

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0699
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Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 4 DP 27703, 30 Owen Stanley Avenue BEACON HILL NSW 2100
Proposed Development:	Modification of Development Consent DA2020/0528 granted for construction of a dwelling house
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:	Andrea Rachel Dry Andrew Philip Dry
Applicant:	Wincrest Group Pty Ltd

Application Lodged:	18/01/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	Not Notified
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

Development Consent was granted on 4 September 2020 under DA2020/0528 for the construction of a dwelling house.

This Section 4.55(1A) Modification has been submitted to Council seeking to make the following amendments to the approved plans:

- Include a dintel retaining wall adjacent to the western and northern elevations of the garage. The dintel retaining wall reduces the amount of excavation along the western side boundary.

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 - B1 Wall Heights

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

SITE DESCRIPTION

Property Description:	Lot 4 DP 27703 , 30 Owen Stanley Avenue BEACON HILL NSW 2100
Detailed Site Description:	<p>The subject site consists of one allotment located on the northern side of Owen Stanley Road, Beacon Hill.</p> <p>The site is regular in shape with a frontage of 22.525m along Owen Stanley Road and a depth of 27.43m. The site has a surveyed area of 617.9sqm.</p> <p>The site is located within the R2 Low Density Residential zone pursuant to the Warringah Local Environmental Plan 2011 (WLEP 2011) and accommodates a two storey split level dwelling.</p> <p>The site experiences a fall of approximately 3m that slopes from the north-eastern rear corner towards the south-western front corner. The site has lawn areas in the front and rear yards and small trees and shrubs. There are no known threatened species on the site.</p> <p>The site is identified within 'Area B' on the Landslip Risk Map pursuant to the WLEP 2011.</p>

The site is not within a flood hazard area, however is identified within bushfire prone area.

Detailed Description of Adjoining and Surrounding Development

Adjoining and surrounding development is characterised by one and two storey detached dwelling houses of varying architectural styles.

Map:



SITE HISTORY

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

- Development Application **DA2016/1325** for alterations and additions to an existing dwelling approved by Council staff under delegated authority on 30 March 2017.
- Development Application **DA2020/0528** for the construction of a dwelling house approved by Council staff under delegated authority on 4 September 2020.
- Complying Development Certificate **CDC2020/0800** for demolition of the existing dwelling approved by a Private Certifier.

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 DA2020/0528, 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 modified proposal reduces the amount of excavation on the site.
(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 DA2020/0528 for the following reasons:</p> <ul style="list-style-type: none"> • The approved land use will not be changed. • The height, footprint and envelope of the dwelling will be unaltered. • The modifications do not result in any materially different impacts to that of the approved development.
<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 applications for modification of a development consent, and</p>	<p>The modified proposal constitutes a reduced environmental impact when compared the approved development. As such, the application was not required to be notified, in accordance with the Northern Beaches Community Participation Plan.</p>
(d) it has considered any submissions made	No submissions were received in relation to this

Section 4.55(1A) - Other Modifications	Comments
concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	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	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 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the 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> <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	No submissions were received in relation to this application.
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. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the

specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bushfire Attack Level Risk Assessment was submitted with the Development Application DA2020/0528 that included a certificate (prepared by Bushfire Protection Planning & Assessment Services Pty Ltd dated 21 August 2019) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report were included as conditions of consent under DA2020/0528. The conditions imposed under DA2020/0528 will still apply to the development.

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 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

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Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.11m	8.11m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	7.54m	7.54m	No, however variation supported under DA2020/0528
B3 Side Boundary Envelope	4m then projected at 45 degrees (East)	Within envelope	Within envelope	Yes
	4m then projected at 45 degrees (West)	Within envelope	Within envelope	Yes
B5 Side Boundary Setbacks	0.9m (East)	2.66m	2.66m	Yes
	0.9m (West)	2.8m	2.8m	Yes
B7 Front Boundary Setbacks	6.5m	6.9m	6.9m	Yes
B9 Rear Boundary Setbacks	6m	7.46m	7.46m	Yes
D1 Landscaped Open Space and Bushland Setting	40%	39.86% (246.3sqm)	39.86% (246.3sqm)	No, however variation supported under DA2020/0528

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	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
D11 Roofs	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
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

The control limits the wall height of a dwelling to 7.2m above the existing ground level. The dwelling approved under DA2020/0528 contained a maximum wall height of 7.54m along the western elevation, which exceeded the requirement. Despite this, the proposal was supported on merit given consistency with the objectives of the wall height WDCP 2011 provision.

In assessing this Section 4.55(1A) Modification, it is noted that the modifications pertain to a retaining wall, which do not alter the wall height of the approved dwelling house. Therefore, no further consideration of this control is required for the purpose of this assessment.

D1 Landscaped Open Space and Bushland Setting

The control requires 40% (247.16sqm) of the site to comprise landscape open space. The approved development pursuant to DA2020/0528 resulted in 39.86% (246.3sqm) of the site as landscaped open space, which represented a 0.35% variation from the prerequisite. Despite this, the proposal was supported on merit given consistency with the objectives of the landscaped open space WDCP 2011 provision.

In assessing this Section 4.55(1A) Modification, it is noted that no changes will occur to the approved landscaped open space on the site. Therefore, no further consideration of this control is required for the purpose of this assessment.

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. Mod2020/0699 for Modification of Development Consent DA2020/0528 granted for construction of a dwelling house on land at Lot 4 DP 27703,30 Owen Stanley Avenue, BEACON HILL, subject to the conditions printed below:

No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Sheet No. 01 Revision J	16 December 2020	Wincrest Group Pty Ltd.
Sheet No. 02 Revision J	16 December 2020	Wincrest Group Pty Ltd.
Sheet No. 03 Revision J	16 December 2020	Wincrest Group Pty Ltd.
Sheet No. 04 Revision J	16 December 2020	Wincrest Group Pty Ltd.
Sheet No. 05 Revision J	16 December 2020	Wincrest Group Pty Ltd.
Sheet No. 06 Revision J	16 December 2020	Wincrest Group Pty Ltd.
Sheet No. 07 Revision J	16 December 2020	Wincrest Group Pty Ltd.

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

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

Signed



Thomas Burns, Planner

The application is determined on 20/01/2021, under the delegated authority of:



Catriona Shirley, Acting Development Assessment Manager