

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0846
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Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot 11 DP 270907, 8 Baz Retreat WARRIEWOOD NSW 2102 Lot 10 DP 270907, 9 Baz Retreat WARRIEWOOD NSW 2102
Proposed Development:	Modification of Development Consent DA2020/0436 granted for construction of semi-detached dwellings and subdivision
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Colonial Credits Pty Ltd
Applicant:	Colonial Credits Pty Ltd

Application Lodged:	05/11/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	Not Notified
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposal requests a modification of DA2020/0436 with the addition of a condition to allow for separate Section 73 Certificates for both Lots (Lot 10 and 11). The Development consent requires a reference to allow Sydney Water to issue a Section 73 Certificate on each of the newly created properties.

The Statement of Modification requests;

"In regard to DA2020/0436, we request a modification to the description of the development consent and the addition of a condition to allow for separate Section 73 Certificates for both lots. The development consent requires a reference to allow Sydney Water to issue a Section 73 Certificate on each of the newly created properties which there is no current reference. Sydney Water representative

Kelly Taylor, in discussion with Council has requested the condition below to be modified in the DA consent for the following wording:

1. Modify the description of development on the development consent to read:

Construction of 2 separate semi-detached dwelling developments with associated subdivision.

2. Add the following condition, which reads:

Sydney Water "Tap In" - Separate Section 73 Certificates for development on Lot 10 and Lot 11

The approved plans for development on Lot 10 and the approved plans for development on Lot 11, must be submitted to the Sydney Water "Tap in" Service separately and prior to works commencing, to determine whether the respective developments will affect any Sydney Water assets and/or easements.

The appropriately stamped plans for Lot 10 and Lot 11 must be then submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- *"Tap in" details - see <http://www.sydneywater.com.au/tapin>*
- *Guidelines for Building Over/Adjacent to Sydney Water Assets.*

or telephone 13 000 TAP IN (1300 082 746)

Reason: To ensure compliance with the statutory requirements of Sydney Water and to facilitate the issue of independent S73 certificates, one for each of the approved semi-detached dwelling developments."

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

There are no assessment issues.

SITE DESCRIPTION

<p>Property Description:</p>	<p>Lot 11 DP 270907 , 8 Baz Retreat WARRIEWOOD NSW 2102 Lot 10 DP 270907 , 9 Baz Retreat WARRIEWOOD NSW 2102</p>
<p>Detailed Site Description:</p>	<p>The subject site consists of two allotments, one located on the eastern side of Baz Retreat (8 Baz Retreat), and one located on the western side of Baz Retreat (9 Baz Retreat).</p> <p>The lots are irregular in shape with frontages of 12.5m (8 Baz Retreat) and 13.85m (9 Baz Retreat), and maximum depths of 28m (8 Baz Retreat) and 29.85m (9 Baz Retreat). The lots have surveyed areas of 338.1sqm (8 Baz Retreat) and 345.2sqm (9 Baz Retreat).</p> <p>The lots are located within the R3 Medium Density Residential zone and are currently vacant.</p> <p>The lots gently slope from east to west, and are cleared of vegetation.</p> <p>Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by vacant lots (or lots with dwellings under construction), detached dwelling houses, townhouses, and a residential flat building (under construction).</p>

Map:



SITE HISTORY

Development Application DA2020/0436 for the construction of semi-detached dwellings and subdivision was approved by Council on 30 June 2020.

Modification MOD2021/0091 for the Modification of Development Consent DA2020/0436 granted for construction of semi-detached dwellings and subdivision was approved 22 April 2021.

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 DA2020/0436, 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 proposal is for the addition of a condition to allow for separate Section 73 Certificate for each of the newly created lots. There will be no changes to the approved plans.
(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 DA2020/0436 for the following reasons:</p> <ul style="list-style-type: none"> • The proposal is for the addition of a

Section 4.55(1A) - Other Modifications	Comments
	condition to allow for separate Section 73 Certificate for each of the newly created lots. There will be no changes to the approved plans. .
(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, and the Northern Beaches Community Participation 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 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	Pittwater 21 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	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent

Section 4.15 'Matters for Consideration'	Comments
of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent..</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>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> <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>
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 Pittwater 21 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 are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application was not notified.

REFERRALS

No referrals were sent in relation to this application

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 / industrial land use.

Pittwater Local Environmental Plan 2014

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

The modification application seeks the addition of a condition to allow for separate Section 73 Certificate for each of the newly created lots. No changes are proposed to to the approved Principal Development Standard assessment and no further assessment is required.

Compliance Assessment

Clause	Compliance with Requirements
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Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

The modification application seeks the addition of a condition to allow for separate Section 73 Certificate for each of the newly created lots. No changes are proposed to the approved Built Form Control assessment and no further assessment is required.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
C6.5 Utilities, Services and Infrastructure Provision	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

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;
- Pittwater Local Environment Plan;
- Pittwater 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. Mod2021/0846 for Modification of Development Consent DA2020/0436 granted for construction of semi-detached dwellings and subdivision on land at Lot 11 DP 270907,8 Baz Retreat, WARRIEWOOD, Lot 10 DP 270907,9 Baz Retreat, WARRIEWOOD, subject to the conditions printed below:

A. Modify the description of development on the development consent to read:.

Construction of two separate semi-detached dwelling developments with associated subdivision.

B. Add Condition 2A to read:

Sydney Water "Tap In" - Separate Section 73 Certificates for development on Lot 10 and Lot 11

The approved plans for development on Lot 10 and the approved plans for development on Lot 11, must be submitted to the Sydney Water "Tap in" Service separately and **prior to works commencing**, to determine whether the respective developments will affect any Sydney Water assets and/or easements.

The appropriately stamped plans for Lot 10 and Lot 11 must be then submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

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Guidelines for Building Over/Adjacent to Sydney Water Assets.

or telephone 13 000 TAP IN (1300 082 746)

Reason: To ensure compliance with the statutory requirements of Sydney Water and to facilitate the issue of independent S73 certificates, one for each of the approved semi-detached dwelling

developments.

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

Signed



Julie Edwards, Planner

The application is determined on 19/11/2021, under the delegated authority of:



Tony Collier, Acting Development Assessment Manager