

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2016/0137
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Responsible Officer:	Daniel Milliken
Land to be developed (Address):	Lot 38 DP 8035, 67 Edgecliffe Boulevarde COLLAROY PLATEAU NSW 2097
Proposed Development:	Modification of Development Consent DA2015/1152 granted for Demolition works, Construction of a dwelling house, swimming pool and landscaping works
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Paul Robert Stines Stephanie Deborah Hicks
Applicant:	Studio Benicio

Application lodged:	03/06/2016
Application Type:	Local
State Reporting Category:	Residential - Other
Notified:	16/06/2016 to 01/07/2016
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 38 DP 8035 , 67 Edgecliffe Boulevarde COLLAROY PLATEAU NSW 2097
Detailed Site Description:	The site is located on the north eastern side of Edgecliff Boulevard, has an area of 543.8sqm and slopes down towards the north. The site sits on the edge of Collaroy Plateau and is visible from many places in the suburbs of Narrabeen, North Narrabeen and Collaroy to the north and east. Existing on the site is a single storey dwelling with an attached garage. The surrounding development consists of detached dwellings to the south, east and west. There are public reserves to the north and south of the side. The site is adjacent to E2 Environmental Conservation and RE1 Public Reserve zones.

Map:



SITE HISTORY

DA2015/1152

For demolition works, construction of a dwelling house, swimming pool and landscaping works was approved on 27/01/2016.

PROPOSED DEVELOPMENT IN DETAIL

The modification seeks to Provide additional fill in the backyard to provide a level outdoor open space connecting to the main living areas of the dwelling in lieu of the approved step down.

A detailed list of the amendments are as follows:

- The addition of a 500mm wide planter box set 200mm off the rear boundary. The planter wall height (RL 82.80) varies from 1500mm to 1900mm above natural ground level at the rear boundary.
- The addition of a retaining wall set 900mm off rear boundary. Wall height of retaining wall (RL83.50) or 700mm above planter wall.
- Raising the rear turf level to be inline with the terrace level.
- Lap pool rear setback increased to 900mm.
- Landscaped area increased by 20.3sqm due to removal of concrete steps to rear turf area.

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 C.

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 DA2015/1152, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(2) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(2) - 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 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 DA2015/1152.
(b) it has consulted with the relevant Minister, public authority or	Development Application DA2015/1152 did

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Section 96(2) - Other Modifications	Comments
approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	not require concurrence from the relevant Minister, public authority or approval body.
(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 under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local 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>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

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Section 79C 'Matters for Consideration'	Comments
	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 matter has been addressed via a condition in the original consent. <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 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 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 matter has been addressed via a condition in the original consent.
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

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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
Landscape Officer	The proposed modification includes raising of the previously approved rear yard level generally to the floor level of the new dwelling. The resultant retaining walls required to achieve this are located on the eastern boundary of the site, above an elevated escarpment. Concern is raised with regard to the movement of the constructed elements and built elements forward toward the edge of the prominent escarpment. The walls are indicated on the plans to be a combined height of 2.3 -2.6 metres. It is noted that the proposal includes the creation of a garden bed to assist in breaking up the bulk of the walls, which is supported. However, it is considered that a width of 500mm is insufficient to provide for establishment and long term survival of plant material to soften the walls. It is recommended that a minimum garden bed width of 800mm be provided to enable sufficient soil volume to accommodate moisture retention and root growth in this exposed environment to provide the intended softening of the walls. Recommended conditions have been included for consideration.
Natural Environment (Biodiversity)	The subject property is devoid of vegetation. Council's natural environment - biodiversity section raise no objections to the proposal.
Parks, reserves, beaches, foreshore	No objections raised and no additional conditions recommended.

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.

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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 (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 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 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.

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	8.62m	8.62m (no change)	No change

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Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	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	8.27m	8.27m (no change)	No change
B3 Side Boundary Envelope	5m	Encroachment between nil and 1.0m in height for a length of 1.75m	No additional encroachments	No change
	5m	Encroachment between nil and 0.86m in height for a length of 1.76m	No additional encroachments	No change
B5 Side Boundary Setbacks	0.9m	0.9m	0.9m	Yes
	0.9m	0.9m	0.9m	Yes
B7 Front Boundary Setbacks	6.5m	6.01m	6.01m	No change
B9 Rear Boundary Setbacks	6m	Ground floor - 4.0m First floor - 4.25m	Ground floor - 4.0m First floor - 4.25m	No change No change
D1 Landscaped Open Space and Bushland Setting	40%	40.08% (217.961sqm)	43.81% (238.261sqm)	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
Side Setbacks - R2	Yes	Yes
Side Setback Exceptions - R2	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
R2 - All other land in R2 Zone	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes

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Clause	Compliance with Requirements	Consistency Aims/Objectives
All other land under R2	Yes	Yes
Rear Boundary Exceptions - R2	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
Residential accommodation - one or two dwellings	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
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
E10 Landslip Risk	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent 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 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. Mod2016/0137 for Modification of Development Consent DA2015/1152 granted for Demolition works, Construction of a dwelling house, swimming pool and landscaping works on land at Lot 38 DP 8035,67 Edgecliffe Boulevard, COLLAROY PLATEAU, 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
A.01 Issue C	03.06.2016	Studio Benicio
A.04 Issue C	03.06.2016	Studio Benicio
A.06 Issue C	03.06.2016	Studio Benicio
A.07 Issue C	03.06.2016	Studio Benicio
A.08 Issue C	03.06.2016	Studio Benicio

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

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By

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A.12 Issue C

03.06.2016

Studio Benicio

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.
(DACPLB01)

B. Add Condition No. 1B - Amended Plans to read as follows:

i) Plans are to be amended to increase the width of the garden bed indicated along the eastern boundary to provide a minimum internal bed width of 800mm in the area between the southern edge of the pool and the southern boundary.

ii) The garden bed is to be planted with locally occurring native species comprising ground covers, trailing plants and shrubs up to a height of 1 metre at a rate of 1 shrub per m² and 4 groundcovers/trailing plants per m².

iii) Amended plans, including the required planting, are to be submitted to the Principal Certifying Authority for approval prior to issue of a construction certificate.

Reason: Environmental amenity.

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

Daniel Milliken, Planner

The application is determined under the delegated authority of:

Steven Findlay, Development Assessment Manager

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ATTACHMENT A

Notification Plan	Title	Date
 2016/178730	Plans - Notification	01/06/2016

ATTACHMENT B

Notification Document	Title	Date
 2016/186760	Notification Map	16/06/2016

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ATTACHMENT C

Reference Number	Document	Date
 2016/178724	Plan - Survey	14/07/2015
 2016/178735	Report - Statement of Environmental Effects	01/06/2016
 2016/178730	Plans - Notification	01/06/2016
 2016/178736	Plans - External	01/06/2016
 2016/178741	Plans - Master Set	01/06/2016
 2016/178739	Plans - Internal	01/06/2016
 MOD2016/0137	67 Edgecliffe Boulevard COLLAROY PLATEAU NSW 2097 - Section 96 Modifications - Section 96 (2) Environmental Impact	03/06/2016
 2016/173625	DA Acknowledgement Letter - Studio Benicio - Stephanie Deborah Hicks	03/06/2016
 2016/178715	Modification Application Form	08/06/2016
 2016/178718	Applicant Details	08/06/2016
 2016/180519	Referral to AUSGRID - SEPP - Infrastructure 2007	09/06/2016
 2016/186760	Notification Map	16/06/2016
 2016/186771	Notification Letter - 9 posted 16/06/2016	16/06/2016
 2016/203951	Landscape Referral Response	24/06/2016
 2016/204547	Natural Environment Referral Response - Biodiversity	27/06/2016
 2016/216470	Parks, Reserves and Foreshores Referral Response	01/07/2016