

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2017/0042
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Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 561 DP 1041903, 56 Cowan Drive COTTAGE POINT NSW 2084
Proposed Development:	Modification of Development Consent DA2016/0360 granted for alterations and additions to a dwelling house and carport and installation of an inclinor
Zoning:	LEP - Land zoned E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Peter Elias Georges
Applicant:	Archispectrum

Application lodged:	24/02/2017
Application Type:	Local
State Reporting Category:	Residential - Alterations and additions
Notified:	07/03/2017 to 22/03/2017
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.

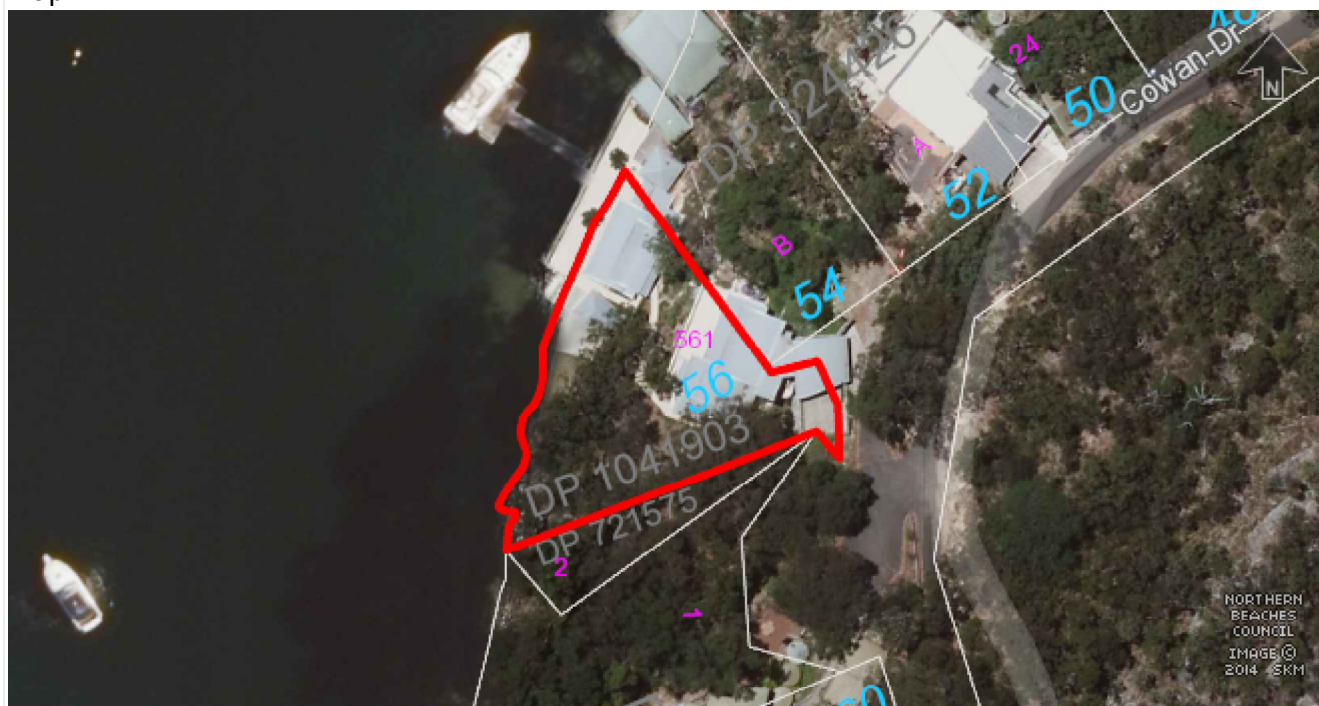
SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 561 DP 1041903 , 56 Cowan Drive COTTAGE POINT NSW 2084
Detailed Site Description:	The site is located in Cottage Point on the western side of Cowan Drive and adjacent to the foreshore. The site has an area of 876sqm, slopes steeply down towards the west and has an unusually shaped front boundary. Existing on the site is a three storey dwelling that steps down the top of the steep site and an attached carport. The site also contains a two storey outbuilding, an open paved area and a boatshed all located close to the foreshore. A jetty protrudes over and into the water. The surrounding development consists of detached residential dwellings to the north in the E4 Environmental Living zone and an E1 National Parks and Nature Reserves zone to the south and east.

Map:



SITE HISTORY

Development Application No.DA2016/0360 for alterations and additions to a dwelling house and carport and installation of an inclinor was approved by Council on 6 July 2016.

Development Application No.DA2014/0994 for alterations and additions to existing studio ancillary to

dwelling house was approved by Council on 11 December 2014

Development Application No.DA2003/1527 for an open pavilion structure plus rebuilt BBQ & boatshed to replace the existing fibre cement buildings was approved via deferred commencement on 5 October 2005. The consent became operational on 29 May 2006.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves a modification of consent for the following changes to the approved plans:

- The approved inclinator is proposed to be raised from RL5.15 to RL6.05. This will result in the platform being relocated on the southern (inside) edge of the inclinator corridor, rather than within the inclinator corridor beside the boundary.

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 DA2016/0360, 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 DA2016/0360.

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Section 96(2) - Other Modifications	Comments
(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 DA2016/0360 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 modification 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 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 in the original consent.

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Section 79C 'Matters for Consideration'	Comments
	<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 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 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 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.
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 modified development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed modified 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 modification 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
Natural Environment (Biodiversity)	Council's natural environment - biodiversity section raise no objections to the proposed modifications to the inclinor.

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)

Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997)

Land uses in or near the river

Definition:

All uses in the river or a tributary of the river, or within 40 metres of the high water mark of the river or a tributary of the river where it is tidal or within 40 metres of the bank where it is non-tidal. This includes clearing and the construction and use of piers, wharves, boat sheds or other structures which have direct structural connection to the bank or bed of the river or a tributary of the river.

Comment:

Consent is required to address environmental impacts of development within 40m of the high water mark and this assessment report of the modification, addresses this requirement in the context of the existing development consent, and the modification to the approved works.

General planning considerations

The general planning considerations relevant for this Part are:

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- (a) *the aim of this plan, (The aim of this plan is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.)*

Comment: Northern Beaches Council is the consent authority for the proposed land use and impacts of the proposed land use are considered by the development application process under *Environmental Planning and Assessment Act 1979* and relevant environmental planning instruments, including those relevant at a regional context. Detailed local environmental impacts in the local context are assessed under the *Warringah LEP 2011* and *Warringah DCP 2011*. The modification to the proposal is considered to be consistent with the aims of the *SREP No.20 Hawkesbury-Nepean Catchment* and the proposed land use is consistent with adjacent land uses, subject to conditions as imposed under the existing development consent.

- (b) *the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy (maintaining and improving: Biodiversity for flora and fauna, Water quality of waterways and wetlands, Land management capabilities, Community resource management).*

Comment: The modification of the development for alterations and additions to a dwelling on the land, including an inclinor machine will not result in unreasonable loss of biodiversity for the local area as Cottage Point is surrounded national park lands and the site is adjacent to residential development. Water quality will be maintained by the use of existing waste water management and conditions of consent to ensure appropriate sediment control during construction.

- (c) *whether there are any feasible alternatives to the development or other proposal concerned.*

Comment: The site has been evaluated for feasible for the continued use for a dwelling house and determined to be suitable for development by approval of DA2016/0360 for alterations to the dwelling to improve access. Residential use of the land is consistent with the E4 Environmental Living Zone. The site does not contain any significant habitat or features of value to the adjacent national park, and was not previously developed for public access to the foreshore area. The land is not feasible for agricultural use.

- (d) *the relationship between the different impacts of the development or other proposal and the environment, and how those impacts will be addressed and monitored.*

Comment: The relationship of the modified proposal to adjacent development is addressed by the relevant environmental considerations detailed in the assessment under Warringah DCP and Warringah LEP within this report. Where applicable modification conditions are recommended to minimise impacts of the proposal on the environment and ensure no unreasonable loss of amenity to adjacent land uses.

Warringah Local Environment Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	

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aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Inclinor - maximum of 5.23m	1.9m to 6.8m	N/A	Yes
		Carport and entry roof replacement - maximum of 9.33m	No change	Existing	No (As approved)

Compliance Assessment

Clause	Compliance with Requirements
5.3 Development near zone boundaries	Yes
6.1 Acid sulfate soils	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	Inclinor - maximum of 5.23m	1.9m to 6.8m	Yes
B3 Side Boundary Envelope	45 degrees at 4m (North east)	Within envelope	No change	Yes
	45 degrees at 4m (South east)	Within envelope	No change	Yes
B5 Side Boundary Setbacks	0.9m (North east)	0.2m (Inclinor) 0.0m (Carport) 1.3m to 6.1m (Dwelling)	No change No change No change	No (As approved) No (As approved) Yes
	0.9m (South east)	0.3m (Carport) 1.3m to 4.8m (Dwelling wall)	No change No change	Yes Yes
B7 Front Boundary Setbacks	Merit assessment	Carport roof - 0.49m	No change	Yes (As approved)
B11 Foreshore Building Setback	15m	4.73m	7.3m	No*

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		(Inclinators) 5.0m (Existing two storey boathouse building)	(Inclinators) Existing (Two storey boathouse building)	(Setback increased) No (No change)
D1 Landscaped Open Space and Bushland Setting	40%	40.47% (354.5sqm)	No change	Yes

* No further detailed assessment required. Refer to detailed merit assessment under the original development assessment report. Setback has increased and thereby reduced impact by repositioning inclinators base on the existing boathouse terrace.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
E4 Side Boundary Envelope Exceptions	Yes	Yes
Side Setbacks - E4	Yes	Yes
Side Setback Exceptions - E4	Yes	Yes
B11 Foreshore Building Setback	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D3 Noise	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	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. Mod2017/0042 for Modification of Development Consent DA2016/0360 granted for alterations and additions to a dwelling house and carport and installation of an inclinator on land at Lot 561 DP 1041903,56 Cowan Drive, COTTAGE POINT, subject to the conditions printed below:

A. Add Condition No.1A - "Modification of Consent - Approved Plans and Supporting Documentation", to read as follows:

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"1A. Modification of Consent - Approved Plans and Supporting Documentation

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 01b Floor Plans	23-2-2017	Archi Spectrum
DA 02b Elevations	23-2-2017	Archi Spectrum

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

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

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

Alex Keller, Senior Development Planner

The application is determined under the delegated authority of:

Steven Findlay, Development Assessment Manager

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ATTACHMENT A

Notification Plan	Title	Date
 2017/057466	Plans - Notification	24/02/2017

ATTACHMENT B

Notification Document	Title	Date
 2017/063802	Notification Map	07/03/2017

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ATTACHMENT C

Reference Number	Document	Date
 2017/057464	Plans - Survey	21/02/2017
 2017/057467	Report - Statement of Environmental Effects	24/02/2017
 2017/057466	Plans - Notification	24/02/2017
 2017/057470	Plans - Master Set	24/02/2017
 MOD2017/0042	56 Cowan Drive COTTAGE POINT NSW 2084 - Section 96 Modifications - Section 96 (2) Environmental Impact	24/02/2017
 2017/054298	DA Acknowledgement Letter - Archispectrum	24/02/2017
 2017/057461	Modification Application Form	28/02/2017
 2017/057462	Applicant Details	28/02/2017
 2017/057468	Plans - External	28/02/2017
 2017/057469	Plans - Internal	28/02/2017
 2017/063802	Notification Map	07/03/2017
 2017/063807	Notification Letter - Mod - 11	07/03/2017