

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2022/0699
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Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 1 DP 206629, 45 Oxford Falls Road BEACON HILL NSW 2100
Proposed Development:	Modification of Development Consent DA2020/1043 granted for subdivision of land, including alterations and additions to a dwelling house, new driveway and parking
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Jiri Albrecht Marcela Albrecht
Applicant:	Vaughan Patrick Milligan

Application Lodged:	29/12/2022
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	09/01/2023 to 25/01/2023
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

This application seeks to modify the form of the approved development comprising the relocation of the approved drainage easement from the approved location adjacent to the eastern boundary of the site, with the easement and on-site detention (OSD) facility being repositioned to stand adjacent to the western boundary of the allotment. The relocation of the OSD system will ensure that the stormwater from the site(s) will drain directly to Council's Stormwater Pipeline and Pit located in Oxford Falls Road which will ensure a better engineering outcome. Additionally, planter boxes will be located at the front of the OSD which will allow for suitable native planting to enhance the existing streetscape of Oxford Falls Road and Iris Street.

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

SITE DESCRIPTION

Property Description:	Lot 1 DP 206629 , 45 Oxford Falls Road BEACON HILL NSW 2100
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Oxford Falls Road. The site located on the junction of Oxford Falls Road and Iris Street.</p> <p>The site is regular in shape with a frontage of 17.34m along Oxford Falls Road and a depth of 64.975m. The site has a surveyed area of 1126m². The site has a fall of approximately 12.6m to the front, northern boundary.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a two (2) storey dwelling with attached and detached garage which has vehicular access off Daren Street via a right of carriageway.</p> <p>The site has landscaped gardens with the existing dwelling and exposed sandstone rock outcrops at the front portion of the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by</p>

one (1), two (2) and three (3) storey dwellings with associated outbuildings/structures and landscaped gardens.

Map:



SITE HISTORY

DA2019/0843 - Subdivision of land and associated construction of a new car stand area and driveway

On 23 September 2019 a letter from Council was sent to the applicant requesting the withdrawal of the Development Applications for the following concerns:-

"Development Engineers

1. Failure to provide details in regards to Council's stormwater pipeline. Council's records indicate that the proposed development is adjacent to Council's stormwater pipeline. As outlined in the Development Application Checklist, the applicant shall demonstrate compliance with Council's Warringah Building Over or Adjacent to Constructed Drainage Systems and Easements Technical Specification. This consists of accurately locating, confirming dimensions including depth and plotting Council's stormwater pipelines and associated infrastructure to scale on the DA plans in accordance with Section 8.1 of this Specification.

Council has public Planning Maps online with stormwater information as a reference for detailed stormwater investigations, available under the "Stormwater" overlay map (<https://services.northernbeaches.nsw.gov.au/icongis/index.html>).

2. Failure to provide Stormwater Management Plan. As the existing impervious area in proposed Lot 1 exceeds 40 percent of the total lot area, an OSD system for the proposed Lot 1 shall be designed in accordance with Warringah On Site Stormwater Detention (OSD) Technical Specification and shown on the Stormwater Management Plan. The Stormwater Management Plan shall show how stormwater from proposed Lot 1 is disposed of to Oxford Falls Road via the proposed stormwater easement.

3. Subdivision plan shall show the indicative location of any easement for utilities services for proposed

Lot 1. Revised subdivision plan shall be submitted to Council for assessment.

4. On the Development Application Form, the description of work stated proposed demolition of a portion of the existing carport (proposed Lot 1), which is not shown on the DA plans. Clarification is required to be submitted to Council in regards to the scope of the works.

The proposed application cannot be supported by Development Engineering due to lack of information to address:

- *Council's stormwater assets for the development in accordance with clause C6 Building Over or Adjacent to Constructed Council Drainage Easements of Warringah DCP 2011*
- *OSD system design in accordance with Clause C1 Subdivision of Warringah DCP 2011.*

Clause 4.1 Minimum subdivision lot size of Warringah Local Environmental Plan 2011(WLEP 2011)

The proposed subdivision seeks to create two lots (Lot 1 – 684.4sqm and Lot 2 – 442.2sqm) within the R2 Low Density Residential zone which requires a minimum lot size of 600sqm. Lot 2 would be 157.8sqm short of requirement with a variation of 26.3%. It is considered that this variation is excessive considering the topography of Lot 2, with an approximate fall of 11m (40% grade). Additionally, it is noted that 43 Oxford Falls Road (574.2sqm), 41 Oxford Falls Road (611.7sqm) and 39 Oxford Falls Road (611.3sqm) are either compliant or just under the requirement. The proposed subdivision would be inconsistent with the established pattern of subdivisions within the vicinity."

On 2 October 2019 the applicant formally withdrew the development application.

PLM2021/0244 - Construction of a dwelling house and detached garage

"A review of the proposed development based on the specific issues raised in the pre-lodgement application has been carried out and you are advised that the proposed development is not supported in its current form for the following reasons:

- *the significant breach of the maximum permitted building height of 8.5m under Clause 4.3 of WLEP 2011, with a height of 14.8m (or 12.0m);*
- *the significant breach to the maximum permitted wall height of 7.2m under Clause B1 of WDCP 2011, with a wall height of 14.8m (or 12.0m);*
- *the significant breach of the prescribed 4.0m building envelope under Clause B3 of WDCP 2011 on both the eastern and western elevations; and*
- *the encroachment of the structure forward of the required 6.5m front boundary setback under Clause B7 of WDCP 2011, with a setback of between 5.8m and 5.9m.*

There is also concern that the proposed lift shaft may impact upon the rock outcrop located at the street frontage to Oxford Falls Road."

PLM2022/0204 Subdivision

"These notes are in response to a pre-lodgement meeting held on site on 10 November 2022 to discuss the proposed subdivision of 107 Iris Street and associated landscape works, access to 45 Oxford Falls Road and location of an on-site detention tank to service the dwellings at 45 Oxford Falls Road and the

proposed subdivision at 107 Iris Street. The notes reference the plans prepared by Michael K Joyce which are not dated.

As discussed throughout these Notes, Council could support a four (4) lot subdivision of 107 Iris Street. The driveway crossover off Iris Street proposed to access Lot C is not supported by Council's Development Engineer given the close proximity to the existing roundabout located to the east on Oxford Falls Road.

Council's Development Engineer does support the widening of the existing driveway located along the western boundary of 107 Iris Street. This would allow for access from Iris Street to Lot D and access to Lot A, Lot B and C via an internal driveway. Council does not support the extension of the internal driveway to provide vehicular access to 45 Oxford Falls Road as this will significantly impact on the proposed lot sizes and landscaped open space required for Lot A and Lot C. The extension of a driveway to 45 Oxford Falls Road also raises concerns in regard to vehicular access safety.

Council recommends that a four (4) lot subdivision of 107 Iris Street would result in the most desirable planning outcome for the future of the site and would be in keeping with the surrounding character and subdivision pattern of Iris Street and Oxford Falls Road.

It is recommended that the any future works to both 45 Oxford Falls Road and 107 Iris Street are carried out independently."

DA2020/1043 - Subdivision of land, including alterations and additions to a dwelling house, new driveway and parking

Application lodged: 14 September 2020

Application Determined on 25 January 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 DA2020/1043, 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
<p>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:</p>	
<p>(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>	<p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2020/1043 for the following reasons:</p> <p>The proposed subdivision remains as approved by the original consent (DA2020/1043) and is only slightly altered with the repositioning of the OSD system and incorporation of the planter boxes at the front of the site.</p> <p>Given the above it is considered that the modifications are substantially the same approved development.</p>
<p>(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</p>	<p>Development Application MOD2022/0699 required concurrence from the NSWRFs which was received on 10 March 2023 and this letter will be incorporated within the modified conditions of consent.</p>
<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 2021, and the Northern Beaches Community Participation Plan.</p>
<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>	<p>No submissions were received in relation to this application.</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 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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 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 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the installation of planter boxes in front of the OSD to allow for sufficient planting to ensure better streetscape outcome.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of 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 Warringah Development Control Plan 2011 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>

Section 4.15 'Matters for Consideration'	Comments
	(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.
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 classified as bush fire prone land and the proposed development is for a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes / a special fire protection purpose under Section 100B of the Rural Fires Act 1997. As such, the proposal is integrated development and requires a bush fire safety authority from the NSW Rural Fire Service.

The application was referred to the NSW RFS as integrated development. The NSW RFS issued a bush fire safety authority, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS as part of the bush fire safety authority, have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 09/01/2023 to 25/01/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The application is for modification to development consent DA2020/1043 and proposes to relocate the approved drainage easement from the eastern boundary of the site to the western boundary of the allotment. The built form structures occupy the front setback that reduces the capability for landscaping as intended by Warringah Development Control Plan clauses C1 Subdivision and D1 Landscaped Open Space and Bushland Setting, and the matter shall be determined by the Assessing Planning Officer.

Internal Referral Body	Comments
	<p>The proposal includes an on structure planter over the OSD and planters at the front boundary and no landscape plan is submitted. Should the application be approved, Landscape Referral shall provide conditions of consent regarding appropriate landscape planting on structure and within the front planter.</p>
<p>NECC (Development Engineering)</p>	<p>The submitted plans detailing the provision of stormwater management for the site including OSD is acceptable.</p> <p>Development Engineering support the proposal subject to the inclusion of the plans by Michal Korecky, drawing number 18080 Sheets SW-1 and SW-2 Issue 1 dated 18/11/2022 to be included in condition 2 of consent DA2020/1043. Also condition 1 (Deferred Commencement Conditions 'On-site Stormwater Detention Details' and condition 21 (Conditions to be satisfied prior to the Issue of the Subdivision Works Certificate 'Subdivision Works Certificate' are to be deleted from consent DA2020/1043.</p> <p>The submitted drainage plan alters the subdivision plan approved in the consent, with the location of the proposed drainage easement no longer required on the eastern boundary of proposed lot 2 but required along the western boundary of proposed lot 2 and over the extent of the proposed detention tank. This plan is to be modified to reflect these changes and be amended in condition 2 of the consent.</p> <p>Condition 12 of consent DA2020/1043 is to be amended as follows.</p> <p>On-site Stormwater Detention and Inter-allotment Drainage Details The Applicant is to provide a certification of drainage plans detailing the provision of the inter-allotment drainage line and the on-site stormwater detention in accordance with Northern Beaches Council's Water Management Policy, and generally in accordance with the concept drainage plans prepared by Michal Korecky, drawing number 18080 Sheets SW-1 and SW-2 Issue A dated 18/11/2022. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering. Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.</p> <p>Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.</p> <p>The following condition is to be included under the heading Prior to the Issue of the Construction Certificate.</p> <p>Stormwater Drainage Application</p> <p>The Applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include Civil Engineering plans for the design of the</p>

Internal Referral Body	Comments
	<p>stormwater connection from the site into the existing Council stormwater pit in Oxford Falls Road which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website using the following link.</p> <p>https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/stormwater-drainage-approval/4022-stormwater-drainage-approval.pdf</p> <p>The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges.</p> <p>Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.</p> <p>Reason: To ensure appropriate provision for disposal and stormwater management arising from development.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Integrated Development - Rural Fire Service - Rural Fires Act, s100B - Subdivisions and Special Fire Protection Purposes	NSWRFS have reviewed the modified proposed development and supported subject to conditions.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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 (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

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	%	Complies
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				Variation	
Minimum subdivision lot size:	600m ²	Lot 1: 585sqm Lot 2: 541sqm	Lot 1: 585sqm Lot 2: 541sqm	- -	Unaltered Unaltered
Height of Buildings:	8.5m	2.13m	2.5m (Top of Handrail) 1.5m (Top of OSD) 0.7m (Top of Planter Box)	- - -	Yes Yes Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
Part 5 Miscellaneous provisions	Yes
5.9 Dwelling house or secondary dwelling affected by natural disaster	Yes
Part 6 Additional Local Provisions	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B3 Side Boundary Envelope	4m	Within envelope	Within envelope	Yes
	4m	Within envelope	Within envelope	Yes
B5 Side Boundary Setbacks	0.9m (east)	Lot 1 - 0.5m* Lot 2 - 0.9m	Lot 1 - 0.5m* Lot 2 - 8.7m	Unchanged Yes
	0.9m (west)	Lot 1 - 1.1m Lot 2 - 0.9m	Lot 1 - 1.1m Lot 2 - 1.6m	Yes Yes
B7 Front Boundary Setbacks	6.5m	Lot 1 - 16.8m Lot 2 - 2.186m (carport) Lot 2- 7.997m (dwelling)	Lot 1 - 16.8m Lot 2 - 2.186m (carport) Lot 2 - Nil (Planter Boxes) 0.8m (OSD)	Yes Unchanged No No
B9 Rear Boundary Setbacks	6m	Lot 1 - 1.333m Lot 2 - 11.212m	Lot 1 - 1.333m Lot 2 - 27.2m	Yes Yes

D1 Landscaped Open Space and Bushland Setting	40%	Lot 1 - 40% Lot 2 - 52.2%	Lot 1 - 40% Lot 2 - 52.2%	Yes Yes
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Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Built Form Controls	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
Part C Siting Factors	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Part D Design	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
Part E The Natural Environment	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

The proposal comprises of a non compliance to the front boundary setback control with a variation of 100% with the proposed planter boxes positioned at Nil setback from the front northern boundary and the OSD located 0.8m from the front northern boundary representing a variation of 87.7% to the control. The relocation of the OSD system will ensure that the stormwater from the site(s) will drain directly to Council's Stormwater Pipeline and Pit located in Oxfords Falls Road which which achieves a better engineering outcome.

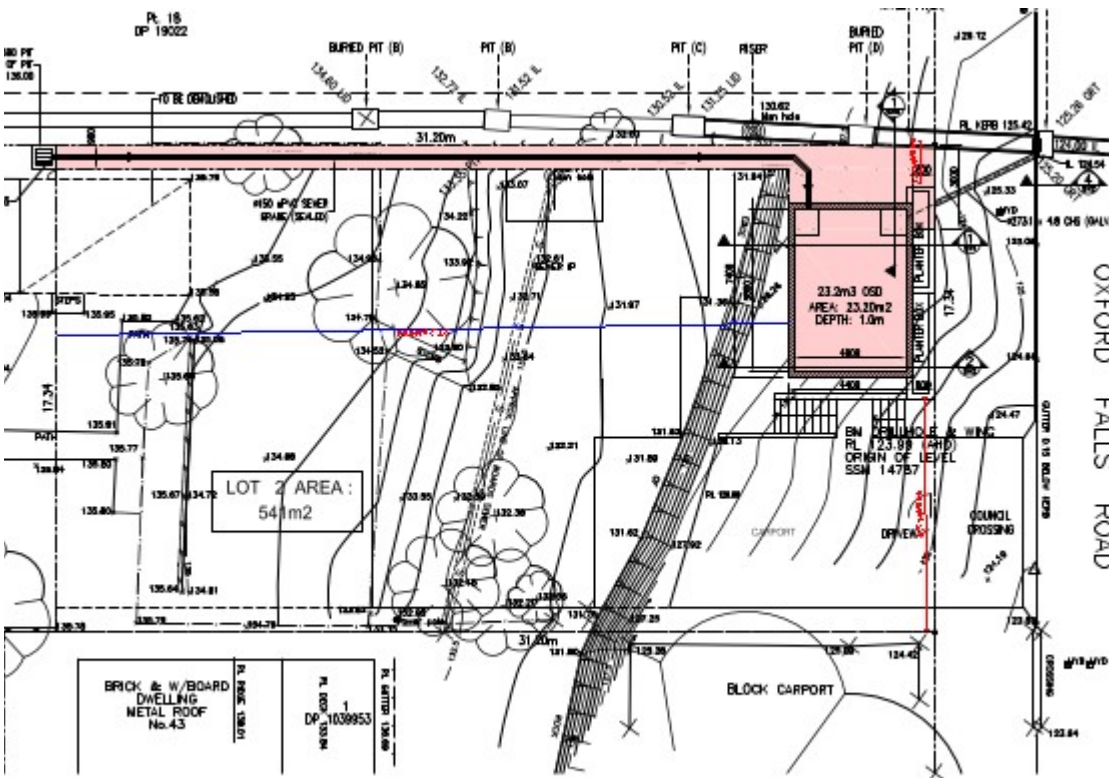


Figure 1 - Nil setback for planter boxes and 0.8m setback for the OSD.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To create a sense of openness.*

Comment:

The proposed planter boxes and OSD are low structures which demonstrate a sense of openness and it is considered that the encroachments do not create any additional bulk when viewed from the streetscape. The non compliance is considered acceptable within this context.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The proposed development is consistent with the adjoining structures along Oxford Falls Road and Iris Street which has a similar significant slope to the front portion of the site. The existing rock features will remain ensure that the proposal will demonstrate consistency with this merit consideration.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The non compliance is not expected to have any adverse impacts on the surrounding visual amenity as the carport will follow established setback pattern.

- *To achieve reasonable view sharing.*

Comment:

The development is not expected to have any significant impacts on local views enjoyed by neighbouring sites.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 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 2022

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 2021;
- 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. Mod2022/0699 for Modification of Development Consent DA2020/1043 granted for subdivision of land, including alterations and additions to a dwelling house, new driveway and parking on land at Lot 1 DP 206629,45 Oxford Falls Road, BEACON HILL, subject to the conditions printed below:

A. Add Condition No. 2A - 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
18080 - ELEV	14 February 2023	Michal Korecky

18080 - SW-1	18 November 2022	Michal Korecky
18080 - SW-2	18 November 2022	Michal Korecky

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

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

B. Modify Condition 3 - Compliance with Other Department, Authority or Service Requirements to read as follows:

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated/Received
NSWRFS	Response NSWRFS Referral	10 March 2023
Ausgrid	Ausgrid Referral Response	6 January 2023
Ausgrid	Ausgrid Referral Response - Network Standard	6 January 2023
Ausgrid	Ausgrid Referral Response - Clearances Quick Reference Guide	6 January 2023

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

C. Modify Condition 12 - On-site Stormwater Detention and Inter-allotment Drainage Details to read as follows:

The Applicant is to provide a certification of drainage plans detailing the provision of the inter-allotment drainage line and the on-site stormwater detention in accordance with Northern Beaches Council's Water Management Policy, and generally in accordance with the concept drainage plans prepared by Michal Korecky, drawing number 18080 Sheets SW-1 and SW-2 Issue A dated 18/11/2022. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering. Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

D. Delete Condition 1 - On-site Stormwater Detention Details to read as follows:

Deleted

E. Add Condition 20A - On Slab Landscape Works to read as follows:

Details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided. Landscape treatment details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, and services connections. Planter soil depth as shown on drawing number SW-2 shall be provided.

Design certification shall be submitted to the Certifier by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and ensure waterproofing and drainage is installed.

F. Add Condition 20B - Stormwater Drainage Application to read as follows:

The Applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include Civil Engineering plans for the design of the stormwater connection from the site into the existing Council stormwater pit in Oxford Falls Road which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/stormwater-drainageapproval/4022-stormwater-drainage-approval.pdf>

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

G. Add Condition 33A - Required Planting to read as follows:

Planting to the planters shall be implemented in accordance with the following requirements:

a) OSD tank planter -

i) mass planting mix of shrub and groundcover planting, installed at minimum 1metre intervals for shrubs of a minimum 200mm container size at planting, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting, with a suitable free draining planter soil mix and minimum 75mm depth of mulch.

b) Front boundary planter -

i) shrub planting to achieve at least 2 metres in height, installed at minimum 750mm intervals, and of a minimum 200mm container size at planting, with a suitable free draining planter soil mix and minimum 75mm depth of mulch.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Landscape amenity.


H. Add Condition 44 - Landscape Maintenance to read as follows:

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be in accordance with any conditions of consent.

Reason: To maintain local landscape amenity.

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

Signed



Phil Lane, Principal Planner

The application is determined on 17/03/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments