

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2021/0128
<b>Responsible Officer:</b>	Penny Wood
<b>Land to be developed (Address):</b>	Lot 29 DP 16969, 18 Parr Parade NARRAWEENA NSW 2099
<b>Proposed Development:</b>	Modification of Development Consent DA2020/0141 granted for alteration and additions to a dwelling including carport
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Belinda Sharon Wade Bradley Christopher Wade
<b>Applicant:</b>	Belinda Sharon Wade Bradley Christopher Wade

<b>Application Lodged:</b>	30/03/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	12/04/2021 to 26/04/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The subject application seeks consent to modify alterations and additions approved by Development Consent no. Mod2021/0128, pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

The proposed modifications are outlined as follows:

#### Ground floor:

- Relocation of the approved study to the front of the dwelling, which is facilitated through a reduction to the size of the foyer/cloak area.

- Relocation of the guest bedroom to the existing study.
- Changes to the design/orientation of the stairway between the split levels of the ground floor (the walk-in-pantry is to be deleted to facilitate this).
- Changes to the orientation/layout of the open plan living area on the northeast side of the dwelling (the kitchen is to be relocated from the western to the eastern side of this area).
- Reductions in the size at the rear of the dwelling.
- Reduction in the size of the alfresco area at the rear of the dwelling, including deletion of the outdoor BBQ area.
- Change to the layout of the Bedroom 1 ensuite.

#### External:

- Changes to the size of the building footprint as a result of changes detailed above.
- The form of the roof is to be substantially changed; the existing roof will be completely removed (this was to be partially retained as part of the original proposal). The new roof is to include a more simplified form that is of a skillion design with sections that are of varying angles.
- Minor changes to some external window designs and locations on side and rear elevations (these changes are associated with internal layout changes detailed above).

## **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**

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

## **SITE DESCRIPTION**

<b>Property Description:</b>	Lot 29 DP 16969 , 18 Parr Parade NARRAWEENA NSW 2099
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**Detailed Site Description:**

The subject site is identified as 18 Parr Parade Narrabeena (Lot 29 DP 16969), and is a single allotment located on the northern side of Parr Parade.

The site has a single road frontage at the southern boundary; all other boundaries adjoin residential allotments.

The site is a regularly-shaped allotment; the lot is 11.67 metres wide and 39.929 metres long. The site has an area of 466m<sup>2</sup> (survey) and is moderately sloped, with a maximum front-to-rear fall of approximately 2.1 metres.

The site is located within the R2 Low Density Residential zone under WLEP 2011. The site is mapped as being affected by a landslip hazard (Area A, denoting slopes of between 5 and 25%) though no other notable considerations affect the site. The site does not contain a heritage item and is not within a heritage conservation area; the site is also not in close proximity to a mapped heritage item.

Development on the site consists of a detached single-story dwelling house, with a carport on its southeast elevation; the driveway access to the garage is and crossover is located at the southeast corner of the site. The remainder of the site predominately consists of landscaped areas.

**Detailed Description of Adjoining/Surrounding Development**

All adjoining allotments contain detached dwelling houses and associated structures (i.e. pools, outbuildings, etc.). Development within residential-zoned areas within the surrounding area consist predominately of low-density residential development (i.e. detached dwellings and associated structures).

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:

- 1988: Building Application no. BA5000/3699 determined for alterations and additions to a dwelling house.
- 25 March 2020: Development Application no. DA2020/0141 approved for alterations and additions to a dwelling including a carport.
- 30 March 2021: Subject Development Application lodged.

## 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 DA2020/1014 in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - 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 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 DA2020/0141 for the following reasons:</p> <ul style="list-style-type: none"> <li>• Overall numerical compliance with the original proposal is largely unchanged (noting that where modifications are proposed, such changes have attained higher levels of compliance than what was originally approved).</li> <li>• From both qualitative and quantitative perspectives, the proposal will remain substantially the same as that which was originally approved.</li> <li>• The use of the site will remain unchanged.</li> <li>• The proposal is unlikely to increase impacts upon both the natural and built environments and the amenity of surrounding sites.</li> </ul>
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2020/0141 did not require concurrence from the relevant Minister, public authority or approval body.
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require, 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</p>	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Environmental Plan 2011 and Warringah Development Control Plan.



Section 4.55 (2) - Other Modifications	Comments
applications for modification of a development consent, and	
(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 96 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	Warringah 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&amp;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&amp;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&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clause 92</u> of the EP&amp;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&amp;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&amp;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&amp;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&amp;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) <b>Environmental Impact</b> 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.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 has been publicly exhibited from 12/04/2021 to 26/04/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

## REFERRALS

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. An undated response was received on April 12, indicating that a decision was not required.

## 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. The requirements of SEPP 55 were also considered as part of the planning assessment for the original proposal. 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.

### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A367476\_02, dated 12 March 2021).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.



## SEPP (Infrastructure) 2007

### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

### Comment:

The proposal was referred to Ausgrid. An undated response was received on April 12, indicating that a decision was not required.

## Warringah Local Environmental 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	% Variation	Complies
Height of Buildings:	8.5m	5.8m	4.808m	N/A	Yes

### Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	N/A
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.3 Development near zone boundaries	N/A
5.8 Conversion of fire alarms	N/A
6.2 Earthworks	N/A
6.4 Development on sloping land	N/A

## Warringah Development Control Plan

### Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	3.6m	No change	Yes
B3 Side Boundary Envelope	4m	Within envelope	No change	Yes
	4m	Within envelope	No change	Yes
B5 Side Boundary Setbacks	E: 0.9m	525mm (carport)	No change	No
	W: 0.9m	911mm	900mm	Yes
B7 Front Boundary Setbacks	6.5m	6m	6.09m	No
B9 Rear Boundary Setbacks	6m	8.3m	10.54m (building line) 9.6m (alfresco)	Yes
D1 Landscaped Open Space and Bushland Setting	40% (186.38m <sup>2</sup> )	41% (191.6m <sup>2</sup> )	34.4% (158.4m <sup>2</sup> )	No

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	N/A	N/A
C3 Parking Facilities	N/A	N/A
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	N/A	N/A
C7 Excavation and Landfill	N/A	N/A
C8 Demolition and Construction	N/A	N/A
C9 Waste Management	N/A	N/A
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	N/A	N/A
D6 Access to Sunlight	Yes	Yes
D7 Views	N/A	N/A
D8 Privacy	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	N/A	N/A
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	N/A	N/A
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	N/A	N/A
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	N/A	N/A
E2 Prescribed Vegetation	N/A	N/A
E6 Retaining unique environmental features	N/A	N/A
E10 Landslip Risk	N/A	N/A

### Detailed Assessment

#### **B7 Front Boundary Setbacks**

Whilst noncompliant, the front setback is slightly larger than that which was previously calculated. The original proposal was found to be acceptable, and the merits within the earlier assessment of that original approval will not be affected by the proposed modifications. The proposed front setback therefore continues to be acceptable and supportable on merit

#### **D1 Landscaped Open Space and Bushland Setting**

The proposed plans include a landscaped area of 158.4m<sup>2</sup> (i.e. 34.4% of the site area), which equates to a 27.98m<sup>2</sup> (i.e. a 14%) variation to the development control.

It is noted that the original assessment included a miscalculation, in that areas with dimensions of less than two metres were included in the landscaped area calculations (contrary to the requirements of control 1(a)); while the planning report for DA2020/0141 indicated that the original proposal had a landscaped area of 191.6m<sup>2</sup> (i.e. 41% of the site area), the actual landscaped area (inclusive of dimensions of at least two metres) was 148.9m<sup>2</sup> (i.e. 32.2% of site area).

With regard to the above, whilst still compliant the proposed modifications will technically increase landscaped area by 9.5m<sup>2</sup>.

While the proposed landscaped area is still a variation to the development control, the layout of the site will maintain the general layout of the front and rear setback areas (both of which contain large deep soil areas), noting that increases to the rear setback will further increase both landscaped and deep soil area on the site. The increased size of the rear setback will also further increase the size of private open space area and space for clothes drying areas. The variation will have no impact on trees or vegetation removal. Further, the proposed pervious area of the site will be 211.2m<sup>2</sup> (i.e. 45.9% of site area), therefore sufficient space is provided for the infiltration of rainwater and minimisation of runoff.

With regard to the above, the objectives of the control will be satisfied irrespective of the numerical variation. As such, the noncompliance is considered to be acceptable and supportable on merit.

## **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;
- 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 to Modification Application No. Mod2021/0128 for Modification of Development Consent DA2020/0141 granted for alteration and additions to a dwelling including carport on land at Lot 29 DP 16969, 18 Parr Parade, NARRAWEENA, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Site Plan + Site Analysis Plan (Project no. 1911, 2/9, Rev. C)	23 April 2021	Ukalovic Designs
Floor Plan (Project no. 1911, 3/9, Rev. C)	23 April 2021	Ukalovic Designs
Proposed Floor Plan (Project no. 1911, 4/9, Rev. C)	23 April 2021	Ukalovic Designs
Elevations + Section A-A (Project no. 1911, 6/9, Rev. C)	23 April 2021	Ukalovic Designs
Roof Plan (Project no. 1911, 7/9, Rev. C)	23 April 2021	Ukalovic Designs
BASIX Commitments and window schedule (Project no. 1911, 8/9, Rev. C)	23 April 2021	Ukalovic Designs

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Concept Drainage Plan (Job no. 20.022, Drawing no. SW1, Rev. B)	11 March 2021	E2 Civil and Structural Design

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate No.A367476_02	12 March	Ukalovic Design

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

c) The development is to be undertaken generally in accordance with the following:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Landscape Plan (Project no. 1911, 9/9, Rev. C)	23 April 2021	Ukalovic Design

<b>Waste Management Plan</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Northern Beaches Waste Management Plan	17 February 2020	Vaughan Milligan



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**



**Penny Wood, Planner**

The application is determined on 27/04/2021, under the delegated authority of:



**Anna Williams, Manager Development Assessments**