

S96(1) APPLICATION TO MODIFY A DEVELOPMENT CONSENT ASSESSMENT REPORT

Assessment Officer:	Shaylin Moodliar
Address / Property Description:	Lot 34 in DP 11593, 12 Kangaroo Road Collaroy Plateau NSW 2097
Development Application No:	Mod 2008/0383
Approved Development:	Alterations and additions to an existing dwelling
Development Consent Determination Date:	19 August 2005
Previous Modifications:	None
Proposed Modifications:	Internal and external alterations, including an increase in the size of the swimming pool by deleting the spa, to Lot 34 in DP 11593, 12 Kangaroo Road Collaroy Plateau NSW 2097
Application Lodged:	22 December 2008
Plans Reference:	DA01-DA09 (dated November 2008)
Amended Plans:	Not applicable
Applicant:	Antonio Tisano
Owner:	Antonio Tisano
Locality:	E1 – Dee Why North
Category:	Category 2– other land uses
Variations to Controls (Cl.20/Cl.18(3)):	No variations as part of modification
Referred to ADP:	NO
Referred to IHAP:	NO
Land and Environment Court Action:	NO
SUMMARY	
Submissions:	12/01/09 – 27/01/09 (Notification period) – Nil
Submission Issues:	Nil
Assessment Issues:	Privacy, site history, any discrepancies with previously approved Development Consents
Recommendation:	Approval, subject to conditions
Attachments:	Nil

LOCALITY PLAN (not to scale)



Subject Site:

Lot 34 in DP 11593, 12 Kangaroo Road Collaroy Plateau NSW 2097

Public Exhibition:

The applicant was publicly exhibited in accordance with the EPA Regulation 2000 and the applicable Development Control Plan. The application was initially notified to 8 adjoining owners and occupiers for periods of not less than 14 days between 12/01/2009 and 27/01/2009.



SITE DESCRIPTION

The subject site sits on near level land on the western side of Kangaroo Road and slopes from the northwest corner of the site (71.59 AHD) towards the southeast corner of the site (70.13 AHD). The subject site is regular rectangular in shape.

The site has a frontage of approximately 12.19m towards Kangaroo Road, a northern side boundary of approximately 39.235m, and an area of 479.35m².

APPROVED DEVELOPMENT

On 27 September 2000 Council granted development consent to DA 2000/4807 for the upper storey addition to the existing dwelling.

On the 25 July 2003 plans were lodged on DA 2003/0925 for the alterations and additions to existing dwelling comprising first floor rumpus room and deck extension and new carport. These plans were subsequently rejected based on 3 areas of non-compliance. Following rejection of further amended plans and correspondence to the applicant, the DA was refused on 31 August 2004.

On the 22 December 2004 new plans were lodged on DA2004/1621 for the alterations and additions to the existing dwelling comprising basement level garage, ground floor additions to living room, dining room and porch first floor additions to rumpus room and deck and new swimming pool in rear yard. On 19 August 2005, consent was granted for DA2004/1621.

PROPOSED MODIFICATIONS

The subject Section 96 application seeks to modify Development Consent No. 2004/1621 for Internal and external alterations, including an increase in the size of the swimming pool by deleting the spa, to Lot 34 in DP 11593, 12 Kangaroo Road Collaroy Plateau NSW 2097.

The proposal in detail seeks to:

- Add three (3) new north-facing windows to the basement garage level.
- Add two (2) new south-facing windows to the basement garage level.
- Add a bathroom along the northern side of the basement garage level wall.
- Relocate the front stairs nearer to the southern side boundary, so that there is access from the driveway to the front porch level. The front entry will remain where it is.
- Add an ensuite adjoining the walk-in-wardrobe of bedroom 1, located on the ground floor.
- New east-facing glass windows off the living and dining rooms on the ground floor.
- Increase the size of the pool by 5m², by deleting the 5m² spa.

AMENDMENTS TO THE SUBJECT APPLICATION

There are no amendments to the current application.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979 (EPA Act 1979)
- b) Environmental Planning and Assessment Regulations 2000.
- c) Warringah Local Environment Plan 2000
- d) Warringah Development Control Plan 2005
- e) Warringah Section 94 Development Contributions Plan 2001
- f) Draft Environmental Planning Instruments



NOTIFICATION & SUBMISSIONS

The applicant was publicly exhibited in accordance with the EPA Regulation 2000 and the applicable Development Control Plan. The application was initially notified to 8 adjoining owners and occupiers for periods of not less than 14 days between 12/01/2009 and 27/01/2009.

As a result of the notification of the application, no submissions were received.

MEDIATION

Has mediation been requested by the objectors? **NO**

Has the applicant agreed to mediation? **N/A**

Has mediation been conducted? **N/A**

LAND AND ENVIRONMENT COURT ACTION

No Court action has been sought regarding the subject application to modify.

REFERRALS

There are no referrals applicable to the current application.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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?	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?	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 2004/1621.
Section 96(1A) (c) & (d) – Public Exhibition of subject application / submission	Given the minor nature of the modification and its consistency with the approved development the application was not notified under the provisions of 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.

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	Refer to discussions on Draft Environmental Planning Instruments in the body of the report.
Section 79C (1) (a)(iii) – Provisions of any development control plan	None applicable to this proposal, except Warringah Development Control Plan, which is addressed in this report.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the	EPA Regulations 2000 requires the consent authority to



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Section 79C 'Matters for Consideration'	Comments
regulations	consider the provisions of the Building Code of Australia. Accordingly, appropriate conditions of consent are recommended for imposition should this application be considered worthy of approval.
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	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control 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 type of proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received.
Section 79C (1) (e) – the public interest	No matters have arisen that would justify the refusal of the application on the basis of the public interest.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies

There are no State Environmental Planning Policies that are relevant to the subject proposal.

Regional Environmental Plans

There are no Regional Environmental Plans that are relevant to the subject proposal.

Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

Desired Future Character (DFC)

The Dee Why North locality will remain characterised by detached style housing in landscaped settings interspersed by a range of complementary and compatible uses

Future development will relate to the established pattern and predominant scale of detached houses in the locality and the streets will be characterised by landscaped front gardens and buildings which create a sense of address to those streets. The spread of indigenous tree canopy will be enhanced where possible and natural landscape features, such as rock outcrops and remnant bushland will be preserved and development on prominent hillsides or hill tops must be designed to integrate with the landscape and topography and minimise visual impact when viewed from afar. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.

The locality will continue to be served by the existing local retail centres in the areas shown on the map. Future development in these centres will be in accordance with the general principles of development control provided in clause 39.



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The proposed development is defined as housing under the WLEP 2000 dictionary. The proposed modification is identified as Category 2 development in this locality.

Clause 12(3)(a) of WLEP 2000 requires the consent authority to consider Category 2 (other land uses) development against the locality's DFC statement.

The proposed development has been considered against the locality's DFC statement and it is considered that the proposed land use will remain characterised by detached style housing in landscaped settings interspersed by a range of complementary and compatible uses. Furthermore, the proposed development will maintain the visual pattern and predominant scale of existing detached style housing in the locality. The street will be characterised by landscaped front gardens and consistent building setbacks. Therefore, it is considered that the proposed development is in keeping with the provisions of the DFC for the locality.

Built Form Controls for Locality E1 Dee Why North

The following table outlines compliance with the Built form Control of the above locality statement:

Built Form Standard	Required	Approved	Proposed	Compliance
Building Height Metres/ Storeys	2 storeys and 8.5m	2 storeys and 8.5m	No change	YES
Front Setback	Average of Adjoining and 6.5m	Average of adjoining and 6.615m	6.5m (new stairs)	YES
Housing Density	600m ²	479 m ²	No change	YES, existed prior to current WLEP 2000
Rear Setback	6m	900mm	No change	YES, the swimming pool complies with rear setback concessions. The increase in the size of the swimming pool is the same size (5m ²) as the deleted spa. The dimensions of the 5m ² increase to the swimming pool maintains the previously approved rear setback area.
Side Setbacks	900mm and 675mm	900mm	0.9m (new ensuite)	YES, the proposed ensuite addition to bedroom 1 is 900mm off the southern side boundary
Side Boundary Envelope	4 metres and 45 degrees	Within 4 metres and 45 degrees	No change	YES
Landscaping	40%	40%	No change	YES

General Principles of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	YES	The Development does not result in overspill or glare from artificial illumination, or sun reflection, and does not unreasonably diminish the amenity of the locality. The development is satisfactory in addressing the General Principle.	YES
CL39 Local retail centres	NO	No Comment	N/A
CL40 Housing for Older People and People with Disabilities	NO	No Comment	N/A
CL41 Brothels	NO	No Comment	N/A



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General Principles	Applies	Comments	Complies
CL42 Construction Sites	NO	The proposed construction site does not unreasonably impact on the surrounding amenity, pedestrian or road safety, or the natural environment and is satisfactory in addressing the General Principle. This matter has been addressed in the original consent and is not relevant to this application.	N/A
CL43 Noise	NO	This matter has been addressed in the original consent and is not relevant to this application.	N/A
CL44 Pollutants	NO	No Comment	N/A
CL45 Hazardous Uses	NO	No Comment	N/A
CL46 Radiation Emission Levels	NO	No Comment	N/A
CL47 Flood Affected Land	YES	This matter has been addressed in the original consent and is not relevant to this application.	YES
CL48 Potentially Contaminated Land	YES	This matter has been addressed in the original consent and is not relevant to this application.	YES
CL49 Remediation of Contaminated Land	NO	No Comment	N/A
CL49a Acid Sulfate Soils	YES	This matter has been addressed in the original consent and is not relevant to this application.	YES
CL50 Safety & Security	YES	The proposal will not be detrimental to the safety and security of the locality.	YES
CL51 Front Fences and Walls	NO	No Comment	N/A
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	NO	No Comment	N/A
CL53 Signs	NO	No Comment	N/A
CL54 Provision and Location of Utility Services	YES	The site is satisfactorily serviced with utility services including the provision for the supply of water, gas, telecommunications and electricity and the satisfactory management of sewage and drainage. The development meets the requirements of Clause 54 of WLEP2000. This modification ensures that the issue of site drainage is managed effectively for the site.	YES
CL55 Site Consolidation in 'Medium Density Areas'	NO	No Comment	N/A
CL56 Retaining Unique Environmental Features on Site	NO	No Comment	N/A
CL57 Development on Sloping Land	YES	This matter has been addressed in the original consent and is not relevant to this application.	YES
CL58 Protection of Existing Flora	NO	No Comment	N/A
CL59 Koala Habitat Protection	NO	No Comment	N/A
CL60 Watercourses & Aquatic Habitats	NO	No Comment	N/A



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General Principles	Applies	Comments	Complies
CL61 Views	NO	This matter has been addressed in the original consent and is not relevant to this application.	N/A
CL62 Access to sunlight	YES	This matter has been addressed in the original consent and is not relevant to this application.	YES
CL63 Landscaped Open Space	NO	This matter has been addressed in the original consent and is not relevant to this application.	N/A
CL63A Rear Building Setback	NO	This matter has been addressed in the original consent and is not relevant to this application.	N/A
CL64 Private open space	NO	This matter has been addressed in the original consent and is not relevant to this application.	N/A
CL65 Privacy	YES	The proposed modification does not cause unreasonable direct overlooking of habitable rooms and principal private open spaces of other dwellings. In this regard, the privacy impact to the adjoining neighbours is considered to be minimal.	YES
CL66 Building bulk	YES	This matter has been addressed in the original consent and is not relevant to this application.	YES
CL67 Roofs	YES	The proposed roof form will complement the local skyline and is integral to the style of the dwelling. The proposal will satisfy the objective of the General Principle.	YES
CL68 Conservation of Energy and Water	NO	This matter has been addressed in the original consent and is not relevant to this application.	N/A
CL69 Accessibility – Public and Semi-Public Buildings	NO	This matter has been addressed in the original consent and is not relevant to this application.	N/A
CL70 Site facilities	YES	This matter has been addressed in the original consent and is not relevant to this application.	YES
CL71 Parking facilities (visual impact)	YES	This matter has been addressed in the original consent and is not relevant to this application.	YES
CL72 Traffic access & safety	YES	This matter has been addressed in the original consent and is not relevant to this application.	YES
CL73 On-site Loading and Unloading	NO	No Comment	N/A
CL74 Provision of Carparking	YES	This matter has been addressed in the original consent and is not relevant to this application.	YES
CL75 Design of Carparking Areas	YES	This matter has been addressed in the original consent and is not relevant to this application.	YES
CL76 Management of Stormwater	YES	This matter has been addressed in the original consent and is not relevant to this application.	YES
CL77 Landfill	YES	This matter has been addressed in the original consent and is not relevant to this application.	YES
CL78 Erosion & Sedimentation	NO	This matter has been addressed in the original consent and is not relevant to this application.	N/A
CL79 Heritage Control	NO	No Comment	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	No Comment	N/A



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General Principles	Applies	Comments	Complies
CL81 Notice to Heritage Council	NO	No Comment	N/A
CL82 Development in the Vicinity of Heritage Items	NO	No Comment	N/A
CL83 Development of Known or Potential Archaeological Sites	NO	No Comment	N/A

SCHEDULES

Schedule 8 – Site Analysis

A site analysis has been submitted with the application and is considered satisfactory.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft environmental planning instruments which are applicable to this application.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan (adopted 14 November 2006)

The original application was subject to the provisions of Section 94A and the provisions of Council's S94A Development Control Plan. Nothing has been submitted nor is proposed to be modified which would alter the original calculations. As such, no further assessment is required in this regard.

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, Warringah Local Environmental Plan 2000 and the relevant codes and policies of Council.

As a direct result of the application and the consideration of the matters detailed within this report it considered that Council as the consent authority grant approval to modify the Notice of Determination as detailed within the "Recommendation" section of this report.

RECOMMENDATION (Approval)

The Development Application No: 2004/1621 be modified by Development Application Modification No. MOD2008/0383 to allow internal and external alterations, including an increase in the size of the swimming pool by deleting the spa, to Lot 34 in DP 11593, 12 Kangaroo Road Collaroy Plateau NSW 2097, subject to the reasons outlined as follows:

- Modification of Condition No. 1 to read as follows:

1. Approved Plans and Supporting Documentation

The development is to be carried out in compliance with the following plans and documentation listed below and endorsed with Council's stamp and except where amended by other conditions of consent:



Drawing Number	Dated
DA01 to DA09	NOV 04 and APRIL 05

Except as modified by the following plans:

Drawing No.	Revision Date	Prepared by
DA01 to DA09 Issue A	November 2008	Peter Princi

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

Note: Further information on Construction Certificates can be obtained by contacting Council's Call Centre on 9942 2111, Council's website or at the Planning and Assessment Counter.

Reason: *To ensure the work is carried out in accordance with the determination of Council and approved plans*

The remaining original existing conditions are to remain in force.

Signed

Date: 12 February 2009

Shaylin Moodliar, Development Assessment Officer

Signed

Date: 16 February 2009

Ailsa Prendergast, Team Leader, Development Assessment