

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2020/0466
<b>Responsible Officer:</b>	Adam Urbancic
<b>Land to be developed (Address):</b>	Lot 1 DP 205274, 21 Rangers Retreat Road FRENCHS FOREST NSW 2086
<b>Proposed Development:</b>	Modification of Development Consent DA2019/0931 granted for alterations and additions to a dwelling house including a swimming pool
<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>	Katrina Elizabeth Anne Miles Matthew Bruce Miles
<b>Applicant:</b>	Buena Vista Home Designs

<b>Application Lodged:</b>	28/10/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	09/11/2020 to 23/11/2020
<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 modification application seeks consent for modifications to development consent DA2019/0931 granted for alterations and additions to a dwelling house including a swimming pool, specifically the following:

#### Lower Ground Floor

- modification to the internal layout within the bathroom to incorporate a bath tub;
- proposed modification to the internal layout within the laundry to relocate the toilet and cupboards;
- deletion of the proposed window (W7) to the laundry;

- as-installed external single hinged door (D3) to the rumpus room; and
- proposed extension of the approved footprint of the store room by 845mm, including associated earthworks and the installation of an internal roller door between the store room and the garage.

### Ground Floor

- deletion of the approved gas fire place within the living area;
- removal of part of the floor within the living area to create a void and the replacement of the approved timber balustrade with a dwarf wall;
- as-installed replacement of the approved six (6) panel aluminium sliding door to the kitchen with a three (3) panel aluminium sliding door;
- deletion of the proposed window (W1) on the northern elevation of the master bedroom dressing area and the retention of the existing window on the western elevation; and
- six (6) as-installed skylights (S6 - S11) over the kitchen.

### External

- deletion of one (1) of the proposed timber posts to the ground floor alfresco area, as-built relocation of another timber post, as-built change to the approved roof pitch over the alfresco from 6 degrees to 4 degrees, and the as-built extension of the roof over the adjoining external staircase;
- as-constructed cement block retaining wall and stairs on the northern side of the dwelling house;
- proposed widening of the approved landscape stairs on the northern side of the dwelling house;
- as-constructed 1.2m wide timber deck on the eastern side of the swimming pool; and
- replacement of the proposed concrete swimming pool with the as-installed fibreglass swimming pool of the same capacity.

**Note:** Although no submissions were received for the modification application, a letter was received from Sydney Water, dated 23 November 2020, in response to Council's notification letter to them as an adjoining property owner. The letter states that it is recommended that Council imposes a condition requiring the approved plans to be submitted to the Sydney Water Tap in service to determine whether the development will affect any Sydney Water assets. A condition (Condition 10) was included in the original development consent requiring this to be completed prior to the issue of a Construction Certificate. This condition will remain relevant to the modified development, therefore, it is not necessary to include this condition as part of the modified development consent.

## **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 - B5 Side Boundary Setbacks

Warringah Development Control Plan - E10 Landslip Risk

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 205274 , 21 Rangers Retreat Road FRENCHS FOREST NSW 2086
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of Rangers Retreat Road.</p> <p>The site is irregular in shape with a frontage of 29.32m along Rangers Retreat Road and an average depth of 55.11m. The site has a surveyed area of 713.6m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a split-level rendered dwelling house with a tiled and metal roof located in the centre of the site, along with a swimming pool and detached metal shed in the rear yard.</p> <p>The site has an overall slope of 7.91% and falls 4.59m from the north-western corner of the site to the south-eastern corner of the site.</p> <p>The site contains a number of trees, shrubs, ground-cover vegetation and areas of turf spread across the site.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by one (1) and two (2) storey dwelling houses of varying architectural styles within a landscaped setting. A Sydney Water pipeline is contained within the adjoining land to the north of the subject site.</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:

### 4 November 1982

Building Application 2652/82 for the erection of additions was granted consent.

### 27 November 1998

Development Application 769DA for a deck was granted consent.

### 3 October 2019

Development Application DA2019/0931 for alterations and additions to a dwelling house including a swimming pool was granted consent.

## 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 DA2019/0931, 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><b>Yes</b></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"> <li>the modified development requires a similar amount of earthworks;</li> <li>the modified development does not require the removal of any significant trees or vegetation; and</li> <li>the modified development does not impact upon any other natural features of the site.</li> </ul>
(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 DA2019/0931 for the following reasons:</p> <ul style="list-style-type: none"> <li>the capacity of the swimming pool is the same as that originally approved;</li> <li>the built form is similar to that originally approved; and</li> <li>there are no adverse amenity impacts to adjoining and surrounding properties as a result of the modified development.</li> </ul>
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.</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	<p>No submissions were received in relation to this application.</p>



Section 4.55(1A) - Other Modifications	Comments
the case may be.	

### 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 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> <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</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>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 09/11/2020 to 23/11/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## 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.

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

A revised BASIX Certificate has been submitted with the application (see Certificate No. A355594\_02, dated 15 September 2020).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the revised 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

**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	6.8m	6.8m	N/A	Yes (as approved)

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
B5 Side Boundary Setbacks	0.9m (N)	3.4m	1.74m to Swimming Pool Deck	Yes
	0.9m (S)	1.1m	0.85m to Swimming Pool Deck	N/A (allowable as an exception)
B9 Rear Boundary Setbacks	6m	17.3m	15.94m to Swimming Pool Deck	Yes
D1 Landscaped Open Space	40%	52.84%	51.35% (366.4m <sup>2</sup> )	Yes

and Bushland Setting	(285.44m <sup>2</sup> )	(377.1m <sup>2</sup> )		
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**Note:** The modified development does not result in any other changes to the approved built form, therefore, no further assessment has been undertaken for this modification application.

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	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
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
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

#### Detailed Assessment

##### **B5 Side Boundary Setbacks**

Despite the proposed swimming pool deck being located at a distance of 0.85m to the southern side boundary, the deck is not more than 1m above ground level (existing) and is therefore allowable as an exception under this control.

##### **E10 Landslip Risk**

A Preliminary Geotechnical Assessment, prepared by White Geotechnical Group (Ref: J2343) and dated 15 August 2019, was submitted with the original development application and was enforced as part of the original development consent. As the modified development is substantially the same as that approved, an addendum or revised geotechnical report was not required to be submitted for the

assessment of this modification application.

### **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. Mod2020/0466 for Modification of Development Consent DA2019/0931 granted for alterations and additions to a dwelling house including a swimming pool on land at Lot 1 DP 205274, 21 Rangers Retreat Road,

FRENCHS FOREST, 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>
S 4.55 - 02, Proposed Site Plan, Rev C	14 September 2020	Buena Vista Home Designs
S 4.55 - 04, Proposed Plans, Rev C	14 September 2020	Buena Vista Home Designs
S 4.55 - 06, Proposed Elevations, Rev C	14 September 2020	Buena Vista Home Designs
S 4.55 - 07, Proposed Roof Layout - Section & BASIX, Rev C	14 September 2020	Buena Vista Home Designs

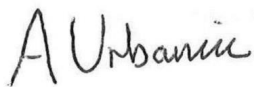
<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate (Cert No. A355594_02)	15 September 2020	Frys Energywise

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.

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

**Signed**



**Adam Urbancic, Planner**

The application is determined on 30/11/2020, under the delegated authority of:



**Lashta Haidari, Acting Development Assessment Manager**