

### **WHAT IS A SECTION 96 MODIFICATION?**

Section 96 of the Environmental Planning and Assessment Act 1979 (As amended) allows modifications to be made to a consent, however, the development must be substantially the same development. These modifications are:

1. Minor Modifications - Section 96 (1)
2. Minor Modifications - Section 96 (1a)
3. Other Modifications - Section 96 (2)

### **WHAT IS A MINOR MODIFICATION?**

A minor modification Section 96(1) is a modification to a consent to correct a minor error, misdescription or miscalculation.  
A minor modification Section 96(1a) is a modification involving a minimal environmental impact.

### **WHAT IS AN "OTHER MODIFICATION"?**

An "Other" modification is a modification to a development which is substantially the same development. This type of application may (for example) be requested to modify:

- Approved plans;
- Conditions of consent; and/or
- The description of the consent.

If the applicant cannot satisfy Council that the modifications proposed are substantially the same development as originally approved, a new development application will be required to be lodged with Council for assessment.

### **WHO CAN APPLY?**

- The original applicant
- The owner of the land
- Any person who is entitled to act upon the consent or construction certificate

### **FEES**

For Section 96 fees, please refer to Council's Fees and Charges.

### **WHAT INFORMATION IS NEEDED TO ACCOMPANY MY APPLICATION?**

All section 96 applications must be accompanied by one (1) set of plans in addition to a disc or USB of the following information:

- Statement of Environmental Effects which clearly addresses the proposed modifications with respect to relevant Council policies and Section 96 of the Environmental Planning and Assessment Act 1979 provides comparison with the approved plans and demonstrates that the development is substantially the same as that which was approved.
- Site Survey Plan (if required)
- Applicants may choose to submit an application for a construction certificate with the Section 96 application.  
Should this be the case, the following additional information is required:
- Details and specifications for building works;
- Completed form and relevant fees.

### **DOCUMENTATION FORMAT**

All hard copy Section 96 Applications lodged with Council are required to be accompanied by a CD, DVD or USB drive with electronic files containing all documentation. In instances where such documentation is not provided in an electronic format a scanning fee in accordance with Council's Fees & Charges will be charged.

For clarification on submission requirements, applicants can consult with the Duty Town Planner. A separate fact sheet entitled "Electronic lodgement of files" is available for download to assist with document preparation.

### **IS IT NECESSARY TO DISCUSS THE APPLICATION WITH A COUNCIL OFFICER?**

Yes, applicants are required to consult with the Town Planning Customer Service Officer and/or Duty Building Surveyor, prior to formally submitting the application and accompanying documentation to Council.

A pre-lodgement meeting with the planning customer service officer/building surveyor will also allow your application to be checked prior to lodgement and thereby ensure all relevant information is being provided to enable Council to determine the development application.

### **THE HILLS SHIRE COUNCIL**

3 Columbia Court, Baulkham Hills NSW 2153  
PO Box 7064, Baulkham Hills BC 2153

Phone 02 9843 0555 Email [council@thehills.nsw.gov.au](mailto:council@thehills.nsw.gov.au)  
Facsimile 02 9843 0409 [www.thehills.nsw.gov.au](http://www.thehills.nsw.gov.au)

#### **WILL MY NEIGHBOUR BE ADVISED OF THE APPLICATION?**

If a Section 96 modification is minor Council will determine if neighbour notification is required. For all other modifications, Council will notify adjoining property owners and allow a minimum 14 day period for submissions to be received. Accordingly, it is advised prior to lodgement of the section 96 modification to Council that you discuss your proposal with your neighbours and therefore avoid delay in the processing of the application at a later date.

#### **HOW WILL MY APPLICATION BE DETERMINED?**

Once lodged with Council, your application is assessed and then determined via one of the following decision making processes:

1. Under Delegated Authority
2. By Council Development Assessment Unit (DAU) meeting. Development Application determined by DAU are those, which do not comply with the relevant planning regulations/policies, and/or where an objection has been received.
3. By an Ordinary Meeting of the Council. Development Applications determined by the elected Council are those of controversial nature, which may have been referred by the DAU or attracted a large volume of objections.
4. It is Council policy that if the original application was dealt with by the elected Council, then the section 96 modification will be referred to Council for determination.

#### **COUNCIL**

The elected Council considers applications that have regional significance or are of particular interest. Applicants and people making submissions on a matter before Council are notified and may request to be heard before Council if notice is given by 3pm, on the Monday before the meeting.

#### **FURTHER INFORMATION**

If you are unsure, please ask. Time spent early may avoid delays later  
Customer Service Centre: 3 Columbia Court, Baulkham Hills NSW 2153  
General Enquiries Phone: 9843 0555

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