

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2014/0194
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<b>Responsible Officer:</b>	Keith Wright
<b>Land to be developed (Address):</b>	Lot 22 DP 20287 , 21 Dawes Road BELROSE NSW 2085
<b>Proposed Development:</b>	Modification of Development Consent DA2013/1415 granted for Construction of a dwelling house
<b>Zoning:</b>	LEP - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Warringah Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Nicole Towill
<b>Applicant:</b>	Sekisui House Services (Nsw) P/L

<b>Application lodged:</b>	05/09/2014
<b>Application Type:</b>	Local
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	18/09/2014 to 03/10/2014
<b>Advertised:</b>	Not Advertised in accordance with A.7 of WDCP
<b>Submissions:</b>	0
<b>Recommendation:</b>	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

<b>Property Description:</b>	Lot 22 DP 20287 , 21 Dawes Road BELROSE NSW 2085
<b>Detailed Site Description:</b>	<p>The subject site consists of a single residential allotment located on the southern side of Dawes Road. The site is legally known as Lot 22 in DP 20287, No. 21 Dawes Road, Belrose.</p> <p>The site is regular in shape with a frontage of 15.24m along Dawes Road and a depth of 64.31m. The site has a surveyed area of 980m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone from WLEP 2011 and accommodates a two storeys dwelling under construction.</p> <p>Surrounding development consists of similar buildings.</p> <p>The site is generally level with the slightest fall from the street of 3%. There are trees in the rear and no obvious threatened species.</p>

Map:



## SITE HISTORY

DA2013/1415 was approved on 28/02/14 for a two storeys dwelling to replace an existing dwelling.

## PROPOSED DEVELOPMENT IN DETAIL

It is proposed to raise the head and sill heights of the windows at first floor on the western elevation servicing a bathroom and Bedrooms 2, 3 and 5.

Although not indicated as proposed changes, the plans show a slight decrease in the heights of the ground and first floor levels and their ceilings. These changes result in a reduction in the roof height of the dwelling by 80mm.

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 DA2013/1415 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) - 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 proposed modification is of minimal environmental impact, and	<b>Yes</b> The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which	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

<b>Section 96(1A) - Other Modifications</b>	<b>Comments</b>
consent was originally granted and before that consent as originally granted was modified (if at all), and	approved under DA2013/1415.
(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 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:

<b>Section 79C 'Matters for Consideration'</b>	<b>Comments</b>
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)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) –	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent

Section 79C 'Matters for Consideration'	Comments
Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;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.</p> <p><u>Clause 98</u> of the EP&amp;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.</p>
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 to proposal and no conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	Ausgrid was not notified with this minor amendment to window heights. The referral to Ausgrid with the parent application did not receive a response. Therefore it was assumed that there were no issues.

## **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 (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. 492955S\_04 dated 01/09/14).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

### **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:

There are no infrastructure issues.

### 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 residential purposes for a significant period of time with no prior land uses. 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 continued residential land use.

### 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
Height of Buildings:	8.5m	7.2m	By scale 7.345m	Nil	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes

### Warringah Development Control Plan

### Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	5.75m	By scale 5.59m	Yes

B3 Side Boundary Envelope	4m/45deg	N/A under WLEP 2000	Within envelope	Yes
B5 Side Boundary Setbacks	0.9m	1.5m E and 1.9m W	Unchanged	Yes
B7 Front Boundary Setbacks	6.5m	8.6m	Unchanged	Yes
B9 Rear Boundary Setbacks	6m	28.724m	Unchanged	Yes
D1 Landscaped Open Space and Bushland Setting	40%	61%	Unchanged	Yes

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
D8 Privacy	Yes	Yes
D9 Building Bulk	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. Mod2014/0194 for Modification of Development Consent DA2013/1415 granted for Construction of a dwelling house on land at Lot 22 DP 20287,21 Dawes Road, BELROSE, subject to the conditions printed below:

### **A. Add Condition No.1B - 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**

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
01-2, 2 of 18 Site Plan	Amendment 5, 29/08/14	Sekisui House
01-3, 3 of 18 Site Works	Amendment 5, 29/08/14	Sekisui House
01-4, 4 of 18 Driveway Details	Amendment 5, 29/08/14	Sekisui House
02-1, 5 of 18 Ground Floor Plan	Amendment 5, 29/08/14	Sekisui House
02-2, 6 of 18 First Floor Plan	Amendment 5, 29/08/14	Sekisui House
03-1, 7 of 18 External Elevations	Amendment 5, 29/08/14	Sekisui House
03-2, 8 of 18 External Elevations	Amendment 5, 29/08/14	Sekisui House
03-3, 9 of 18 External Elevations/Sections	Amendment 5, 29/08/14	Sekisui House

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**

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**Keith Wright, Planner**

The application is determined under the delegated authority of:


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**Tony Collier, Development Assessment Manager**






**ATTACHMENT A**

No notification plan recorded.

**ATTACHMENT B**

Notification Document	Title	Date
 2014/287447	notification map	18/09/2014

**ATTACHMENT C**

<b>Reference Number</b>	<b>Document</b>	<b>Date</b>
 2014/275647	Report BASIX Certificate from CD	02/09/2014
 2014/275649	Plans - Master Set	04/09/2014
 MOD2014/0194	21 Dawes Road BELROSE NSW 2085 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	05/09/2014
 2014/274435	invoice for ram applications - Sekisui House Services (Nsw) P/L	05/09/2014
 2014/274439	DA Acknowledgement Letter - Sekisui House Services (Nsw) P/L	05/09/2014
 2014/275610	Modification Application Form	08/09/2014
 2014/275615	Applicant Details	08/09/2014
 2014/275619	Plans - Notification	08/09/2014
 2014/275622	NatHERS ABSA Certificate	08/09/2014
 2014/275627	Building Element Details	08/09/2014
 2014/275629	Plans - External	08/09/2014
 2014/275632	Plans - Internal	08/09/2014
 2014/275635	Plan - Stormwater	08/09/2014
 2014/278085	Building Assessment Referral - Mod2014/0194 - 21 Dawes Road Belrose - PH	09/09/2014
 2014/277455	File Cover	09/09/2014
 2014/282067	Building Assessment Referral Response	12/09/2014
 2014/287443	notification letter 267	18/09/2014
 2014/287447	notification map	18/09/2014
 2014/287448	notification letter & plans posted	18/09/2014