls

Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan

Contribution based on a total development cost of \$ 13,176,840

Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 125,180.00
Section 94A Planning and Administration	0.05%	\$ 6,588
Total	1%	\$ 131,768

The amount will be adjusted at the time of paying accounting to the quarterly CPI (Sydney – All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated. ***Evidence of contributions being paid is to be issued to the Principal Certifying Authority prior to the issue of any Interim or Final Occupation Certificate for a building (whichever comes first).***

Reason: To provide for contributions in accordance with the Warringah Section 94A Development Contributions Plan 2012.

Condition No.29 - On-Site Stormwater

29. On-site Stormwater

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a 'work as executed' (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of **an** interim/final Occupation Certificate **for a building**.

Reason: To ensure stormwater disposal is constructed to Council's satisfaction. (DACENF10)

Condition No.37 - Allocation of Spaces

37. Allocation of Spaces

255 car parking spaces shall be provided, made accessible and maintained at all times.

Detail demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of **an** interim / final Occupation Certificate **for a building**.

Reason: To ensure that adequate parking facilities to service the development are provided on site. (DACPLG01)

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 DA2012/1361, 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 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)	<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>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, 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. These matters have been addressed in the original consent via a condition of consent.

Section 79C 'Matters for Consideration'	Comments
	<u>Clause 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 in the original consent via a condition of consent. <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 in the original consent via a condition of 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 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 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 was referred to Council's Building Assessment (Fire and Disability Upgrades) Officer for comment and no objection was raised to the proposed development subject to conditions which have been included in the Recommendation of this report.
Development Engineers	The application was referred to Council's Development Engineer for comment and no objection was raised to the proposed development subject to conditions which have been included in the Recommendation of this report.
Landscape Officer	The application was referred to Council's Landscape Officer for comment and no objection was raised to the proposed development.
Natural Environment (Biodiversity)	The application was referred to Council's Natural Environment (Biodiversity) Officer for comment and no objection was raised to the proposed development.
Traffic Engineer	The application was referred to Council's Traffic Engineer for comment and no objection was raised to the proposed development subject to conditions which have been included in the Recommendation of this report.

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 (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.

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council was satisfied in the original approval that the land can be made suitable for the approved purpose and subsequently included recommendations for site investigation as conditions of consent.

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

The modification application does not require any alterations to the approved built form, including school buildings and carparking areas. On this basis, the proposal, as modified, is also deemed acceptable against the requirements of WLEP 2011.

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes

Warringah Development Control Plan

Built Form Controls

The modification application does not require any alterations to the approved built form, including school buildings and carparking areas. On this basis, the proposal, as modified, is also deemed acceptable against the requirements of WDCP.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	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.

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. Mod2013/0153 for Modification of Development Consent DA2012/1361 granted for Demolition works and alterations and additions to an existing school and construction of new school facilities, an increase in student numbers and signage. on land at Lot 53 DP 774913,53 / 0 Yanderra Road, DUFFYS FOREST, subject to the conditions printed below:

Modify Condition 5 - Policy Controls to read as follows:**5. Policy Controls****Warringah Section 94A Development Contribution Plan**

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan

Contribution based on a total development cost of \$ 13,176,840

Contributions Levy Rate Payable

Total Section 94A Levy	0.95%	\$ 125,180.00
Section 94A Planning and Administration	0.05%	\$ 6,588
Total	1%	\$ 131,768

The amount will be adjusted at the time of paying accounting to the quarterly CPI (Sydney – All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated. Evidence of contributions being paid is to be issued to the Principal Certifying Authority prior to the issue of any Interim or Final Occupation Certificate for a building (whichever comes first).

Reason: To provide for contributions in accordance with the Warringah Section 94A Development Contributions Plan 2012.

Modify Condition 29 - On-site Stormwater to read as follows:**29. On-site Stormwater**

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a 'work as executed' (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to

be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an interim/final Occupation Certificate for a building.

Reason: To ensure stormwater disposal is constructed to Council's satisfaction. (DACENF10)

Modify Condition 37 - Allocation of Spaces to read as follows:

37. Allocation of Spaces

255 car parking spaces shall be provided, made accessible and maintained at all times.

Detail demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an interim / final Occupation Certificate for a building.

Reason: To ensure that adequate parking facilities to service the development are provided on site. (DACPLG01)

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

Kevin Short, 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

Notification Document	Title	Date
 2013/257873	Notification Map	03/09/2013

ATTACHMENT C

Reference Number	Document	Date
 2013/249454	Appendix A - Development Consent No. DA2012-1361 issued by Warringah Council dated 6 March 2013 from CD	12/03/2013
 2013/249451	Appendix B - Letter to Minister for Planning and Infrastructure prepared by NBCS from CD	02/05/2013
 2013/249448	report statement of environmental effects from CD	21/08/2013
 2013/246820	invoice for ram applications - Northern Beaches Christian School	22/08/2013
 2013/246829	DA Acknowledgement Letter - Northern Beaches Christian School	22/08/2013
 2013/249422	modification application form	26/08/2013
 2013/249423	applicant details	26/08/2013
 2013/251818	File Cover	28/08/2013
 2013/251819	Referral to Development Engineers	28/08/2013
 2013/251822	Referral Traffic Engineers	28/08/2013
 2013/253312	Natural Environment Referral Response - Biodiversity	29/08/2013
 2013/257851	Notification Letters - 22	03/09/2013
 2013/257873	Notification Map	03/09/2013
 2013/276092	Traffic Engineer Referral Response	20/09/2013
 2013/291931	return of bonds request - northern beaches christian school - 53 yanderra road duffys forest	08/10/2013
 2013/303572	Assessment Report	21/10/2013