



planning consultants

1 May 2014
Our Ref: 7801D.1EC_S96

The General Manager
Warringah Council
Civic Drive
725 Pittwater Road
DEE WHY 2099

Attention: Development Services

Dear Sir/Madam

**RE: STATEMENT OF ENVIRONMENTAL EFFECTS
SECTION 96(1A) APPLICATION TO MODIFY DA 2012/1361
LOT 53 DP 774913 YANDERRA ROAD, DUFFYS FOREST**

1.0 Introduction

DFP has been commissioned by Northern Beaches Christian School (NBCS) to prepare an application under section 96(1A) of the *Environmental Planning and Assessment 1979* (EP&A Act) to modify Development Application (DA) No. 2012/1361 (as modified) for the proposed alterations and additions to an existing educational establishment at Lot 53 DP 774913 Yanderra Road (also known as No. 1 Echunga Road) Duffys Forest (**Attachment A**).

The s96 application seeks to modify Condition No. 1 relating to approved plans and supporting documentation to accommodate an accessible walkway within the original development to connect the existing Block E (also known as "The Zone") to the staff and student area known as the "The Treehouse".

This Statement of Environmental Effects (SEE) has been prepared in support of the s96 application and includes the information necessary for Council to assess and determine the application including:

- Background information outlining the approved development;
- Details and reasons for the proposed modifications;
- An environmental planning assessment; and
- Our conclusion and recommendations.

DFP has concluded that the proposed modification is unlikely to result in any adverse environmental impact and will not substantially alter the approved development (as modified). Accordingly, the proposed modification will satisfy the requirements to enable this proposal to be approved by Council pursuant to s96 of the EP&A Act.

2.0 Background

On 6 March 2013, the Sydney East Region Joint Regional Planning Panel (JRPP) granted development consent to DA 2012/1361 for "*demolition works and alterations and additions to an existing school and construction of new school facilities, an increase in student numbers and signage*" at No. 1 Echunga Road, Duffys Forest.

Condition No. 1 of the Development Consent relates to approved plans and supporting documentation and states:

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) *Approved Plans:*

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA2-002(Rev B) Demolition Plan	21.09.12	WMK Architecture
DA2-003(Rev C) Proposed Site Plan	09.11.12	WMK Architecture
DA2-004(Rev B) Proposed Lower Ground Floor Plan	21.09.12	WMK Architecture
DA2-005(Rev B) Proposed Ground Floor Plan	21.09.12	WMK Architecture
DA2-006(Rev B) Proposed Roof Plan	21.09.12	WMK Architecture
DA2-007(Rev B) Proposed Elevations	21.09.12	WMK Architecture
DA2-008(Rev B) Proposed Sections	21.09.12	WMK Architecture
DA2-009(Rev B) Proposed Carpark Detail Plan	21.09.12	WMK Architecture
DA2-011(Rev B) Signage Details	21.09.12	WMK Architecture

Section 3.0 of this submission outlines the proposed modifications to the consent.

3.0 Proposed Modification

The proposed modification involves the addition of a new elevated walkway and ramp to connect Block E to the Treehouse within NBCS (refer attached Survey Plan at **Attachment B**) as outlined in the plans and elevations prepared by WMK Architecture (**Attachment C**).

The proposed modification to Condition No. 1 will include the listing of the amended plans prepared by WMK Architecture into the 'Architectural Plans - Endorsed with Council's Stamp' table under the heading 'Approved Plans and Supporting Documentation'.

Additional plans to be referenced in Condition No. 1 as part of this s96 modification comprise:

- S2-S96-A-001-A Existing Site Analysis Plan
- S2-S96-A-106-A Lower Ground Floor Plan North
- S2-S96-A-502-A East & West Elevations
- S2-S96-A-603-A Stairs 3, 8 & 9 Detail

4.0 Statutory Provisions

S96 of the EP&A Act contains the provisions that must be considered by Council in determining an application to modify the consent.

s96(1A) of the EP&A Act is relevant as the proposal is considered to be minor in nature and will have only minimal environmental impact.

In addition to the EP&A Act, Clause 115 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) contains the information that must be submitted with an application to modify a consent. The requirements under the EP&A Act and EP&A Regulation are detailed below.

4.1 Section 96 of the Act

S96(1A) of the EP&A Act applies to modifications where only minimal environmental impact is likely to occur. Specifically, s96(1A) prescribes the following matters be addressed:

“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”

The proposed walkway will improve accessibility between school facilities and is of minimal environmental impact. The works are considered minor in nature and will not result in any significant changes to the development as approved by Council under DA 2012/1361 (as modified). The proposal does not involve any changes to gross floor area (GFA), student numbers or staff numbers.

“(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 consent was originally granted and before that consent as originally granted was modified (if at all)”

The proposed walkway results in minimal change to the development that has been approved and subsequently modified as outlined in this submission. The modified proposal is substantially the same development as the original approval

“(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 that requires the notification or advertising of applications for modifications of a development consent,”

Council may notify the application in accordance with Warringah Development Control Plan 2011 (WDCP 2011) consistent with the EP&A Regulation.

“(d) It has considered any submissions concerning the proposed modification within any period prescribed by the Regulations or provided by the development control plan, as the case may be”

Should Council notify the subject application in accordance with s96(1A)(c) of the EP&A Act any submissions made during a notification period are able to be considered.

Subsections (1), (2) & (5) of s96 do not apply to the proposed modification. S.96(3) of the EP&A Act is addressed in Section 5.0 of this submission.

4.2 Clause 115 of the EP&A Regulation 2000

Subclause 115(1) of the Regulation outlines the information required to be submitted with an application to modify an EP&A development consent under s96. These details are contained herein, or within the application form which accompanies this SEE.

5.0 Environmental Planning Assessment

Section 96(3) of the EP&A Act requires that matters referred to in s79C(1) (where relevant to the proposed modification) must be taken into consideration in determining the application for modification. Accordingly, the following subsections provide an assessment of the matters that are considered relevant to this modification proposal.

5.1 Section 79C(1)(a) – Planning Controls

5.1.1 State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

Development for the purpose of an educational establishment is prohibited within the RU4 Primary Production Small Lots Zone under Warringah Local Environmental Plan 2011. Notwithstanding, the provisions of Clause 28(2)(a) of ISEPP permit development for the purpose of an educational establishment to be carried out by any person on land on which there is an existing educational establishment.

NBCS constitutes an existing educational establishment and therefore, the proposed modification is permitted with consent under Clause 28(2)(a) of ISEPP. Further, the proposal is generally consistent with Clause 32 of ISEPP.

5.1.2 Warringah Local Environmental Plan 2011 (WLEP 2011)

The site is located within the RU4 Primary Production Small Lots Zone under WLEP 2011. Development for the purpose of educational establishments is prohibited within the RU4 zone. Notwithstanding, the proposed modification is permitted with consent pursuant to Clause 28(2)(a) of ISEPP as Clause 8(1) of ISEPP states the following:

(1) Except as provided by subclause (2), if there is an inconsistency between this Policy and any other environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.

Pursuant to Clause 4.3 of WLEP 2011, the site is subject to a maximum building height control of 8.5m. The proposed accessible walkway will not result in works exceeding a building height of 8.5m.

Under the provisions of Clause 6.4 OF WLEP 2011, the site is identified within Area A (Slopes Less Than 5 Degrees) and Area B (Flanking Slopes from 5 to 25 Degrees). The proposed works are located on that part of the site identified within Area A. The proposed modification will comply with the recommendations of the Geotechnical Assessment prepared by Martens Consulting Engineers approved under DA 2012/1361. The proposed modification works do not substantially change the development and therefore the proposal is at minimal risk of landslide.

The proposed modification remains generally consistent with the relevant provisions of WLEP 2011.

5.1.3 Warringah Development Control Plan 2011 (WDCP 2011)

The proposed modification will remain generally consistent with the relevant provisions of WDCP 2011. Matters relating to Access and Building Code of Australia (BCA) consistency are addressed under **Section 5.2** below.

5.2 Section 79C(1)(b) – Natural and Built Environmental Impacts

5.2.1 Built Environment

The proposal is largely contained within the centre of the site and will not be visible from the public domain. In addition, the proposal will not impact upon any significant views from or across the site. Consequently, the proposal will not create any adverse impacts upon the streetscape with respect to bulk and scale or overshadowing.

5.2.2 Access & BCA

Cheung Access has prepared a Disability Access Compliance Statement (**Attachment D**) which provides an assessment of the proposed modification against the Disability (Access to Premises – Buildings) Standards 2010 and Part D3 of the BCA. The statement indicates that the proposed walkway achieves compliance with the deemed-to-satisfy provisions of the BCA. It also acknowledges that proposed modification does not impose any significant disability access changes to the development approved under DA 2012/1361 (as modified).

Blackett Maguire + Goldsmith has prepared a BCA Compliance Statement (**Attachment E**) which undertakes a review of the Architectural Plans in relation to the BCA, and supplements the BCA Assessment Report submitted with DA 2012/1361. The BCA Compliance Statement confirms that the proposed modifications can readily achieve compliance with the relevant provisions of the BCA.

5.2.3 Bushfire Prone Land

The site is identified as partially containing Bushfire Prone Land (Buffer Zone), with only the north-eastern corner identified as Category 1 Bush Fire Prone Land. The proposed modification is substantially the same as the original development (as approved and subsequently modified) and therefore will be capable of satisfying the recommendations of the Bushfire Report prepared by Eco Logical Australia submitted with DA 2012/1361 and Planning for Bushfire Protection 2007.

5.3 Section 79C(1)(b) – Social and Economic Impacts

The proposal is substantially the same as the development approved (and subsequently modified) under DA 2012/1361, as the modification only relates to the erection of an accessible walkway between existing school buildings. Therefore, the modification proposal will not generate any additional social or economic impacts on the Duffy's Forrest locality.

5.4 Section 79C(1)(c) – Suitability of the Site for Development

The site is considered suitable for the proposed modification as an educational establishment already exists on the site and the proposed accessible walkway will remain consistent with the existing use of the site, being a use which is permitted with consent under ISEPP.

5.5 Section 79C(1)(d) – Submissions

Council is required to consider any public submissions received during any relevant notification period.

5.6 Section 79C(1)(e) – Public Interest

The proposed modification is not contrary to the public interest as it does not create any adverse environmental impacts and will improve accessibility for students and staff within the existing school.



6.0 Conclusion and Recommendations

This SEE has been prepared by DFP on behalf of NBCS to accompany an application under s96(1A) of the EP&A Act to modify Condition No. 1 of Development Consent No. DA 2012/1361(as modified). The proposal involves a minor modification to the approved plans and supporting documentation to include a new accessible walkway between school buildings.

The modification will not substantially alter the approved development (as modified) and accordingly, is considered to satisfy s96(1A) of the EP&A Act. Furthermore, the proposed modification will create an acceptable environmental impact and will improve accessibility between school buildings without creating an adverse impact upon the built environmental.

Accordingly, the proposed modification is acceptable in this regard and is able to be approved by Council under s96(1A) of the EP&A Act.

We would be pleased to discuss this application further with Council officers should that be required and if you have any queries, please do not hesitate to contact John McFadden from our office on 9980 6933.

Yours faithfully

DFP PLANNING PTY LTD

A handwritten signature in black ink, appearing to read 'Emma Clinton'.

**EMMA CLINTON
STUDENT PLANNER**

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Encl. Attachment A

Reviewed: _____

A handwritten signature in black ink, appearing to read 'John McFadden'.