

### 3.3 90 Quirk Street, Dee Why – Modification of DA2008/0380 for a Dwelling, Swimming Pool and Front Fence

#### S96(1A) APPLICATION TO MODIFY A DEVELOPMENT CONSENT ASSESSMENT REPORT

<b>Assessment Officer:</b>	Peter Robinson
<b>Address / Property Description:</b>	Lot 5 DP 10683, 90 Quirk Street DEE WHY
<b>Development Application No:</b>	Mod 2009/0125 (Mod2) Mod2009/0020 (Mod1) DA2008/0380
<b>Development Consent Determination Date:</b>	10 July 2008
<b>Previous Modifications:</b>	<p>No 1 – Mod 2009/0020 (Mod1) The previous modification was for approval for the following changes</p> <p><b>Basement Level</b></p> <ul style="list-style-type: none"><li>• Relocation of the pool to a north /south orientation</li><li>• Extend the deck 4.5m to the north</li><li>• Remove the stairway connecting the deck level to the ground floor</li></ul> <p><b>Ground Floor</b></p> <ul style="list-style-type: none"><li>• Change external western wall of ground floor from masonry to timber frame</li><li>• Replace decking to drying area with paving</li></ul> <p><b>First Floor</b></p> <ul style="list-style-type: none"><li>• Extend northern wall 1.3m and make internal alterations</li><li>• Increase balcony floor area within the existing footprint by reducing the width of planter boxes</li><li>• Extend balcony roof 900mm to south</li></ul>
<b>Proposal in detail</b>	S96 (1) Modification to DA2008/0380 to remove condition 12b relating to a condition imposed to maintain privacy.
<b>Application Lodged:</b>	13/05/2009
<b>Applicant:</b>	Susan Anne Viljoen
<b>Owner:</b>	Susan Anne Viljoen
<b>Locality:</b>	E15 Wingala Hill
<b>Category:</b>	1
<b>Referred to ADP:</b>	Yes
<b>Referred to WDAP:</b>	No
<b>Land and Environment Court Action:</b>	No
<b>SUMMARY</b>	
<b>Submissions:</b>	N/A
<b>Recommendation:</b>	Approval – removal of condition
<b>Attachments:</b>	Plans of pool – original consent and mod 1 & Photos under separate cover

## LOCALITY PLAN (not to scale)



**Subject Site:** Lot 5 DP 10683 90 Quirk Street DEE WHY NSW

**Public Exhibition:** The proposal involves the correction of a condition placed on the consent under Section 96(1) Modification and does not require exhibition or notification.

## BACK GROUND

On 16 April 2009 a modification of consent Mod2009/0020 to re-orientate a swimming pool and other changes to the approved dwelling was approved by the Application Determination Panel with an additional condition added by the Panel.

The Panel raised concerns regarding additional privacy impacts from the raised pool coping resulting from the modified plans.

The condition applied reduced the width of the coping for the eastern and north sides to 150mm to make them non-trafficable.

### 12b. Privacy

The pool coping on the northern and eastern edges of the pool be reduced to a maximum width of 150 mm. Details to be submitted with the Construction Certificate.

**Reason:** To make the coping untrafficable for privacy reasons.

## **Modification Proposal**

The applicant has submitted a modification of consent to remove conditions 12b as it was incorrectly applied to the modification as there is no privacy issue arising from the amended design of the pool. The application has been made under Section 96(1) to correct an error.

## **Notification**

Notification is not required under Warringah Development Control Plan for Section 96(1) applications.

The proposal seeks to retain the design which was previously notified to 9 surrounding residents. Three objections were received however no submissions were received from 14 Bushy Place which directly adjoins the extension of the pool.

Objection based on privacy to original modification:

No. 92 Quirk Street – related to bathroom window

No. 94 Quirk Street – related to windows on proposed deck – this property is one removed from the subject site with No.92 Bushy Place approx. 12 metres wide between the two properties.

## **Assessment Proposal**

The condition was placed on the consent to overcome a concern for privacy.

The original approved pool was setback 1200mm from the side eastern boundary, this has not changed with the modification. The pool was lengthened by 2.2 metres and the coping (which is raised above ground level) was proposed to be increased in width from 450mm to 600mm (setback of 1200mm to boundary not changing).

The extension to the pool related to the northern end, where only 2 adjoining windows are located on No. 14 Bushy Place. These adjoining windows have obscure glazing, one being a highlight window for a bathroom and the other is half covered with an external blind.

The building at 14 Bushy Place is a single storey with a flat, non trafficable roof. The extension to the pool will allow for views over the flat roof of Bushy Place, not creating any privacy impacts to habitable room or private open space.

The distance from the pool extension to the terraces of No.92 Quirk Street are in excess of 7 metres and with the pool coping level being 3 metres below the adjoining terrace. The Pool extension will not create any privacy impacts on the open space terraces of No. 92 Quirk Street.

## **CONCLUSION**

In this regard the condition placed on the modification for privacy was not required as there was no privacy issue created from the additional length of pool coping. The condition 12 a is therefore unwarranted and should be removed.

## **RECOMMENDATION**

That Council as the consent authority grant approval to modify Development Consent No DA2008/0380 under MOD2009/0125 at Lot 5 DP 10683, 90 Quirk Street, Dee Why to deletion condition 12b from the modified consent.



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