

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2015/0157
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Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot 1 DP 1168903 , 6 Orlando Road CROMER NSW 2099 Lot 2 DP 1168903 , 44 Parkes Road COLLAROY PLATEAU NSW 2097
Proposed Development:	Modification of Development Consent DA2011/1468 granted for Construction of a dwelling house
Zoning:	LEP - Land zoned R2 Low Density Residential 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:	Philip Gene Scott Lorraine Scott
Applicant:	Sekisui House Services (Nsw) Pty Ltd

Application lodged:	23/07/2015
Application Type:	Local
State Reporting Category:	Other
Notified:	06/08/2015 to 21/08/2015
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

Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 1 DP 1168903 , 6 Orlando Road CROMER NSW 2099 Lot 2 DP 1168903 , 44 Parkes Road COLLAROY PLATEAU NSW 2097
Detailed Site Description:	The subject site consists of one allotment located on the southern side of Orlando Road, Cromer. The site was subdivided into two lots as part of DA201/1468 and the proposed modification relates to Lot 2 DP 1168903, known as 44 Parkes Road, Cromer. The site is an irregular battle axe block with vehicle access from Parkes Road. The site has a surveyed area of 821.8m². The site is located within the R2 Low Density Residential zone and accommodates a two storey dwelling currently under construction. Surrounding development consists of one to two storey dwellings of varying architectural styles. The site has a slight slope from the north eastern corner to the south western corner.

Map:



SITE HISTORY

DA2011/1468 was lodged 17 November 2011 and approved 5 April 2012.

The subject site was subdivided as part of DA2011/0520 approved 24 June 2011 via a deferred commencement. The consent was issued 5 January 2012. The original site was known as Lot 13 DP 28664, 6 Orlando Road, Cromer and the development consent DA2011/1468 was lodged prior to the completion of the deferred commencement. The site is now known as Lot 2 DP 1168903, 44 Parkes Road, Cromer.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks to modify condition 9. b. of DA2011/1468. Condition 9. b. requires the 2 x WC windows to be bottom hinged "hopper style" windows fitted with obscure glass. The proposed windows do not comply with Australian Standards are to be replaced with top hinged awning windows with obscure glass that comply with Australian Standards.

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 DA2011/1468, 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 DA2011/1468.

Section 96(1A) - Other Modifications	Comments
(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)(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)	<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 requested. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to

Section 79C 'Matters for Consideration'	Comments
	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.
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
Building Assessment - Fire and Disability upgrades	No objections to proposed Modification.

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.

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	7.9m	7.9m	Yes

The proposal is for the modification of two first floor WC windows and a modification to a condition of consent. There will be no change to the LEP Development Standards.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes

Clause	Compliance with Requirements
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	6.4m	6.4mm	Yes
B3 Side Boundary Envelope	Southern - 4m	Compliant	Compliant	Yes
	Eastern - 4m	Compliant	Compliant	Yes
B5 Side Boundary Setbacks	Southern - 0.9m	Garage - 2.671m	2.671m	Yes
	Eastern - 0.9m	2.8m	2.8m	Yes
	Western - 0.9m	2.244m	2.244m	Yes
B7 Front Boundary Setbacks	6.5m	63.5	63.5m	Yes
B9 Rear Boundary Setbacks	6m	6m	6m	Yes
D1 Landscaped Open Space and Bushland Setting	40%	40.7%	40.7%	Yes

The proposal is for the modification of two first floor WC windows and a modification to a condition of consent. There will be no change to the DCP Built Form Controls

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Residential accommodation - one or two dwellings	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

D8 Privacy

The change in the two WC windows from bottom hinged "hopper style" windows to top hinged awning windows will not reduce the level of privacy to adjoining properties. The windows are for a WC and will be used intermittently, will have obscure glass and will not be able to be fully opened. The proposed change in the windows will maintain the current level of privacy on the site.

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. Mod2015/0157 for Modification of Development Consent DA2011/1468 granted for Construction of a dwelling house on land at Lot 1 DP 1168903,6 Orlando Road, CROMER, Lot 2 DP 1168903,44 Parkes Road, 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
External Elevations - Sheet No: 03-2 6 of 14	24.6.15	Sekisui House

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. Modify Condition 9. Modification to Window Designs (Southern and Western Elevation) to read as follows:

The first floor level windows on the southern (Elevation D) and western (Elevation C) elevations associated with the games room, water closet, bathroom, ensuite and principal suite, as shown on the approved plans, are to be modified as follows:

- The games room window is to be a highlight window with a minimum sill height of 1.5 metres,
- The 2 x WC windows are to be awning windows fitted with obscure glass,
- The bathroom window is to be a highlight window with a minimum sill height of 1.5 metres or bottom a hinged window fitted with obscure glass, and
- The ensuite window is to be a highlight window with a minimum sill height of 1.5 metres or bottom hinged windows fitted with obscure glass.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: In order to maintain privacy to the adjoining / nearby property (DACPLC07)

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

Julie Edwards, Planner

The application is determined under the delegated authority of:

Steven Findlay, Development Assessment Manager

ATTACHMENT A

Notification Plan	Title	Date
 2015/218722	Plans Notification	21/07/2015

ATTACHMENT B

Notification Document	Title	Date
 2015/228548	Notification map	06/08/2015

ATTACHMENT C

Reference Number	Document	Date
 2015/218726	Plans Master Set	24/06/2015
 2015/218722	Plans Notification	21/07/2015
 2015/218723	Supporting Letter from window supplier	21/07/2015
 MOD2015/0157	6 Orlando Road CROMER NSW 2099 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	23/07/2015
 2015/214104	DA Acknowledgement Letter - Sekisui House Services (Nsw) Pty Ltd	23/07/2015
 2015/218717	Modification Application Form	27/07/2015
 2015/218719	Applicant Details	27/07/2015
 2015/218725	Plans External Layout	27/07/2015
 2015/221042	File Cover	29/07/2015
 2015/228547	Notification letter 25	06/08/2015
 2015/228548	Notification map	06/08/2015
 2015/255329	Building Assessment Referral Response	29/08/2015