

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2013/0055		
Responsible Officer	Kevin Short		
Land to be developed (Address):	Lot 30 DP 13621, 4 Bennett Street DEE WHY NSW 2099		
Proposed Development:	Modification of Development Consent DA2012/1281 granted for Alterations and additions to a dwelling house and construction of a swimming pool		
Zoning:	LEP - Land zoned R2 Low Density Residential		
Development Permissible:	Yes		
Existing Use Rights:	No		
Consent Authority:	Warringah Council		
Land and Environment Court Action:	No		
Owner:	Jonathan Davies Barratt Nicola Margaret Barratt		
Applicant:	Jonathan Davies Barratt Nicola Margaret Barratt		
Application lodged:	27/03/2013		
Application Type	Local		
State Reporting Category	Other		
Notified:	05/04/2013 to 22/04/2013		
Advertised	Not Advertised in accordance with A.7 of WDCP		
Submissions	0		

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

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There are no assessment issues.

RECOMMENDATION

Approval

SITE DESCRIPTION

Property Description:	Lot 30 DP 13621, 4 Bennett Street DEE WHY NSW 2099
Detailed Site Description:	The site is legally known as Lot 30, DP13621, and referred to as 4 Bennett Street Dee Why. The site is regular in shape with an average depth of 35.05m and a width of 15.24m equating to an overall site area of 534.2m². The site features a slope of 16.5% from south-east to northwest across the depth of the site. The site is currently occupied by a single detached dwelling with adjoining garage, in-ground swimming pool and landscaping. Vehicle and pedestrian access is from Bennett Street at the site frontage.





SITE HISTORY

Development Application - DA2012/1281

DA2012/1281 for Alterations and additions to a dwelling house and construction of a swimming pool was approved on 9 January 2013.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify Development Consent No.2012/1281 in accordance with the provisions of Section 96 (1A) of the Environmental Planning and Assessment Act 1979. Specifically, the modifications sought to the original application are as follows:

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- amendment to the design of the roof at the south western portion of the dwelling, including the part retention of the existing roof above Bed 2 and Family Room
- internal ground floor modifications, including the deletion of Bath 1 to increase the area of Bed 3 and a decrease in the area of the Family Room to enable provision of Bath 2
- change to door and window sizes in response to changes

The proposed modifications will not result in a change to the approved height of the roof.

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 DA2012/1281, 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	See discussion on "Matters for

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referred to in section 79C(1) as are of relevance to the development the subject of the application

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)	Division 8A 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. Clause 50(1A) 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. Clauses 54 and 109 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. Clause 92 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. Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This Clause is not relevant to this application.		

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Section 79C 'Matters for Consideration'	Comments
	Clause 98 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.
	Clause 98 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.
	<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
Development Engineers	Council's Development Engineer has reviewed the proposed

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Internal Referral Body	Comments
	modification and raises no objection to the application.
Landscape Officer	Council's Landscape Officer has reviewed the proposal, as amended, and raises no objections to the proposed modification.
Natural Environment (Drainage Assets)	Council's Natural Environment Officer has reviewed the proposed modification and raises no objections to the application.

External Referral Body	Comments
	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.

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 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 residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the modified application and is supported by an ABSA Assessor 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

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- 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 application was referred to Ausgrid who did not raise any objection to the modification proposal.

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	Complies
Height of Buildings:	8.5m	8.5m	8.5m (as approved)	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
Side Boundary Envelope	4m	complies	complies (no change)	Yes
Side Boundary Setbacks	0.9m	dwelling - 0.9m (south and north elevations) carport - nil setback (north elevation)	0.9m (no change) nil	Yes no (as approved)
Front Boundary Setbacks	6.5m	6.0m	6.5m (no change)	no (as approved)
Rear Boundary Setbacks	6m	0.5m	0.5m (no change)	no (as approved)
Landscaped Open Space and Bushland Setting	40%	34.7% (185.63m²)	34.7% (185.63m²) (no change)	no (as approved)

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Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E10 Landslip Risk	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is inconsistent 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

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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. Mod2013/0055 for Modification of Development Consent DA2012/1281 granted for Alterations and additions to a dwelling house and construction of a swimming pool on land at Lot 30 DP 13621,4 Bennett Street, DEE WHY, 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:

Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp				
Drawing No.	Dated	Prepared By		
A-01 (Revision A)	21 March 2013	Archisoul Architects		
A-02 (Revision A)	21 March 2013	Archisoul Architects		

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A-03 (Revision A)	21 March 2013	Archisoul Architects
A-04 (Revision A)	21 March 2013	Archisoul Architects
A-05 (Revision A)	21 March 2013	Archisoul Architects
A-06 (Revision A)	21 March 2013	Archisoul Architects
A-07 (Revision A)	21 March 2013	Archisoul Architects
A-08 (Revision A)	21 March 2013	Archisoul Architects
A-09 (Revision A)	21 March 2013	Archisoul Architects
A-010 (Revision A)	21 March 2013	Archisoul Architects
A-011 (Revision A)	21 March 2013	Archisoul Architects
A-012 (Revision A)	21 March 2013	Archisoul Architects
A - 21 (Revision A)	21 March 2013	Archisoul Architects

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

Kevin Short, Development Assessment Officer

The application is determined under the delegated authority of:

Steven Findlay, Development Assessment Manager

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ATTACHMENT A

Notification Plan

Title

Date

2013/092905

plans Notification

21/03/2013

ATTACHMENT B

Notification Document

Title

Date

2013/096890

notification map

05/04/2013

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ATTACHMENT C

	Reference Number	Document	Date
人	2013/092909	plans master set	21/03/2013
人	2013/092905	plans Notification	21/03/2013
人	2013/092904	report basix certificate	21/03/2013
人	2013/092900	statement of environmental effects	21/03/2013
	2013/090049	invoice for ram applications - Nicola Margaret Barratt - Jonathan Davies Barratt	27/03/2013
	2013/090075	DA Acknowledgement Letter - Nicola Margaret Barratt - Jonathan Davies Barratt	27/03/2013
人	2013/092895	application to modify a consent	02/04/2013
بالر	2013/092899	applicant details	02/04/2013
人	2013/092906	certification of shadow diagrams with plans	02/04/2013
人	2013/092908	plans external	02/04/2013
	2013/094371	File Cover	03/04/2013
	2013/094384	Referral to Development Engineers	03/04/2013
	2013/094390	Referral to AUSGRID - SEPP - Infrastructure 2007	03/04/2013
	2013/096887	notification letters - 10 sent	05/04/2013
	2013/096890	notification map	05/04/2013
سار	2013/108534	Development Engineering Referral Response	18/04/2013
人	2013/136723	Landscape Referral Response	17/05/2013

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