

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0512
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Responsible Officer:	Nick Keeler
Land to be developed (Address):	Lot 6 DP 233249, 39 Pittwater Road MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA2019/0659 for alterations and additions to an attached dwelling
Zoning:	Manly LEP2013 - Land zoned B2 Local Centre
Development Permissible:	No
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Elena Korolkova
Applicant:	Elena Korolkova

Application Lodged:	13/10/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	21/10/2020 to 04/11/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify development consent DA2019/0659 granted for alterations and additions to an attached dwelling. The proposed modification involves the following:

- Enlarge rear ground floor with internal layout changes
- Removal of existing kitchen and installation of new kitchen
- Enlarge outdoor area
- Remove laundry outbuilding
- Enlarge first floor bedroom

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 the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

Manly Development Control Plan - 4.2.3 Setbacks Controls in LEP Zones B1 and B2

SITE DESCRIPTION

Property Description:	Lot 6 DP 233249 , 39 Pittwater Road MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Pittwater Road.</p> <p>The site is irregular in shape with a frontage of 3.695m along Pittwater Road and an average depth of 28.03m. The site has a surveyed area of 98.8m².</p> <p>The site is located within the B2 Local Centre zone and accommodates a one (1) and two (2) storey brick, rendered and clad attached dwelling with a metal roof located towards the street frontage, as well as a detached brick shed with a metal roof located in the rear yard.</p> <p>The site has a gentle slope with a fall from the street frontage towards the rear of the site.</p> <p>The site contains minimal vegetation comprising two (2) trees in the rear yard.</p> <p>The attached dwelling on the site forms part of a locally listed heritage item. The subject site is also located within the Pittwater Road Conservation Area.</p> <p>Detailed Description of Adjoining/Surrounding</p>

Development

Adjoining and surrounding development is characterised by mixed-use developments up to four (4) storeys in height with ground floor commercial premises and upper level residential accommodation.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

Application **DA2019/0659** for Alterations and additions to an attached dwelling was approved on 03/07/2020 by Council staff under delegated authority.

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 DA2019/0659, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(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	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> the proposed works are substantially the same as those previously approved the proposal is not expected to have any environmental impacts above those considered in the original assessment
(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	<p>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 DA2019/0659 for the following reasons:</p> <ul style="list-style-type: none"> the modification generally maintains the approved built form the modification does not alter the approved land use
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(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</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Local Environment Plan 2013 and Manly Development Control Plan.</p>
(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.	<p>See discussion on "Notification & Submissions Received" in this report.</p>

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into

consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><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.</p> <p><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 to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><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.</p> <p><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.</p> <p><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.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><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.</p> <p><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.</p>
Section 4.15 (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	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (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 have been established in the assessment of DA2019/0659.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 21/10/2020 to 04/11/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
NECC (Development Engineering)	<p>The proposed modifications do not alter the original assessment of the application by Development Engineering.</p> <p>No objection to approval with no modification to existing conditions or additional conditions required.</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>This application has been referred to heritage as the property is a heritage item, being part of "Group of commercial and residential buildings" and is within the "Pittwater Road Conservation Area" listed in Schedule 5 of the Manly LEP:</p> <p>Item I199 - Group of commercial and residential buildings - 35–49 Pittwater Road</p>
	Details of heritage items affected
	<p>Details of the heritage items, as contained in the Manly Heritage Inventory are:</p> <p>Item I199 - Group of commercial and residential buildings <u>Statement of Significance:</u> This item is a group of unusual early Twentieth Century terraced two storey residences with shops at each end. Listed due to its originality and uniqueness of concept, layout and mixture of materials. Significance in contribution to streetscape and in relationship to late 19th century development locally. <u>Physical description:</u> Group of 8 terraced buildings comprising 6 terraced two storey houses (rendered at ground floor level and timbered first floor) with rendered two storey (projecting as one storey shops) buildings at each end. Bullnose verandah roofs to residences have reversed bullnose up to sill level on first floor. Projecting 'gable end' of roof forms pediment over central pair. Other significant elements include; barge boards to end buildings, rendered pediments over shop fronts, window hoods over first floor windows, Italianate render decoration to ground floor or residences.</p> <p>Pittwater Road Heritage Conservation Area <u>Statement of Significance:</u></p>

Internal Referral Body	Comments																					
	<p>This street pattern is distinctive and underpins the urban character of the area. The streets remain unaltered in their alignment, although the names of Malvern, Pine and North Steyne are now names for what were Whistler, Middle Harbour and East Steyne respectively.</p> <p><u>Physical description:</u> The streetscape of Pittwater Road is a winding vista of late 19th and early 20th century commercial and residential architecture of generally one or two floors - although there are exceptions such as the four storey private hotel. The streetscape provides a 19th century atmosphere due to it's scale, width and the number of extant Victorian structures. Within the streetscape there are a number of individually significant buildings which are listed separately. Adjacent streets generally comprise a consistent pattern of one and two storey residential cottages, with the occasional terrace.</p>																					
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Internal Referral Body	Comments
	<p>Has a CMP been provided? No</p> <p>Is a Heritage Impact Statement required? Yes</p> <p>Has a Heritage Impact Statement been provided? Yes (Although, this HIS does not reflect the current proposal, submitted with the approved DA2019/0659)</p>
	<p>Further Comments</p> <p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 22 October 2020</p>

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.

Manly Local Environmental Plan 2013

Is the development permissible?	No
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

Standard	Requirement	Approved	Proposed	% Variation	Complies
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Height of Buildings:	15m	6.25m	Unaltered	N/A	Yes
Floor Space Ratio:	2:1 (197.6m ²)	0.64:1 (63.5m ²)	0.78:1 (77.2m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.11 Active street frontages	N/A
6.12 Essential services	Yes
6.13 Design excellence	Yes
6.16 Gross floor area in Zone B2	N/A

Manly Development Control Plan

Built Form Controls

Built Form Controls	Requirement	Approved	Proposed	Complies
4.2.3 Setbacks Controls in LEP Zones B1 and B2	Buildings must be constructed to the public road	Ground Floor - 3.05m	Unaltered	As approved
		First Floor - 4.0m	Unaltered	As approved
	Buildings must be constructed to the side boundaries of the allotment	N: Nil	Unaltered	Yes
		S: Ground Floor - 0.5m	0.12m	Acceptable, closer to boundary than approved
		S: First Floor - 0.94m	0.375m	Acceptable, closer to boundary than approved
Schedule 3 Parking and Access	Attached Dwelling: 2 resident parking spaces for a three (3) bedroom or more dwelling within Manly Town Centre Business Zone, plus 0.16 visitor parking spaces per dwelling (rounded to the next whole number)	No spaces	Unaltered	As approved

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.1 FSR (Consideration of Exceptions including Arcades)	Yes	Yes
4.2.3 Setbacks Controls in LEP Zones B1 and B2	No	Yes
4.2.5 Manly Town Centre and Surrounds	Yes	Yes
4.2.5.1 Design for Townscape	Yes	Yes
4.2.5.2 Height of Buildings: Consideration of Townscape Principles in determining exceptions to height in LEP Zone B2 in Manly Town Centre	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes

Detailed Assessment

4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

The proposed modification does not alter the approved parking non-compliance.

4.2.3 Setbacks Controls in LEP Zones B1 and B2

The proposed modification reduces the setback of the dwelling additions to the southern boundary. While still not compliant with the control requirement of a nil side boundary setback, full compliance with this requirement in the context of a residential dwelling is not appropriate. The proposed development is considered to maintain consistency with the control objectives, as assessed in the original development application.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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

Northern Beaches Section 7.12 Contributions Plan 2019

Section 7.12 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;
- Manly Local Environment Plan;
- Manly 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 to Modification Application No. Mod2020/0512 for Modification of Development Consent DA2019/0659 for alterations and additions to an attached dwelling on land at Lot 6 DP 233249, 39 Pittwater Road, MANLY, 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
1-3 807 sec 96	August 2020	High Design
2-3 899 sec 96 (2 sheets)	August 2020	High Design

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Nick Keeler, Planner

The application is determined on 10/12/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments