

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2012/0092
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Responsible Officer	Tim Kearney
Land to be developed (Address):	Lot 4 DP 1142979 , 17 A Mills Place BEACON HILL NSW 2100
Proposed Development:	Modification to Development Consent DA2008/1279 granted for Demolition & construction of three (3) dwellings
Zoning:	LEP - Land zoned R2 Low Density Residential
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	Rhonda Anne Bloom-Ford Mr Raymond John Ford
Applicant:	Mr Raymond John Ford

Application lodged:	08/05/2012
Application Type	Local
State Reporting Category	Residential - New multi unit
Notified:	Not Notified
Advertised	Not Advertised in accordance with A.7 of WDCP

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.

RECOMMENDATION

Approval

SITE DESCRIPTION

Property Description:	Lot 4 DP 1142979 , 17 A Mills Place BEACON HILL NSW 2100
Approximate Site Area:	698 SqM

Map:



SITE HISTORY

PROPOSED DEVELOPMENT IN DETAIL

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:

Background

Development consent No. DA2008/0093 was granted by Council on 20 June 2008 for torrens title subdivision of 2 lots into 5. It should be noted that the dwelling house was retained at 17 Mills Place (now lot 5) and is not integral to the assessment of this application. Development consent No.DA2008/1279 was granted by Council on 4 March 2009 for demolition of an existing dwelling (lot B as per original subdivision plan

approved under DA2008/0093) and the construction of three dwellings on respective lots B, C and D pursuant to the approved subdivision DA2008/0093. It is noted the existing swimming pool was retained on lot B.

Subsequent development applications were then approved by Council on the same lots for dwelling houses (lots B & C). Development consent No. DA2010/0981 was granted by Council on 2 September 2010 for the construction of a dwelling house (lot B as per DA2008/0093) and retention of the existing swimming pool. Similarly, Development consent No. DA2012/0243 was granted by Council on 23 May 2012 for the construction of a dwelling house on lot C as per DA2008/0093.

In relation to lot D, s96(2) Modification application No. MOD2011/0201 was granted consent by Council on 29 November 2011, for modification of Development consent No. DA2008/1279. This proposal related to changes to the approved built form of the dwelling house on lot D. The subject application seeks to modify DA2008/1279 with regards to the s94A Development contributions (\$12,715.00) paid by the applicant/owner, Ray Ford for the construction of three dwellings.

It should be noted that the original dwellings on lot B and lot C approved under DA2008/1279 for which Ray Ford paid the s94A fees, have not been built and subsequent development applications (above) for new dwellings on these lots were approved by Council and charged s94A fees. The following s94A development contributions were charged under DA2010/0981 and DA2012/0243 and paid.

Property	Development Application	Amount	Pay Status
19A Mills Place	DA2010/0981	\$ 3,592.00	PAID
17B Mills Place	DA2012/0243	\$ 2,600.00	PAID

Details of Modification Application

Under Section 96(1) of the EPA Act 1979, a consent containing an error or mis-description may be amended. Warringah DCP (A7 Notification) does not require the notification of Section 96(1) modification applications as it is considered to be of minor change not affecting the development or adjoining properties.

The applicant seeks a portion refund of the s94A development contributions fees paid under DA2008/1279 which was calculated for the cost of construction of three dwellings, however two of the dwellings were not built and subsequent s94A charges were imposed by Council under DA2010/0981 and DA2012/0243.

The application seeks a portion refund of the fees imposed by Condition No. 13, which reads as follows:

13. Section 94A Contribution

\$11,795 is to be paid to Warringah Council as a Section 94A levy prior to the issue of the Construction Certificate.

This amount has been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according 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.

The basis for the contributions is as follows:

Warringah Section 94A Development Contributions Plan

Contribution based on total development cost of \$ 1,179,528.00

<i>Contribution - all parts Warringah</i>	<i>Levy Rate</i>	<i>Contribution Payable</i>	<i>Council Code</i>
<i>Total S94A Levy</i>	<i>0.95%</i>	<i>\$11,206</i>	<i>6923</i>
<i>S94A Planning and Administration</i>	<i>0.05%</i>	<i>\$590</i>	<i>6924</i>
<i>Total</i>	<i>1.0%</i>	<i>\$11,795</i>	

Reason: *To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development.*

Consideration of error or mis-description

It is considered that the original s94A fees under DA2008/1279 are now void due to the subsequent s94A fees charged by Council under DA2010/0981 and DA2012/0243 which have resulted in these lots being charged on two separate occasions for the same development (1 dwelling per lot). A new section 94A fee will be calculated as part of this application for the cost of works for Mr. Fords dwelling on lot D based on the cost estimate of \$500,000 provided in his letter to Council, dated 5 May 2012. This new fee will be subtracted from his original payment of \$12,715.00 and the remaining amount will be refunded.

In this regard, Council can refund Mr.Ford and still accrue the appropriate development contributions for the construction of three dwellings on associated lots B, C and D.

Condition No.13 will be modified to achieve this refund and read as follows:

13. Section 94A Contribution

\$5,000 is to be paid to Warringah Council as a Section 94A levy prior to the issue of the Construction Certificate.

This amount has been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according 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.

The basis for the contributions is as follows:

Warringah Section 94A Development Contributions Plan

Contribution based on total development cost of \$ 500,000.00

<i>Contribution - all parts Warringah</i>	<i>Levy Rate</i>	<i>Contribution Payable</i>	<i>Council Code</i>
<i>Total S94A Levy</i>	<i>0.95%</i>	<i>\$4,750</i>	<i>6923</i>

<i>S94A Planning and Administration</i>	<i>0.05%</i>	<i>\$250</i>	<i>6924</i>
<i>Total</i>	<i>1.0%</i>	<i>\$5,000</i>	

Reason: *To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development.*

Conclusion

Having regard to the above, the applicant will be refunded \$7,715.00 (**\$12,715.00** [original paid for 3 dwellings] - **\$5,000** [fee associated with the cost of 1 dwelling] = **\$7,715** [fee associated with the cost of 2 dwellings which has been recaptured and paid to Council under DA2010/0981 and DA2012/0243]) and Condition No.13 of Development consent No.DA2008/1279 will be modified as stated above.

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.

The site has been inspected and the application assessed having regard to the provisions of the Environmental Planning and Assessment Act 1979 (and associated regulations), the provisions relevant Environmental Planning Instruments including Warringah Local Environment Plan 2011, Warringah Development Control Plan and the relevant codes and policies of Council.

In consideration of the proposal and the merit consideration 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 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

APPROVAL

A. THAT Council as the consent authority grant approval Modification Application No. Mod2012/0092 for Modification to Development Consent DA2008/1279 granted for Demolition & construction of three (3) dwellings on land at Lot 4 DP 1142979, 17 A Mills Place, BEACON HILL, subject to the conditions printed below:

Modify Condition No.13 Section 94A Contribution to read as follows:

13. Section 94A Contribution

\$5,000 is to be paid to Warringah Council as a Section 94A levy prior to the issue of the Construction Certificate.

This amount has been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according 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.

The basis for the contributions is as follows:

Warringah Section 94A Development Contributions Plan

Contribution based on total development cost of \$ 500,000.00

<i>Contribution - all parts Warringah</i>	<i>Levy Rate</i>	<i>Contribution Payable</i>	<i>Council Code</i>
<i>Total S94A Levy</i>	<i>0.95%</i>	<i>\$4,750</i>	<i>6923</i>
<i>S94A Planning and Administration</i>	<i>0.05%</i>	<i>\$250</i>	<i>6924</i>
<i>Total</i>	<i>1.0%</i>	<i>\$5,000</i>	

Reason: To retain a level of service for the existing population and to provide the same level of service for the population

resulting from new development. (DACPLCPCC1)

Signed

Tim Kearney, 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

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2012/228311	modification application form	09/05/2012
 2012/228313	applicant details & letter	09/05/2012
 2012/230990	DA Acknowledgement Letter - Raymond John Ford	11/05/2012
 2012/232715	File Cover	15/05/2012