

RESIDENTIAL DEVELOPMENT – SECTION 4.56 MODIFICATION APPLICATION ASSESSMENT REPORT

Modification Application Number:	Mod2018/0087
Development Application Number:	DA2009/0800
Planner:	Nick England
Property Address:	Lot 806 DP 752038 , 8 Lady Penrhyn Drive BEACON HILL,
Proposal Description:	Section 4.56 Modification of Development Consent DA2009/0800 granted for the construction of 32 units for older people or people with a disability and Torrens title subdivision

Recommendation: **APPROVED**

Clause 20 Variation: N/A

Proposal in Detail: The proposed modification involves a re-design of the community centre building, approved as part of the seniors living development. This building was last modified in Court consent (Section 34 agreement) 2017/00194315, issued on 13 December 2017.

The subject application was amended on 9 August 2018, in response to concerns that the NSW Rural Fire Service (RFS) had in respect to compliance with the existing Asset Protection Zones (APZ) that exist on the site.

In summary, the proposed modification seeks to extend the community building 18m towards the north boundary of the site, over the existing area approved for the swimming pool.

In detail, the proposed amendment consists of:

Ground Floor

- Reconfiguration of existing swimming pool and deck area, with increase in deck on western boundary of approximately 32m²;
- Modify internal layout of community service functions;
- Increase footprint of building on south-east corner by 8m²; and
- New floor space of 345m² from approved 244m².

1st Floor

- Reconfigure upstairs function room, with new floor area of 253m² from the approved 178m²; and
- New balcony adjoining function room of approximately 270m² in area.

Roof

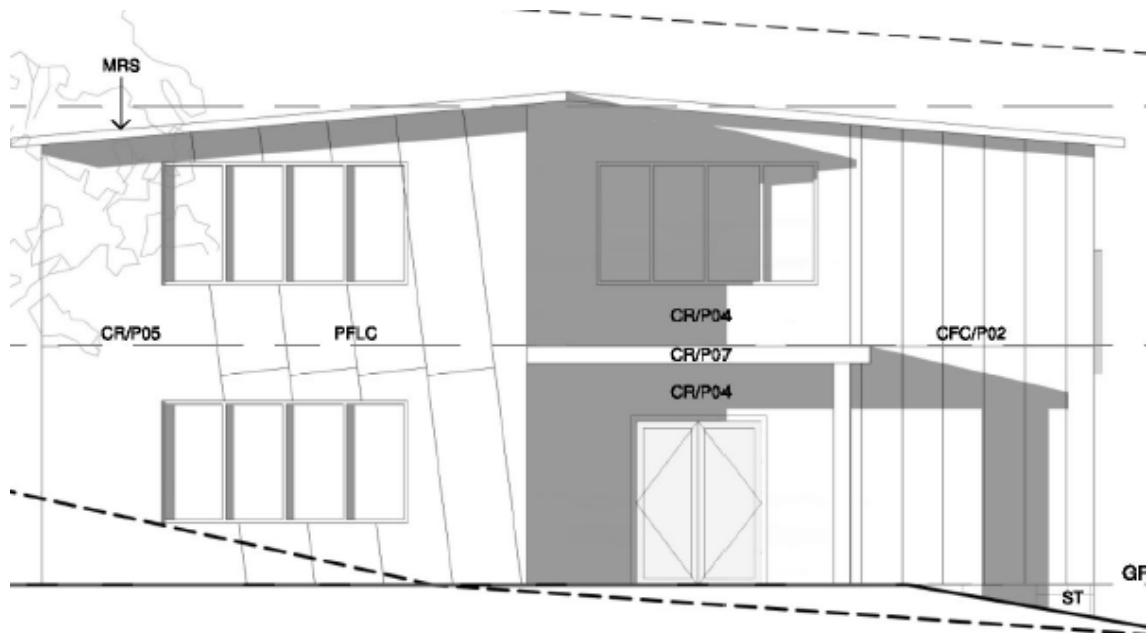
- Replace approved pitched roof with a flat roof;
- Access stairs and lift structure to roof;
- Roof top bowling green of approximately 375m² in area; and
- Roof garden area of approximately 120m² in area.

Extracts of the changes to the elevations are provided below:

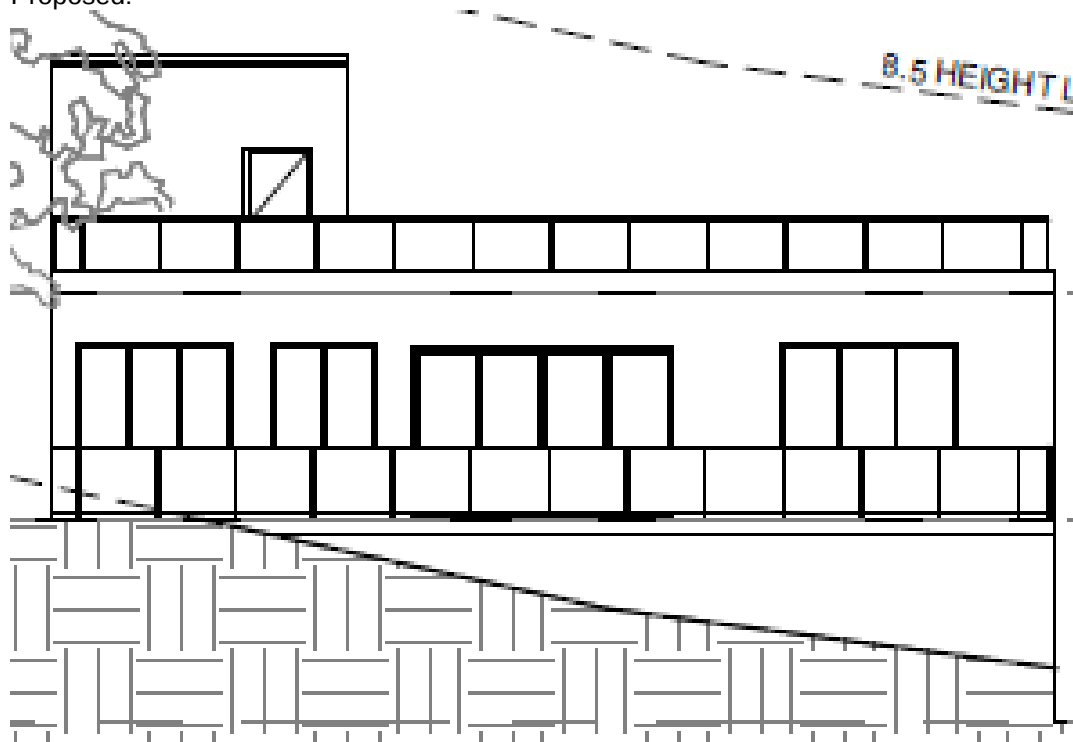


South (Front) Elevation

Current approval:



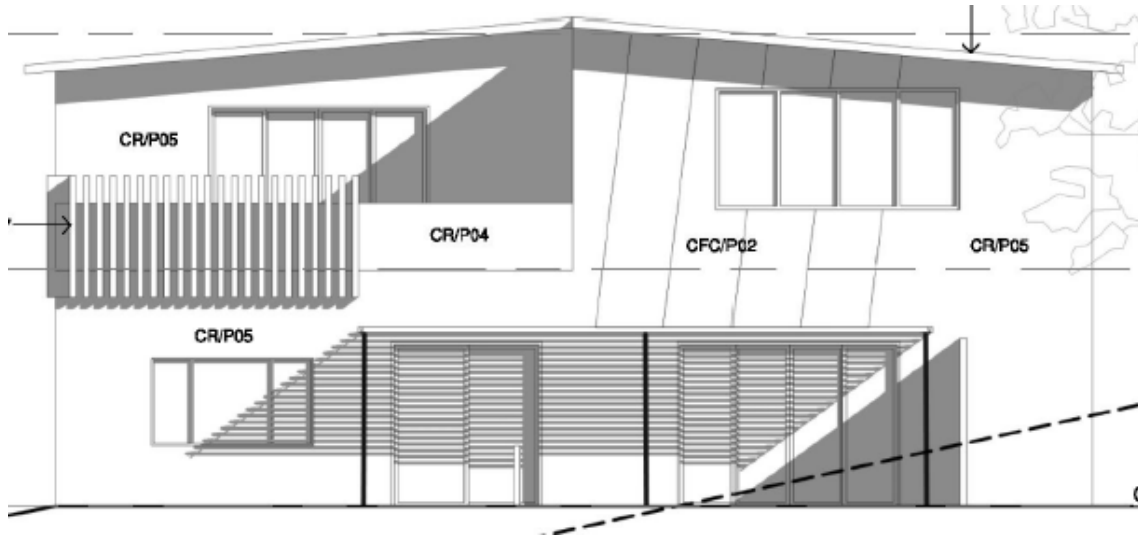
Proposed:



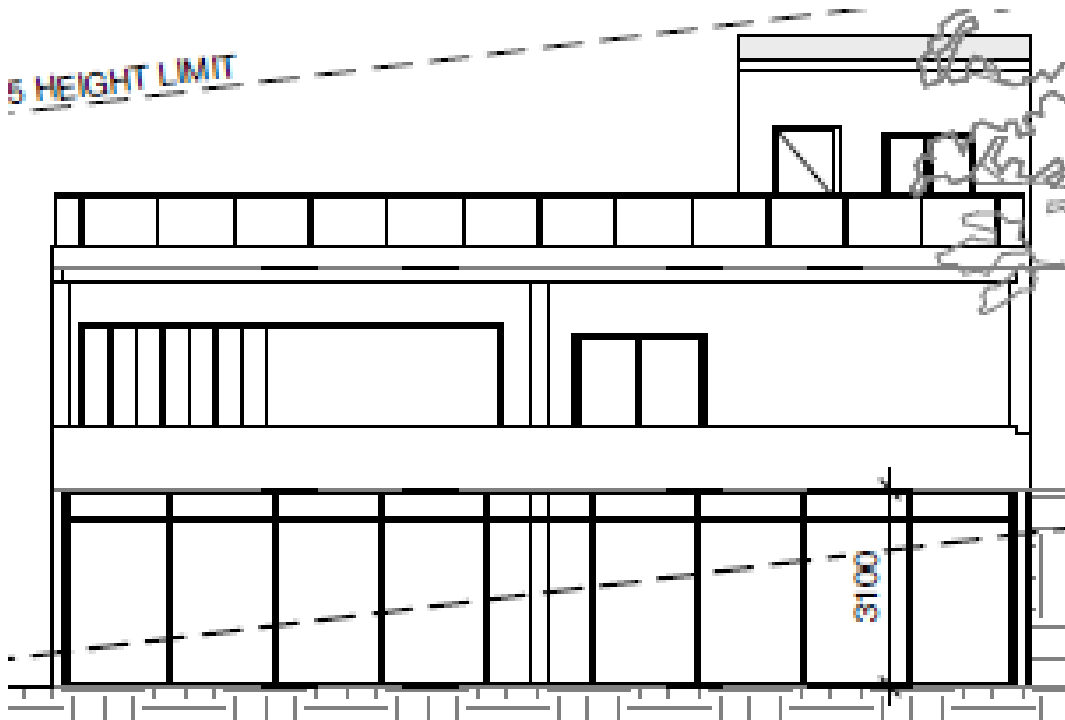


North (Rear) Elevation

Current approval:



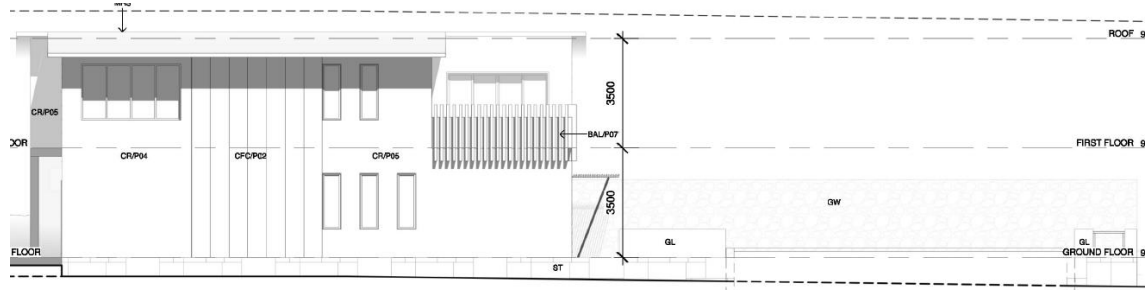
Proposed:





East Elevation

Current approval:

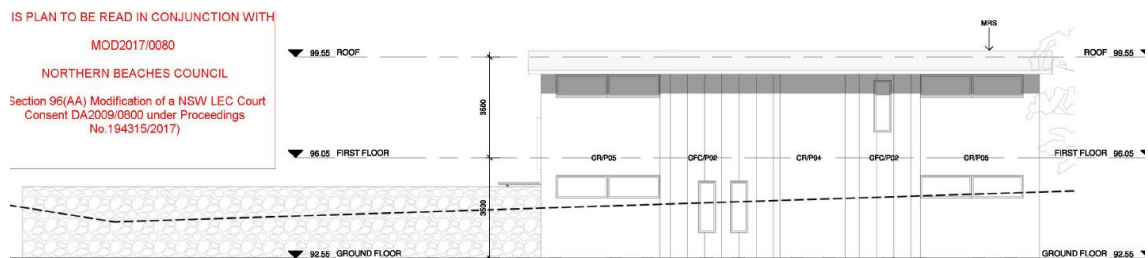


Proposed:

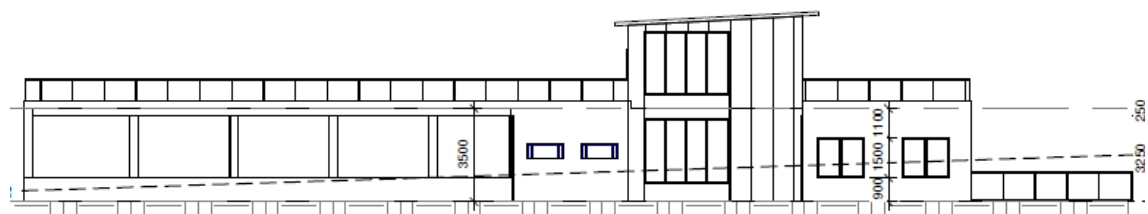


West Elevation

Current Approval:



Proposed:



Relevant History and Background:

The application for the Torren title subdivision and seniors living development was determined by way of approval by the NSW Land and Environment Court on 13 March 2011. This application has been modified three (3) times since



this approval.

The previous modification consent relevant to this proposal relates to the aforementioned consent in the NSW Land & Environment Court on 13 December 2017.

Plans Reference

Drawing Number	Title	Revision	Dated	Drawn By
S001	Site Plan (Large Scale)	1	Feb 2018	Vigor Master
S001-1	Site Plan	1	Feb 2018	Vigor Master
S105	Community Centre Floor Plans	1	Feb 2018	Vigor Master
S302	Community Centre Elevations	-	14 May 2018	Vigor Master

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

Notification Required:	Yes	14 days
Submissions Received:	Yes	Number of Submissions: Nil
Cost of Works:	N/A	
Section 94A Applicable:	N/A	TOTAL: N/A

Section 4.56 EPA ACT 1979	
Section 4.56 (1) (a) – 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 4.56 (1) (b), (c) & (d) – Has the application been on Public Exhibition?	Yes
Have you considered any submissions?	Yes
Section 4.56 (1A) – Have you considered such of the matters referred to in section 4.15 (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

Category of Development: Category 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

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 proposed modification to the approved community building will not result in any new allotments, only result in a minor change in the areas of the two approved Torrens title allotments. In this regard the approved low intensity, low impact use will remain the same and this requirement is achieved.

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 proposed modification will result in a minor increase in the area of the excavation adjoining the swimming pool and deck. This is estimated at a further 2m from the approved west elevation for a distance of 18m. This additional area of excavation is minor in the context of the overall area of the site, which is in excess of 2.5 hectares. This part of the site will need to be modified to accommodate site preparation works and clearance of vegetation for APZ's as part of the existing consent. In this respect, the proposed modification will not compromise the existing landscape beyond that which is protected by the



existing consent. This requirement of the DFC is therefore complied with.

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 adjacent to Forest Way or the Wakehurst Parkway. Hence this requirement is not applicable to the proposed modification.

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 additional physical works on the site proposed as part of the modification are minor and the existing stormwater management systems in place for the approved development are considered sufficient to achieve this requirement of the DFC.

BUILT FORM CONTROLS

The following table examines the relevant Built Form Controls of the B2 Locality and how they apply to the proposed modification:

Control / Requirement	Approved	Proposed	Compliant
Housing Density 1 dwelling per 20 ha	1 dwelling + 1 seniors living development	No change	Yes
Building Height 8.5m (total height) 7.2m ((NGL to upper ceiling)	6.4m 6.1m	7.2m 7.1m	Yes Yes
Front building setback 20m	42m (Willandra Road) 83m (Lady Penrhyn Drive)	No change No change	Yes Yes
Rear and side building setback 10m	42m	No change	Yes
Landscaped Open Space 30% of site area	54%	54%	Yes

RELEVANT SCHEDULES

Schedule	Applicable	Compliant
Schedule 8 Site analysis	Yes	Yes

OTHER RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS:



STATE ENVIRONMENTAL PLANNING POLICIES, REGIONAL ENVIRONMENTAL PLANS

POLICY	ASSESSMENT	YES /NO /N/A	COMPLIES
SEPP – 55	Based on the previous land uses is the site likely to be contaminated?	No	Yes
	Is the site suitable for the proposed land use?	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?	No	N/A

EPA REGULATION CONSIDERATIONS:

Regulation Clause	Applicable	Conditioned
Clause 54 & 109 (Stop the Clock)	No	N/A
Clause 92 (Demolition of Structures)	No	N/A
Clause 92 (Government Coastal Policy)	No	N/A
Clause 93 & 94 (Fire Safety)	No	N/A
Clause 94 (Upgrade of Building for Disability Access)	No	N/A
Clause 98 (BCA)	No	N/A

REFERRALS

Referral Body Internal	Comments	Consent Recommended
Development Engineering	No objection to the proposed modification and no additional conditions recommended.	Yes
Landscape Officer	Council's Landscape Officer has provided the following comments to the proposed modification: <i>"The proposed community centre is a larger building presenting additional bulk of built form across the site. Additional excavation will be required and impacts on existing trees to be retained are likely.</i> <i>Inadequate visual analysis has been provided to indicate that the proposal is still in keeping with the concept of buildings sensitively set within a natural landscape and no information regarding impacts on trees has been provided.</i> <i>At this stage, the proposal is not supported with regard to landscape issues."</i> <u>Planner's comment:</u> The additional area of excavation on the site is	No



Referral Body Internal	Comments	Consent Recommended
	estimated at 32m ² . This area is located directly adjacent the approved community centre, which is within an Inner Protection Area and as such will necessitate the removal and re-vegetation of the site to ensure bush fire safety protocols are retained. An inspection of the site has confirmed that clearing works approved under the original consent have been undertaken and no significant vegetation exists within, or adjacent to, the proposed area of excavation. In the context of this information, the comments of the Landscape Officer are noted, however, based on the site inspection carried out, are not sufficient to warrant refusal or redesign of the application.	

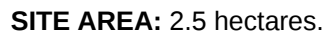
Referral Body External	Comments	Consent Recommended
NSW Rural Fire Service	In correspondence dated 21 September 2018, the NSW Rural Fire Service has advised that they have no objection to the proposed modification, subject to conditions which will supersede the existing General Terms of Approval issued under Section 100B of the Rural Fires Act 1997.	Yes

APPLICABLE LEGISLATION/ EPI'S /POLICIES:	
EPA Act 1979	Yes
EPA Regulations 2000	Yes
Rural Fires Act 1997	Yes
SEPP No. 55 – Remediation of Land	Yes
WLEP 2000	Yes
WDCP 2000	Yes

Section 4.15 “Evaluation”	
Section 4.15 (1) (a)(i) – Have you considered all relevant provisions of any relevant environmental planning instrument?	Yes
Section 4.15 (1) (a)(ii) – Have you considered all relevant provisions of any provisions of any proposed environmental planning instrument	Yes
Section 4.15 (1) (a)(iii) – Have you considered all relevant provisions of any provisions of any development control plan	Yes
Section 4.15 (1) (a)(iia) - Have you considered all relevant provisions of any Planning Agreement or Draft Planning Agreement	Yes
Section 4.15 (1) (a)(iv) - Have you considered all relevant provisions of any Regulations?	Yes
Section 4.15 (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 4.15 "Evaluation"	
Section 4.15 (1) (c) – Is the site suitable for the development?	Yes
Section 4.15 (1) (d) – Have you considered any submissions made in accordance with the EPA Act or EPA Regs?	N/A
Section 4.15 (1) (e) – Is the proposal in the public interest?	Yes



Dwelling house and seniors living development currently under construction.

Vegetation; rock outcrops.

Bushfire Prone?	Yes
Flood Prone?	No
Affected by Acid Sulphate Soils	No
Located within 40m of any natural watercourse?	Yes
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



Site constraints and other considerations

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?	Yes
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 confirm the assessment undertaken against the relevant EPI's

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: 29 October 2018

Nick England, Planner



SECTION 4 – APPLICATION DETERMINATION

Conclusion:

The proposal has been assessed against the relevant matters for consideration under Section 4.15 and 4.56 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 amended conditions detailed within the associated notice of determination; and

A. Add Condition No.1A - 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
S001 Revision 1	Feb 2018	Vigor Master
S001-1 Revision 1	Feb 2018	Vigor Master
S105 Revision 1	Feb 2018	Vigor Master
S302	14 May 2018	Vigor Master

b) Modification Documentation

Reports / Documentation – All recommendations and requirements contained within:		
Report Title / No.	Dated	Prepared By
Bushfire Protection Assessment REF: 18VM03/A17032CEE	August 2018	Travers Bushfire and Ecology

c) Any other 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. Add Condition No.3A Compliance with External Department, Authority or Service Requirements to read as follows:

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

External Department, Authority or Service Name	EDMS Reference	Dated
NSW Rural Fire Service	Referral Response - RFS	24 September 2018

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)



Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's. (DACPLB02)

"I am aware of Council's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest"

Nick England, Planner

The application is determined under the delegated authority of:

Signed

Date: 31 October 2018

Steven Findlay, Development Assessment Manager