

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2013/0141
Responsible Officer:	David Auster
Land to be developed (Address):	Lot 245 DP 1178957 , 1056 - 1058 Pittwater Road COLLARROY NSW 2097
Proposed Development:	Modification of Development Consent DA2012/1277 granted for Use of premises as a cafe within a registered club - Collaroy Beach Services Club
Zoning:	LEP - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	Collaroy Services Beach Club Ltd
Applicant:	Cityscape Planning
Application lodged:	07/08/2013
Application Type:	Local
State Reporting Category:	Other
Notified:	22/08/2013 to 06/09/2013
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 245 DP 1178957 , 1056 - 1058 Pittwater Road COLLARROY NSW 2097
Detailed Site Description:	The subject site is an irregular shaped parcel located on the eastern side of Pittwater Rd directly opposite its intersection with Alexander St. The site currently accommodates a Registered Club and adjoins a surface car park at the south of the site and Collaroy Beach to the east. It has its primary and broadest frontage to Collaroy Beach and secondary narrow frontage to Pittwater Rd.

Map:



SITE HISTORY

The site has a long history of commercial use and is registered as a heritage item. DA2012/1277 was approved by Council on 25 January 2013 for the change of use of the existing hairdressing salon to a cafe. Council subsequently approved MOD2013/0047 on 5 June 2013 and MOD2013/0069 on 5 June 2013 which made various minor changes to the approved works.

PROPOSED DEVELOPMENT IN DETAIL

- Modify windows in southern elevation
- Provide new door in southern elevation
- New cooking line in kitchen

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 DA2012/1277 and MOD2013/0047 and MOD2013/0069, 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 in the original 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. This matter has been addressed via a condition of consent in the original determination. <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 of consent 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 of consent 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 of consent in the original consent.

Section 79C 'Matters for Consideration'	Comments
	<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	No objections subject to conditions
Environmental Health and Protection (Food Premises)	This proposal has been reviewed by the Environmental Health & Protection team and in this instance do support the development application with subject to conditions.

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

External Referral Body	Comments
	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 records indicate that the subject site has been used for registered club and hairdresser for a significant period of time with no evidence of prior contamination. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the proposed land use.

SEPP 71 - Coastal Protection

The proposed modifications are very minor in nature and will not cause the development to become inconsistent with SEPP 71.

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

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Minimum subdivision lot size:	N/A	N/A	N/A	N/A	N/A
Height of Buildings:	11m	No change	No change	N/A	Yes
Rural Subdivision:	N/A	N/A	N/A	N/A	N/A
No Strata Plan or Community Title Subdivisions in certain rural and environmental zones:	N/A	N/A	N/A	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
4.3 Height of buildings	Yes
5.5 Development within the coastal zone	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.4 Development on sloping land	Yes
6.5 Coastline hazards	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
Wall height	N/A	N/A	N/A	N/A
Minimum Floor to Ceiling Height	N/A	N/A	N/A	N/A
Number of storeys	3	No change	No change	Yes
Side Boundary Envelope	N/A	N/A	N/A	N/A
Site Coverage	N/A	N/A	N/A	N/A
Side Boundary Setbacks	Merit assessment	No	No	Yes

		change	change	
Front Boundary Setbacks	Ground and first floor maintain established street front, Second floor 5m	No change	No change	Yes
Rear Boundary Setbacks	Merit Assessment	No change	No change	Yes
Foreshore Building Setback	N/A	N/A	N/A	N/A
National Parks Setback	N/A	N/A	N/A	N/A
Coastal Cliffs Setback	N/A	N/A	N/A	N/A
Main Roads Setback	N/A	N/A	N/A	N/A
Landscaped Open Space and Bushland Setting	N/A	N/A	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
B2 Number of Storeys	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
Other land in B2 zone	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Part D Design	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E9 Coastline Hazard	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E10 Landslip Risk	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. Mod2013/0141 for Modification of Development Consent DA2012/1277 granted for Use of premises as a cafe within a registered club - Collaroy Beach Services Club on land at Lot 245 DP 1178957,1056 - 1058 Pittwater Road, COLLAROY, subject to the conditions printed below:

A. Add Condition No.1D - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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
17 Revision 09	30.07.13	Network Refurbishments & Construction
22 Revision 03	24.07.13	Network Refurbishments & Construction

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

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

David Auster, Development Assessment Officer

The application is determined under the delegated authority of:

Lashta Haidari, Acting Development Assessment Manager

ATTACHMENT A

Notification Plan	Title	Date
 2013/233244	plan notification	08/08/2013

ATTACHMENT B

Notification Document	Title	Date
 2013/246625	Notification Map	22/08/2013

ATTACHMENT C

Reference Number	Document	Date
 2013/233253	plan elevation from cd	30/07/2013
 2013/233249	plan floor from cd	30/07/2013
 2013/233256	Statement of Environmental Effects report from cd	05/08/2013
 2013/232181	invoice for ram applications - Cityscape Planning	07/08/2013
 2013/232184	DA Acknowledgement Letter - Cityscape Planning	07/08/2013
 2013/233240	application to modify a consent Section 96	08/08/2013
 2013/233242	applicant details	08/08/2013
 2013/233244	plan notification	08/08/2013
 2013/244863	Building Assessment - Fire and Disability upgrades - Assessment Referral - Mod2013/0141 - 1056 - 1058 Pittwater Road COLLAROY NSW 2097	20/08/2013
 2013/243979	File Cover	20/08/2013
 2013/246624	Notification Letters - 5	22/08/2013
 2013/246625	Notification Map	22/08/2013
 2013/249029	Environmental Health and Protection Referral Response - commercial use	26/08/2013
 2013/257391	Building Assessment Referral Response	03/09/2013