

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0471
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Responsible Officer:	Rebecca Englund
Land to be developed (Address):	Lot 135 DP 12749, 35 Robertson Road SCOTLAND ISLAND NSW 2105
Proposed Development:	Modification of Development Consent N0176/16 granted for construction of new two storey dwelling
Zoning:	E3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Far East Land & Housing Development Company PTE LTD
Applicant:	Far East Land & Housing Development Company PTE LTD

Application lodged:	01/09/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	10/09/2018 to 26/09/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval

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

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 135 DP 12749 , 35 Robertson Road SCOTLAND ISLAND NSW 2105
Detailed Site Description:	The site is legally known as Lot 135 in Deposited Plan 1274935, and is commonly referred to as 35 Robertson Road, Scotland Island. The site has frontages to both Robertson Road (south-east) and the Pittwater Waterway (north-west), and a total area of 708.2 ² . Whilst the site is a separate allotment, it currently forms part of a greater estate known as 'Yamba' at 25-33 Robertson Road, with both properties currently in the same ownership. The site was previously free of development, with the exception of existing terracing and stone retaining walls that form part of the established gardens associated with the Yamba estate. However, construction has since commenced on site in relation to development consent N0176/16 and is nearing completion.

Map:



SITE HISTORY

On 6 May 2016, Development Application N0176/16 was lodged with Council seeking consent for the construction of a new dwelling at the subject site.

On 5 September 2016, Development Application N0176/16 was conditionally approved by Council.

On 8 November 2016, Modification Application N0176/16/S96/1 was lodged with Council.

On 8 December 2016, Modification Application N0176/16/S96/1 was approved by Council.

On 20 June 2017, Modification Application N0176/16/S96/2 was lodged with Council.

On 25 July 2017, Modification Application N0176/16/S96/2 was approved by Council.

On 1 September 2018, the subject Modification Application was lodged with Council.

PROPOSED DEVELOPMENT IN DETAIL

The modification application seeks consent for the removal of Tree 32, a mature *Corymbia maculata*, which is nominated for safe retention in the Development Consent.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.55 Assessment

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15(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	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact.
(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	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 N0176/16.
(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	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Regulation 2000 and Pittwater 21 Development Control Plan.

Section 4.15(1A) - Other Modifications	Comments
advertising of applications for modification of a development consent, and	
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – 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 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>
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 Pittwater 21 Development Control Plan 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
	<p>(iii) Economic Impact</p> <p>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 “Public Exhibition” in this report.
Section 4.15 (1) (e) – the public interest	No submissions were received in relation to this application.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The proposed removal of an existing mature canopy tree will not impact upon the recommendations of the Bushfire Report provided to support the original development application, or the resulting conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited 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.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The modification application for removal of tree 32 is supported based on the risk assessment as reported by Birds Tree Consultancy, Consulting Arborist which provides a detailed description of certified protective measures to date, and provides assessment of the increased risk to persons and property that is now evident in the large limbs within the upper canopy.
NECC (Bushland and Biodiversity)	Council's natural environment - biodiversity notes the arborists assessment and recommendation for the trees removal based on safety grounds. The Spotted Gum is a very large significant Spotted Gum with tree hollows that are being used by native fauna. On this basis, conditions have been applied including the supervised removal of the tree, presence of an experienced fauna handler and

Internal Referral Body	Comments
	replacement of the tree with 2 semi advanced Spotted Gums on site.

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)

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
7.6 Biodiversity protection	Yes

Pittwater 21 Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.8 Lower Western Foreshores and Scotland Island Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

POLICY CONTROLS

Pittwater Section 94 Development Contributions Plan

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 approval to Modification Application No. Mod2018/0471 for Modification of Development Consent N0176/16 granted for construction of new two storey dwelling on land at Lot 135 DP 12749,35 Robertson Road, SCOTLAND ISLAND, 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 documents listed in the 'Notice to Application of Determination of a Development Application' for N0176/16, as amended, and in accordance with the following:

a) Modification Approved Documents:

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment Report	22 August 2018	Birds Tree Consultancy

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. Add new Condition B27 to read as follows:

A Project Ecologist is to be employed to ensure fauna (such as possums) using tree hollows in the tree are safely relocated during or prior to the tree removal.

The Project Ecologist will provide certification to the principal certifying authority that all conditions relating to the tree removal are fully implemented.

The Project Ecologist must be an experienced wildlife handler and be a Practising member of the NSW Ecological Consultants Association.

Reason: Fauna Management.

C. Add new Condition D20 to read as follows:

During or prior to tree removal the Project Ecologist is to be present to rescue and re-locate any displaced fauna including the Possum using the tree hollow.

This is to be done by a qualified and experienced Arborist/tree climber, under the direction of the Project Ecologist.

Details prepared by the project ecologist demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: Fauna Management

D. Add new Condition E21 to read as follows:

The Project Ecologist is to provide written certification to confirm strict adherence with the requirements of conditions B27 and D20 of this consent.

Reason: Fauna Management

E. Add new Condition E22 to read as follows:

Two (2) semi advanced 25 litre Spotted Gums are to be planted onsite, in the former location of T32, to compensate for the removal of this significant tree. Tree replacement plantings are to be certified by the project ecologist prior to the issuance of an occupation certificate and are to be safely retained for the life of the development.

Reason: Tree replacement.

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

Signed



Rebecca Englund, Principal Planner

The application is determined on 13/11/2018, under the delegated authority of:



Anna Williams, Manager Development Assessments