

REVIEW OF DETERMINATION ASSESSMENT REPORT

Application Number:	REV2021/0016
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Responsible Officer:	Nick Keeler
Land to be developed (Address):	Lot 55 DP 11462, 61 Dress Circle Road AVALON BEACH NSW 2107
Proposed Development:	Review of Determination of Application DA2020/1194 granted for alterations and additions to a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Haidee Anna Keegan
Applicant:	Jamie King Landscape Architect

Application Lodged:	26/05/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	05/07/2021 to 19/07/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 19,000.00
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EXECUTIVE SUMMARY

The application seeks a review of the determination of DA2020/1194 granted for alterations and additions to a dwelling house, which was approved on 27/01/2021.

The consent included a condition requiring the deletion of the proposed hardstand parking area adjacent to Dress Circle Road to be replaced with deep soil landscaping. The review seeks to relocate the hardstand parking area to a single space within the footprint of the existing driveway. The proposal requires the excavation of the driveway to facilitate a compliant hardstand parking area and minor siting adjustments of landscaped elements and stairs around the parking space. All other elements approved under DA2020/1194 remain unaltered.

No submissions were received during the notification period.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that the proposal is suitable and appropriate development for the subject site.

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to review the determination of DA2020/1194 granted for alterations and additions to a dwelling house. The original development application sought development consent for:

- Partial demolition of existing driveway and paving
- Facilitation of a hardstand space located off Dress Circle Road
- Construction of a new driveway and crossover
- Construction of a new double garage and storeroom
- Construction of a first floor studio and balcony
- Associated excavation, retaining walls and landscaping works

While most of the above was approved, a consent condition (9a & b) was included requiring the hardstand parking area adjacent to Dress Circle Road be deleted and replaced with deep soil landscaping.

The applicant proposes to replace the proposed hardstand area with deep soil landscaping, in accordance with the consent condition, as well as altering the existing driveway to facilitate a single hardstand parking space. The proposed works and excavation are contained within the existing driveway footprint. Minor amendments to the siting of landscaped elements and stairs is required to facilitate the proposed parking space.

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

Environmental Planning and Assessment Act 1979 - Section 8.3 - Environmental Planning and Assessment Act 1979 - Section 8.3

Pittwater 21 Development Control Plan - D1.1 Character as viewed from a public place

Pittwater 21 Development Control Plan - D1.4 Scenic protection - General

Pittwater 21 Development Control Plan - D1.8 Front building line

SITE DESCRIPTION

Property Description:	Lot 55 DP 11462 , 61 Dress Circle Road AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Dress Circle Road and western side of Bellevue Avenue.</p> <p>The site is generally irregular in shape with a frontage of 51.2m along Dress Circle Road and secondary street frontage of 20.115m to Bellevue Avenue and a depth of 69.5m. The site has a surveyed area of 2,024m².</p> <p>The site is located within the E4 Environmental Living zone and contains a dwelling that is two (2) storeys located towards the rear and a swimming pool located towards the front of the site. Pedestrian and vehicle access is gained via the Dress Circle Road frontage.</p> <p>The slope of the site is 23%, falling approximately 16m from the rear boundary to the road frontage.</p> <p>The site contains a modified landscape setting, with terraced areas as well as a number of established native gum trees within the front yard.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low density residential dwellings within a bushland/landscaped setting.</p>

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 **N1139/99** for additions to the dwelling was approved on 10/12/1999.

Application **N0133/12** for alterations and additions to the existing dwelling and construction of a swimming pool was approved on 02/07/2012 by Council staff.

Application **DA2019/0717** for Alterations and additions to a dwelling house was approved on 21/08/2019 by Council staff.

Application **DA2020/1194** for Alterations and additions to a dwelling house was approved on 27/01/2021 by Council staff.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

In accordance with Section 8.3 of the Act, an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories, therefore the applicant may request a review.

In accordance with Section 8.3 (2) of the Act, the request for the review must be made and determined within 6 months (12 months during the prescribed period between 25/03/2020 and 25/03/2022) after the date of determination of the development application. The application was determined on 27/01/2021 and the notice of determination was issued on 27/01/2021. The review was lodged on 26/05/2021 and is to be considered by the Northern Beaches Development Determination Panel on

14/07/2021, which is within 12 months of the date of determination.

Section 8.3 (3) provides that the Council may review a determination if in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The amendments to the proposal are outlined in the 'Detailed Description of Works' section of this report.

A review of the original and amended plans has found that there are fundamental similarities between the original and the amended design (being subject of the 8.3 review) and the nature of the intended land use remains the same. Accordingly it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 8.3 (3) of the Act.

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 05/07/2021 to 19/07/2021 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

Internal Referral Body	Comments
NECC (Development Engineering)	<p>The amended parking space proposed off the existing driveway to Dress Circle Road is satisfactory.</p> <p>It is noted that the secondary driveway gradient has been conditioned to be a maximum of 1 in 4 grade which will require the internal retaining walls to be higher to suit the additional cut. A check of the proposed garage level indicates that this level can be achieved with the required maximum grade of 1 in 4 with a transition of 1 in 10 for 1.5 metres prior to the garage. It is considered that the plans should be amended to suit the conditions for consistency.</p> <p>As the existing crossing is to remain, condition 39 of consent DA2020/1194 can be deleted.</p> <p>No objection to the proposed amended parking area subject to the amendment to the plans and deletion of condition 39.</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)

Nil

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

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes

Pittwater 21 Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	Yes	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

D1.1 Character as viewed from a public place

The original assessment outlined concerns that the proposed hardstand parking area adjacent to Dress Circle Road may have an undesirable impact upon the desired future character of the locality and streetscape by way of significantly reducing the landscaped area forward of the front building line of the dwelling.

The amended proposal is considered to adequately address the concerns raised in the original assessment by deleting the original hardstand parking area and provide a new single hardstand parking within the footprint of the existing driveway. The relocated parking area is setback a minimum of 4.9m from the Dress Circle Road frontage and is not expected to cause any unreasonable visual or amenity impact to adjacent properties or the public domain and landscaping is able to be provided in the area where the original parking area was proposed.

As such, it is concluded that the revised development is consistent with the relevant objectives of P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1.4 Scenic protection - General

As discussed under Part D1.1, the revised proposal is considered to appropriately mitigate the impact of the proposed parking area on the scenic qualities of the streetscape and locality.

D1.8 Front building line

The original assessment outlined concerns that the proposed hardstand parking area adjacent to the Dress Circle Road frontage did not satisfy the front building line requirements or objectives due to the substantial reduction in soft landscaping in the front setback area and the unacceptable visual and amenity impacts that would occur as a result.

While the relocated parking area does not strictly comply with the 6.5m setback requirement of the control (minimum 4.9m setback proposed), the proposal is considered to appropriately address the concerns raised in the original assessment by way of limiting additional impervious surface on the site by containing the parking area within the footprint of the existing driveway and providing additional soft landscaping in the front setback area. This greatly reduces the visual and amenity impacts of the proposed parking area on surrounding properties and the public domain.

As such, it is concluded that the revised development is consistent with the relevant objectives of P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this 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;
- 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 Development Consent to REV2021/0016 for Review of Determination of Application DA2020/1194 granted for alterations and additions to a dwelling house on land at Lot 55 DP 11462, 61 Dress Circle Road, AVALON BEACH, subject to the conditions printed below:

A. Add Condition No. 1A - Review 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) Review of Determination Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
2065 Sht-101 Issue E	05/05/2021	Jamie King Landscape Architect
2065 Sht-102 Issue E	05/05/2021	Jamie King Landscape Architect
2065 Sht-103 Issue E	05/05/2021	Jamie King Landscape Architect

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.

B. Modify Condition No. 9 - Amendments to the approved plans to read as follows:

The following amendments are to be made to the approved plans:

a) The retaining wall located within Bellevue Avenue Road Reserve is to be constructed of earthy and

natural coloured finishes and materials.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.