

RESIDENTIAL DEVELOPMENT – S96(1A) APPLICATION ASSESSMENT REPORT

Modification Application Number: Mod2013/0263

Development Application Number: DA2013/0892

Assessment Officer: David Auster

Property Address: Lot 170 DP 752038 No related Land, Lot 170/ Morgan Road BELROSE NSW 2085,

Proposal Description: Modification of Development Consent DA2013/0892 granted for Demolition works, Construction of a new dwelling house, secondary dwelling, riding stables and arena, tennis court and swimming pool

Recommendation: **APPROVED**

Clause 20 Variation: No

Proposal in Detail: The proposed modifications are as follows:

- Internal changes to dwelling, including cellar
- Front fence details,
- Remove coach's box from arena
- Reconfigure stables to include coach's box and courtyard,
- Change location of tennis court

History and Background: DA2013/0892 was approved by Council on 19/11/2013. It involved demolition of all existing buildings on site and construction of the works described above.

Report Section	Applicable – Yes or No
Section 1 – Code Assessment	Yes
Section 2 – Issues Assessment	Yes
Section 3 – Site Inspection	Yes

Notification Required:	Yes	14DAYS
Submissions Received:	No	Number of Submissions: Nil
Section 94A Applicable:	No	TOTAL: N/A



Section 96(1A) EPA ACT 1979	
Section 96(1A) (a) – Is the Modification to consent of Minimal Environmental impact?	Yes
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
Section 96(1A) (c) & (d) – Has the application been on Public Exhibition?	Yes
Have you considered any submissions?	N/A
Section 96 (3) – Have you considered such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application	Yes

SECTION 1 – CODE ASSESSMENT REPORT

ENVIRONMENTAL PLANNING INSTRUMENTS

Warringah Local Environmental Plan 2000

Locality: B2 Oxford Falls Valley

Development Definition: Housing and other buildings, works, places or land uses that are not prohibited or in Category 1 or 3.

Category of Development: Category 1 and 2

Desired Future Character Statement:

"The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.

Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained."

Is the development consistent with the Locality's Desired Future Character Statement? Yes

Category 2 Assessment against the Desired Future Character Statement



The report for the original development application included the following assessment against the DFC statement:

Requirement: "Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway."

Comment: The proposal involves a new detached style dwelling and an internal granny flat, as permitted by the housing density standard in the locality. The proposed pool and tennis court are considered to be ancillary uses to the dwelling. The proposed riding arena and stables will cater for up to seven horses. The term "low intensity, low impact" is not defined in WLEP 2000. However, in the matter of Vigor Master P/L v Warringah Council [NSWLEC 1128], Commissioner Hussey gave weight to the evidence of the Council Planner who sought to give meaning and understanding to the term "intensity" and "Impact". In this regard, the following characterisation was given:

*"**Intensity:** is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore, "low intensity" would constitute a development which has a low level of activities associated with it."*

*"**Impact:** is commonly used in planning assessment to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape privacy, solar access etc. Therefore 'low impact' would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to significantly change the amenity of the locality."*

Further, the Commissioner made the important observation that "any development must also satisfy a qualitative assessment as well as the quantitative controls so as to achieve a reasonable degree of consistency with the DFC for the locality".

The following assessment provides a detailed planning assessment of the issue of "low intensity" and "low Impact as it relates to the proposed development.

Is the proposed development a "low intensity" use?

Further to the background information above, a "low intensity use" is a use which would be typified by having a low level of activities associated with it. The extent of activities associated with the operation of a particular use is largely determined by the following:

*The amount of traffic movements (cars, delivery and service vehicles),
The number of pedestrian movements (internal and external)
The physical size of the business (floor space, height, scale, building footprint amount of landscaping),
The hours of operation of a business,
The noise generation of the business,
The light emitted by the business (internal, floodlighting and signage).*

The proposed riding arena and stables will cater for up to seven horses. They will be



for private use only and the site will not be used for commercial purposes (e.g. a riding school). The proposed works are unlikely to cause any major increase in traffic movements in and out of the site, and will not have hours of operation or generate any significant noise. The size of the arena is not unreasonable given the size of the site, and the rural setting. It is set back 46.6m from the Morgan Rd frontage, and the front setback area will remain well vegetated to screen the built form. Given the size of the site and the location in the rural locality, the proposal is considered to be 'low intensity'.

Is the proposed development a "low impact" use?

Further to the background information above, a "low impact use" is a use which would be typified by having a minimal, minor or negligible level and unlikely to significantly change the amenity of the locality and can largely determine by the following:

The amenity of adjoining properties (in terms of privacy, solar access, and visual amenity)

The Bulk and scale of the development and how it relates to the streetscape and adjoining properties

The removal of any existing vegetation from the site as result of the proposed development (taking into any proposed landscaping)

The proposed riding arena and stables will not have any significant impact on neighbouring properties in terms of privacy, solar access, and visual amenity. The arena will be 10m from the east side boundary and approximately 26m from the west side boundary. It will be setback 46.6m from the front boundary and the front setback area will remain well vegetated. The location of the riding arena and stables is in an area that is generally cleared of significant trees, and the development will not result in any large scale removal of significant vegetation or changes to the landform. The site is a large site in a rural locality. The riding arena and stables will not have a large or negative impact on the locality and the proposal is considered to be 'low impact'.

Requirement: "The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged."

Comment: The siting of the development is generally sensitive to the existing landform and vegetated areas. The areas chosen for development are in general mostly clear of significant trees and vegetation. The proposed dwelling is on a natural platform area towards the rear of the site, and the riding arena, stables and tennis court are also in an area where the land flattens out compared to the steep rise at the front boundary.

The proposed materials are generally sandstone and timber, and will blend with the natural landscape.

Requirement: "A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of



the streetscape.”

Comment: The site is not located on Forest Way or Wakehurst Parkway. However a large front setback (46.6m) is proposed and this area will remain well vegetated.

Requirement: “Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.”

Comment: The proposal is not likely to cause any unreasonable siltation or pollution of Narrabeen Lagoon or its catchment.

As detailed above the proposed development is considered to be consistent with the Locality’s DFC statement.

The proposed modifications are relatively minor in nature compared to the development as a whole, and do not result in any impacts that would alter the above assessment.

The proposal is therefore considered to remain consistent with the DFC statement.

BUILT FORM CONTROLS

Built Form Compliance Table B2 Oxford Falls Valley Locality Statement						
Built Form Standard		Required	Approved	Proposed	Comment	Compliance
Building Height	Ridge	8.5m total 7.2m Ceiling height	Riding Arena: 7.8m total, 4.8m ceiling height. Stable: 4.4m total, 3.938 ceiling height. Dwelling: 6.3m total, 5.4m ceiling height.	No changes	The proposal remains compliant	Yes
Housing Density		1 dwelling per parcel of land. 1 granny flat per allotment	1 dwelling. 1 granny flat	No changes	The proposal remains compliant	Yes



Built Form Compliance Table B2 Oxford Falls Valley Locality Statement					
Built Form Standard	Required	Approved	Proposed	Comment	Compliance
Front Setback	20m	46.6m	47.09m	Proposal remains compliant.	Yes
Rear and Side Building Setback	10m	Minimum setbacks as follows: Riding arena 10m east side. Dwelling 10.4m west side. Dwelling 20m north (rear). Pool 15.5m north (rear).	No changes except that tennis court new location is setback 12.7m from rear boundary.	Proposal remains compliant.	Yes
Landscaped Open Space	30% of site area	77% (15350sqm)	No change	Proposal remains compliant.	Yes

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	Yes	Existing condition will remain on consent to ensure dark non-reflective roofing materials.	Yes
CL39 Local retail centres	No		N/A
CL40 Housing for Older People and People with Disabilities	No		N/A
CL41 Brothels	No		N/A
CL42 Construction Sites	Yes	Ample area will remain for storage of building materials during construction.	Yes
CL43 Noise	Yes	The modification do not result in any greater noise impacts than previously approved.	Yes
CL44 Pollutants	Yes	The modifications will not cause the development to become polluting.	Yes
CL45 Hazardous Uses	No		N/A



General Principles	Applies	Comments	Complies
CL46 Radiation Emission Levels	No		N/A
CL47 Flood Affected Land	No		N/A
CL48 Potentially Contaminated Land	Yes	The proposed modifications do not alter the previous assessment. An existing condition will remain requiring if any evidence of contamination is found it shall be immediately notified to Council and the PCA.	Yes
CL49 Remediation of Contaminated Land	No		N/A
CL49a Acid Sulphate Soils	No		N/A
CL50 Safety & Security	Yes	The modifications will not reduce safety and security in the area.	Yes
CL51 Front Fences and Walls	Yes	The proposed front fence will remain 1.4m high, with the front gate up to 2.1m high. The fence and gate remain setback from the front boundary by 15m and will be well screened from the road and the added height is not considered to result in any unreasonable visual impact in the area.	Yes
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	No		N/A
CL53 Signs	No		N/A
CL54 Provision and Location of Utility Services	Yes	Existing connections to be utilised.	Yes
CL55 Site Consolidation in 'Medium Density Areas'	No		N/A
CL56 Retaining Unique Environmental Features on Site	Yes	The proposed modifications will not result in the loss of any more rock outcrops than was previously approved. The relocation of the tennis court will in fact mean some extra rock outcrops are retained.	Yes
CL57 Development on Sloping Land	Yes	The proposed cellar will result in extra excavation, however it will be wholly below the dwelling and not visible, and will not result in any unreasonable impacts in the area.	Yes



General Principles	Applies	Comments	Complies
CL58 Protection of Existing Flora	Yes	Council's Natural Environment Unit has assessed the proposal and has not raised any concerns with the modifications.	Yes
CL59 Koala Habitat Protection	No		N/A
CL60 Watercourses & Aquatic Habitats	Yes	Council's Natural Environment Unit (NEU) provided the following comments: <i>I inspected the site last year and there is no watercourse on site probably due to recent earthworks. Therefore "No objection to approval and no conditions are recommended".</i>	Yes
CL61 Views	Yes	No views will be unreasonably impacted upon as a result of the modifications.	Yes
CL62 Access to sunlight	Yes	The proposed modifications will not result in any overshadowing of neighbours.	Yes
CL63 Landscaped Open Space	Yes	The modifications will maintain approximately 77% of the site as landscaped area.	Yes
CL63A Rear Building Setback	Yes	There are no works proposed within the 10m rear setback area which will remain landscaped.	Yes
CL64 Private open space	Yes	Ample private open space will be available on site.	Yes
CL65 Privacy	Yes	The modifications do not result in any unreasonable privacy impacts.	Yes
CL66 Building bulk	Yes	The modifications do not create any significant increase in building bulk.	Yes
CL67 Roofs	Yes	Roofing will remain generally the same as previously approved. The stable design will be altered, but will not be out of character in the area.	Yes
CL68 Conservation of Energy and Water	Yes	A BASIX certificate was provided with the application.	Yes
CL69 Accessibility – Public and Semi-Public Buildings	No	N/A	N/A
CL70 Site facilities	Yes	Ample room will remain on site for necessary facilities.	Yes
CL71 Parking	Yes	The parking facilities will not have any	Yes



General Principles	Applies	Comments	Complies
facilities (visual impact)		unreasonable visual impact and will not be readily visible from the road.	
CL72 Traffic access & safety	Yes	The modifications do not alter the driveway access.	Yes
CL73 On-site Loading and Unloading	No	N/A	N/A
CL74 Provision of Carparking	Yes	Two spaces continue to be provided for the dwelling.	Yes
CL75 Design of Carparking Areas	Yes	The car parking design will remain unchanged.	Yes
CL76 Management of Stormwater	Yes	Council's Development Engineers have raised no concerns with the modifications.	Yes
CL77 Landfill	Yes	The modifications do not include any significant fill.	Yes
CL78 Erosion & Sedimentation	Yes	Existing conditions of consent will ensure erosions and sedimentation is contained during construction.	Yes
CL79 Heritage Control	No	N/A	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	Yes	A site inspection was carried out with an Aboriginal Heritage Officer during assessment of the original proposal. A walk-over of the entire site was conducted, including areas both proposed and not proposed for construction, and no evidence was found of any Aboriginal sites.	Yes
CL82 Development in the Vicinity of Heritage Items	No	N/A	N/A
CL83 Development of Known or Potential Archaeological Sites	Yes	An existing condition of consent will remain requiring notification to Council and the AHO of any Aboriginal sites uncovered during construction.	Yes

SCHEDULES

Schedule	Applicable	Compliant
Schedule 5 State policies	N/A	N/A
Schedule 6 Preservation of bushland	N/A	N/A
Schedule 7 Matters for consideration in a subdivision of land	N/A	N/A



Schedule	Applicable	Compliant
Schedule 8 Site analysis	Yes	Yes
Schedule 9 Notification requirements for remediation work	N/A	N/A
Schedule 10 Traffic generating development	N/a	N/A
Schedule 11 Koala feed tree species and plans of management	N/A	N/A
Schedule 12 Requirements for complying development	N/A	N/A
Schedule 13 Development guidelines for Collaroy/Narrabeen Beach	N/A	N/A
Schedule 14 Guiding principles for development near Middle Harbour	N/A	N/A
Schedule 15 Statement of environmental effects	N/A	N/A
Schedule 17 Carparking provision	Yes	Yes

OTHER RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS:

STATE ENVIRONMENTAL PLANNING POLICIES, REGIONAL ENVIRONMENTAL PLANS

POLICY	ASSESSMENT	YES /NO /N/A	COMPLIES
SEPP - BASIX	BASIX Certificate supplied?	Yes	Yes
SEPP – 55	Based on the previous land uses if the site likely to be contaminated? Is the site suitable for the proposed land use?	No Yes	Yes
SEPP INFRASTRUCTURE	Is the proposal for a swimming pool, or Within 30m of an overhead line support structure? Within 5m of an overhead power line?	Yes No No	Yes
SREP-Sydney Regional Environmental Plan – Sydney Harbour Catchment (If applicable)		N/A	N/A

EPA REGULATION CONSIDERATIONS:

Regulation Clause	Applicable	Conditioned
Clause 54 & 109 (Stop the Clock)	N/A	N/A



Regulation Clause	Applicable	Conditioned
Clause 92 (Demolition of Structures)	Yes	Yes
Clause 92 (Government Coastal Policy)	N/A	N/A
Clause 93 & 94 (Fire Safety)	N/A	N/A
Clause 94 (Upgrade of Building for Disability Access)	N/A	N/A
Clause 98 (BCA)	Yes	Yes

REFERRALS

Referral Body Internal	Comments	Consent Recommended
Natural Environment Unit - Biodiversity	No comments or conditions for the proposed modifications.	Yes
Natural Environment Unit - Riparian	I inspected the site last year and there is no watercourse on site probably due to recent earthworks. Therefore "No objection to approval and no conditions are recommended".	Yes
Development Engineers	I have reviewed the above proposal and raise no objections to the proposed modification.	Yes

Referral Body External	Comments	Consent Recommended
Ausgrid	The proposal was referred to Ausgrid who did not reply within the 21 day period. It is assumed there are no comments and no conditions.	Yes

APPLICABLE LEGISLATION/ EPI'S /POLICIES:	
EPA Act 1979	Yes
EPA Regulations 2000	Yes
Disability Discrimination Act 1992	N/A
Local Government Act 1993	Yes
Roads Act 1993	Yes



APPLICABLE LEGISLATION/ EPI'S /POLICIES:	
Rural Fires Act 1997	Yes
RFI Act 1948	Yes
Water Management Act 2000	N/A
Water Act 1912	N/A
Swimming Pools Act 1992	Yes
SEPP No. 55 – Remediation of Land	Yes
SEPP No. 64 – Advertising and Signage	N/A
SEPP No. 71 – Coastal Protection	N/A
SEPP BASIX	Yes
SEPP Infrastructure	Yes
WLEP 2000	Yes
WDCP	Yes
S94 Development Contributions Plan	N/A
S94A Development Contributions Plan	Yes
NSW Coastal Policy (cl 92 EPA Regulation)	N/A

Section 79C “Matters for Consideration”	
Section 79C (1) (a)(i) – Have you considered all relevant provisions of any relevant environmental planning instrument?	Yes
Section 79C (1) (a)(ii) – Have you considered all relevant provisions of any provisions of any draft environmental planning instrument	N/A
Section 79C (1) (a)(iii) – Have you considered all relevant provisions of any provisions of any development control plan	Yes
Section 79C (1) (a)(iiia) - Have you considered all relevant provisions of any Planning Agreement or Draft Planning Agreement	N/A
Section 79C (1) (a)(iv) - Have you considered all relevant provisions of any Regulations?	Yes
Section 79C (1) (b) – Are the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality acceptable?	Yes
Section 79C (1) (c) – Is the site suitable for the development?	Yes



Section 79C "Matters for Consideration"	
Section 79C (1) (d) – Have you considered any submissions made in accordance with the EPA Act or EPA Regs?	N/A
Section 79C (1) (e) – Is the proposal in the public interest?	Yes

SECTION 2 – ISSUES

PUBLIC EXHIBITION

The subject application was publicly exhibited in accordance with the EPA Regulation 2000 and the applicable Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

SECTION 3 – SITE INSPECTION ANALYSIS



SITE AREA: 1.992Ha

Detail existing onsite structures: Dwelling house, outbuildings



Site Features: The site is on the northern side of Morgan Rd. It slopes up quite steeply from the road before flattening out and falling away towards the north eastern corner of the site. The site is well vegetated, however the areas proposed for works under the current application are generally clear of significant trees.

Site constraints and other considerations

Bushfire Prone?	Yes
Flood Prone?	No
Affected by Acid Sulphate Soils	No
Located within 40m of any natural watercourse?	No
Located within 1km landward of the open coast watermark or within 1km of any bay estuaries, coastal lake, lagoon, island, tidal waterway within the area mapped within the NSW Coastal Policy?	No
Located within 100m of the mean high watermark?	No
Located within an area identified as a Wave Impact Zone?	No
Any items of heritage significance located upon it?	No
Located within the vicinity of any items of heritage significance?	No
Located within an area identified as potential land slip?	No
Is the development Integrated?	No
Does the development require concurrence?	No
Is the site owned or is the DA made by the "Crown"?	No
Have you reviewed the DP and s88B instrument?	Yes
Does the proposal impact upon any easements / Rights of Way?	No

SITE INSPECTION / DESKTOP ASSESSMENT UNDERTAKEN BY:

Does the site inspection <Section 3> confirm the assessment undertaken against the relevant EPI's <Section's 1 & 2>?

Yes



Are there any additional matters that have arisen from your site inspection that would require any additional assessment to be undertaken?

No

Are there any existing unauthorised works on site?

No

If YES has the application been referred to compliance section for comments?

N/A

Signed

Date

7/4/14

David Auster, Development Assessment Officer

SECTION 4 – APPLICATION DETERMINATION

Conclusion:

The proposal has been assessed against the relevant matters for consideration under Section 79C and 96(1A) 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.

RECOMMENDATION - APPROVAL

That Council as the consent authority:

APPROVE THE MODIFICATION OF THE DEVELOPMENT CONSENT subject to:

The following conditions detailed within the associated notice of determination;

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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A 011 Revision 2	11/12/13	MJ Shepherd & Co Pty Ltd
A 012 Revision 2	11/12/13	MJ Shepherd & Co Pty Ltd
A 013 Revision 2	11/12/13	MJ Shepherd & Co Pty Ltd



A 014 Revision 2	11/12/13	MJ Shepherd & Co Pty Ltd
B 011 Revision 2 - Finished Levels	11/12/13	MJ Shepherd & Co Pty Ltd
B 012 Revision 2 - Existing Site and Contours	11/12/13	MJ Shepherd & Co Pty Ltd
B 013 Revision 2 - Site Setout	11/12/13	MJ Shepherd & Co Pty Ltd
B 011 Revision 2 - Section	11/12/13	MJ Shepherd & Co Pty Ltd
B 012 Revision 2 - Floor Plan Elevations	11/12/13	MJ Shepherd & Co Pty Ltd
B 013 Revision 2 - Elevations Sections	11/12/13	MJ Shepherd & Co Pty Ltd
C 011 Revision 2	11/12/13	MJ Shepherd & Co Pty Ltd
C 012 Revision 2	11/12/13	MJ Shepherd & Co Pty Ltd
C 013 Revision 2	11/12/13	MJ Shepherd & Co Pty Ltd
F001 Revision 1	11/12/13	MJ Shepherd & Co Pty Ltd
F002 Revision 1	11/12/13	MJ Shepherd & Co Pty Ltd

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)

B. Delete Condition 13 - Height of Fencing

"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  Date 7/4/14
David Auster, Development Assessment Officer

The application is determined under the delegated authority of:

W

Signed  Date 7/04/2014

Lashta Haidari, Development Assessment Manager

Right-click to sign
with CoSign 

