

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2015/0108
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Responsible Officer:	Lauren Roberts
Land to be developed (Address):	Lot 24 DP 227845 , 24 / 0 Wanniti Road BELROSE NSW 2085
Proposed Development:	Modification of Development Consent DA2012/0936 granted for Construction of a dwelling house and 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:	Pau Yen Stewart
Applicant:	Tim Stewart Architects

Application lodged:	03/06/2015
Application Type:	Local
State Reporting Category:	Residential - Alterations and additions
Notified:	09/06/2015 to 24/06/2015
Advertised:	Not Advertised in accordance with A.7 of WDCP
Submissions:	0
Recommendation:	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

Property Description:	Lot 24 DP 227845 , 24 / 0 Wanniti Road BELROSE NSW 2085
Detailed Site Description:	The site is located at Lot 24 in DP 227845, Wanniti Road, Belrose. The subject site (Lot 24 in DP 227845) is located at the northern end of Wanniti Road, Belrose. The topography of the site is sloping to the north away from the existing residential area. As this subject site is topographically lower than the adjoining residential area, stormwater naturally drains in two engineered channels over the site connecting Garigal National Park into the French's Creek part of the broader Manly Lagoon catchment. The subject site is currently under construction with the dwelling house nearing completion. The site is characterised with medium density vegetation and rock outcrops across the site. The surrounding developments in the immediate proximity of the site include Residential to the south-west and southeast, Garigal National Park to the north and Public Open space to the south. The subject site is zoned R2- Low density Residential under the Warringah LEP 2011 with a variety of different zones adjoin the site including R2 (Low Density Residential) to South-East & West, RE1 (Public Recreation) due south and west of the site and E1 (National Park and Natural Reserve) adjoining the northern boundary. The site is currently characterised by the two drainage channels running through the site and vegetation described as scrubby regrowth vegetation that has been removed from its natural state. The site is subject to extensive view exposure to the Garigal National Park to the north with full solar exposure to due to the aspect and topography of the land, and location of building on the adjoining properties.

Map:



SITE HISTORY

On 21 July 2011, Council held a pre-lodgement application meeting PLM2011/0074 for the construction of a new dwelling, swimming pool and tree removal.

On 27 March 2012, Council held a pre-lodgement application meeting PLM2012/0018 for the construction of a new dwelling, swimming pool and tree removal.

On 22 January 2013, DA2012/0936 for construction of a dwelling house and swimming pool was approved by Council.

On 27 December 2013, MOD2013/0163 for numerous minor modifications to the approved dwelling was approved by Council.

PROPOSED DEVELOPMENT IN DETAIL

The proposed modification to the approved development application (DA2012/0936) and subsequent modification (MOD2013/0163) involves the following:

- Entry bridge on eastern side of the dwelling reconfigured along with inclusion of visitor car park;
- The bridge over the western drainage swale widened to 3m;
- Viewing window added to swimming pool;
- Outdoor patio to be built in to form part of the master bedroom (includes roof extension);
- External stairs removed on northern elevation;
- Masonry fins removed from northern, southern and western elevation facade;
- External window added to master ensuite bathroom;
- Drying court built into form part of the main bathroom;
- External window on western elevation reconfigured;

- Bin store removed and included within garage; and
- Enclosed storage area beside stairs removed.

Overall, the proposal includes a number of minor design amendments to the dwelling house and will not result in an increases to the overall building footprint or building height of the dwelling.

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 DA2012/0936, 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	Yes 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 consent was originally granted and before that consent as originally granted was modified (if at all), and	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 approved under DA2012/0936.
(c) it has notified the application in accordance with:	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local
(i) the regulations, if the regulations so require,	

Section 96(1A) - Other Modifications	Comments
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	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:

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)(iia) – 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)	<u>Division 8A</u> 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 in the original consent. <u>Clause 50(1A)</u> 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

Section 79C 'Matters for Consideration'	Comments
	to this application. <u>Clauses 54 and 109</u> 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. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application. <u>Clauses 93 and/or 94</u> 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. <u>Clause 98</u> 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 in the original consent. <u>Clause 98</u> 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 in the original 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 Warringham 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	Development Engineer has no objection to release the modification without additional conditions.
Landscape Officer	No objections to the proposed modification.
Natural Environment (Drainage Assets)	No objection to approval with no conditions.
Natural Environment (Riparian Lands/Creeks)	No objection to approval with no conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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)

Nil

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	8.083m	8.083	N/A	No Change to Approved

Compliance Assessment

Clause	Compliance with Requirements
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	5.87	5.87	No Change to Approved
B3 Side Boundary Envelope	4m	<4m/45 degrees	<4m/45 degrees	No Change to Approved
B5 Side Boundary Setbacks	0.9m	South - 4.1m North - 9.6m	South - 4.1m North - 9.6m	No Change to Approved
B7 Front Boundary Setbacks	6.5m	25.8m	25.8m	No Change to Approved
B9 Rear Boundary Setbacks	6m	23.8m	23.8m	No Change to Approved
B12 National Parks Setback	20m to northern boundary adjoining Garigal National Park	9.6m	9.6m	No Change to Approved
D1 Landscaped Open Space and Bushland Setting	40%	60%	60%	No Change to approved

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C4 Stormwater	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes

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. Mod2015/0108 for Modification of Development Consent DA2012/0936 granted for Construction of a dwelling house and swimming pool on land at Lot 24 DP 227845,24 / 0 Wanniti Road, BELROSE, subject to the conditions printed below:

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
002 Rev I Proposed Site Plan	11.05.2015	Tim Stewart Architects
300 Rev C Building Elevations Sheet 1	11.05.2015	Tim Stewart Architects
301 Rev C Building Elevations Sheet 2	11.05.2015	Tim Stewart Architects
200 Rev J General Arrangement Garage Level	11.05.2015	Tim Stewart Architects
201 Rev J General Arrangement Ground/Upper Floor Level	11.05.2015	Tim Stewart Architects
400 Rev E Building Sections	11.05.2015	Tim Stewart Architects

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

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

Lauren Roberts, Planner

The application is determined under the delegated authority of:

Phil Lane, Development Assessment Manager

ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

Notification Document	Title	Date
 2015/161851	notification map	09/06/2015

ATTACHMENT C

Reference Number	Document	Date
 MOD2015/0108	Lot 24/ Wanniti Road BELROSE NSW 2085 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	03/06/2015
 2015/158110	DA Acknowledgement Letter - Tim Stewart Architects	03/06/2015
 2015/159386	RE: MOD2015/0108 - 21 Wanniti Road Belrose	04/06/2015
 2015/159654	Modification Application Form	04/06/2015
 2015/159661	Applicant Details	04/06/2015
 2015/159669	Plan - Survey	04/06/2015
 2015/159675	Plan - Notification	04/06/2015
 2015/159682	Plans - External	04/06/2015
 2015/159691	Plans - Internal	04/06/2015
 2015/159699	Certification of Shadow Diagrams with Plans	04/06/2015
 2015/159713	BASIX Assessor Certificate	04/06/2015
 2015/159729	Plans - Master Set	04/06/2015
 2015/160086	File Cover	05/06/2015
 2015/160093	Referral to AUSGRID - SEPP - Infrastructure 2007	05/06/2015
 2015/161445	Natural Environment Referral Response - Riparian	09/06/2015
 2015/161847	Notification letter 9	09/06/2015
 2015/161851	notification map	09/06/2015
 2015/171334	Landscape Referral Response	17/06/2015
 2015/192860	Engineering Referral Response	04/07/2015
 2015/194622	20150705 - RMS Response to Council - SYD15_00730- Lot 24 Wanniti Road BELROSE	06/07/2015
 2015/198578	RMS response - Mod2015/0108 - Lot 24 Wanniti Road BELROSE	08/07/2015
 2015/210844	Complaint regarding DA for LOt 24 Wanniti Road Belrose	20/07/2015