

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

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| Application Number: | Mod2021/1015 |
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| Responsible Officer: | Thomas Prosser |
| Land to be developed (Address): | Lot 13 DP 606591, 140 Ocean Street NARRABEEN NSW 2101 |
| Proposed Development: | Modification of Development Consent DA2019/1512 granted for *Demolition and construction of multi dwelling housing |
| Zoning: | Warringah LEP2011 - Land zoned R3 Medium Density Residential |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Trust Mission Strs Of Bless Virgin Mary |
| Applicant: | Mecone Nsw Pty Ltd |

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|----------------------------------|----------------------------------|
| Application Lodged: | 07/02/2022 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Refer to Development Application |
| Notified: | 21/02/2022 to 07/03/2022 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks to modify the approved 'demolition and construction of multi dwelling housing' under DA2019/1512. In detail, the modification involves:

Western portion

- Addition of bathroom
- Relocation of bedrooms, kitchen, dining and laundry
- Internal alterations
- Alteration to windows
- Reduction in size of privacy screen

Southeastern portion

- Alterations to stairs
- Southern living room wall further setback
- Removal of planter
- Removal of side courtyard
- Removal of study
- Removal of side storage
- Five additional support columns on ground floor
- Removal of window

External

- Removal of landscaping, terrace, and family room from carpark roof

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 - B7 Front Boundary Setbacks

Warringah Development Control Plan - B9 Rear Boundary Setbacks

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

SITE DESCRIPTION

| | |
|-----------------------------------|---|
| Property Description: | Lot 13 DP 606591 , 140 Ocean Street NARRABEEN NSW 2101 |
| Detailed Site Description: | <p>The subject site consists of one allotment located on the western side of Ocean Street, Narrabeen.</p> <p>The site is regular in shape with a frontage of 15.95m along</p> |

Ocean Street and a depth of 60.9m. The site has a surveyed area of 957.4m².

The site is located within the R3 Medium Density Residential zone and accommodates a dwelling house.

The site slopes from east to west, with a fall of approximately 1.6m.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by single and multi dwelling house including residential flat buildings.

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:

- DA2019/1512 - Demolition and construction of multi dwelling housing approved on 22/7/2020. This is the subject consent for this modification application.

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 DA2019/1512, 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 |
|---|--|
| <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 proposed modification is of minimal environmental impact, and</p> | <p>Yes The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons: The proposal involves minor changes to the built form, and no change to the overall use and density. As such, the proposed changes will have minimal environmental impact.</p> |
| <p>(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> | <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 DA2019/1512 for the following reasons: The proposal involves minor changes to the built form and not change to the use. These changes represent a development that is substantially the same as the original consent.</p> |
| <p>(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</p> | <p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.</p> |

| Section 4.55(1A) - Other Modifications | Comments |
|--|---|
| 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 | There are no current draft environmental planning instruments. |
| 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&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 92</u> of the EP&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&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 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 | (i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this |

| Section 4.15 'Matters for Consideration' | Comments |
|--|--|
| impacts in the locality | <p>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 | 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 21/02/2022 to 07/03/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

| Internal Referral Body | Comments |
|--|--|
| Building Assessment - Fire and Disability upgrades | <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no concerns with the application subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at</i></p> |

| Internal Referral Body | Comments |
|--------------------------------|--|
| | <i>Construction Certificate Stage.</i> |
| Landscape Officer | <p>No objections are raised to the proposed modification with regard to landscape issues.</p> <p>Existing conditions are considered to be still relevant and adequate.</p> |
| NECC (Development Engineering) | No objections to the proposed modification of the apartment building as all the changes relate to the building and do not affect the stormwater management system. |
| Traffic Engineer | <p>Basic Details</p> <p>The proposal seeks consent for the following works:</p> <ul style="list-style-type: none"> • Demolition of the existing single-story clad dwelling, fibro garage, garden shed, concrete driveway, and pavers located on the site • Construction of two x 2-bedroom apartments • Construction of one x 4-bedroom dwelling • Construction of an at grade carpark and detached flat roof carport which make provision for: <ul style="list-style-type: none"> - 5 car parking spaces; - 4 bicycle spaces; • Construction of a fence along the street frontage; and • Associated landscape works. <p>Traffic:</p> <ul style="list-style-type: none"> · No additional traffic impact due to the modification. <p>Parking:</p> <ul style="list-style-type: none"> · The number of parking spaces is not changed from the originally approved DA. · The modification provides four (4) bicycle spaces. <p>Parking provisions satisfy the requirements.</p> |

| Internal Referral Body | Comments |
|------------------------|--|
| | <p>Access and swept paths: Vehicular access is not modified, hence swept paths are not required.</p> <p>Pedestrian safety: No concerns.</p> <p>Public transport availability Available on Ocean Street and Pittwater Road.</p> <p>Conclusion Given the above, the development proposal can be approved with conditions. <u>Assessing officer comment</u></p> <p>There is no change to the car parking or access (with the exception of additional bike spaces). As such, there is not an sufficient nexus between what is proposed under this application and new conditions for car parking and access. As such, these conditions have not been imposed.</p> |
| Waste Officer | <p>Waste Management Assessment Recommendation - acceptable, subject to conditions Ray Creer Waste Services Officer</p> |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

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 BASIX certificate has been submitted with the application (see Certificate No. 1057073M).

The BASIX Certificate indicates that the development will achieve the following:

| Commitment | Required Target | Proposed |
|-----------------|-----------------|----------|
| Water | 40 | 40 |
| Thermal Comfort | Pass | Pass |
| Energy | 50 | 53 |

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The proposal is unlikely to have an adverse impact on any of the above.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The proposal design and siting will avoid any adverse impacts on the biophysical, hydrological, ecological and/or coastal environment.

14 Development on land within the coastal use area

- (1)
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposal is not likely to have adverse impact on the surrounding coastal environment.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The development is unlikely to cause increased risk of coastal hazards on the subject site or other land.

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 | 7.2m | 7.2m | N/A | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|--------------------------------------|------------------------------|
| 2.7 Demolition requires consent | Yes |
| 4.3 Height of buildings | Yes |
| 5.3 Development near zone boundaries | Yes |
| 5.8 Conversion of fire alarms | Yes |
| 6.1 Acid sulfate soils | Yes |
| 6.2 Earthworks | Yes |
| 6.4 Development on sloping land | Yes |

Warringah Development Control Plan

Built Form Controls

| Standard | Requirement | Approved | Proposed | Complies |
|------------------------------|-------------|--------------------------------------|--------------------------------------|---------------|
| B2 Number of storeys | 2 | 2 | 2 | Yes |
| B3 Side Boundary Envelope | 4m | Within | Within | Yes |
| | 4m | Within | Within | Yes |
| B5 Side Boundary Setbacks | 4.5m | 4.5m | 4.5m | Yes |
| | 4.5m | 4.5m | 4.5m | Yes |
| B7 Front Boundary Setbacks | 6.5m | 6m (Carport) 11.8m (Dwelling) | 6m (Carport) 11.8m (Dwelling) | No/ unaltered |
| B9 Rear Boundary Setbacks | 6m | 2.4m (Courtyard) 6.54m (Dwelling) | 2.4m (Courtyard) 6.54m (Dwelling) | No/ unaltered |
| D1 Landscaped Open Space and | 40% | 31.19% | 32% (300sqm) | No (see |

| | | | | |
|------------------|--|------------|--|-----------|
| Bushland Setting | | (298.6sqm) | | comments) |
|------------------|--|------------|--|-----------|

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|-------------------------------------|------------------------------------|
| A.5 Objectives | Yes | Yes |
| B2 Number of Storeys | Yes | Yes |
| B3 Side Boundary Envelope | Yes | Yes |
| B5 Side Boundary Setbacks | No | Yes |
| B7 Front Boundary Setbacks | No | Yes |
| B9 Rear Boundary Setbacks | No | 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 |
| D1 Landscaped Open Space and Bushland Setting | No | 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 |
| D13 Front Fences and Front Walls | Yes | Yes |
| D14 Site Facilities | Yes | Yes |
| D15 Side and Rear Fences | Yes | Yes |
| D19 Site Consolidation in the R3 and IN1 Zone | 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 |
| 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

Description of non-compliance

Clause B5 of the WDCP 2011 stipulates that development is to be setback at least 4.5m from side boundaries. The proposed courtyard on the northern side of the development is setback 1.8m, non-compliant with the numeric control. represents a 60% variation to the numeric control.

Merit consideration

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

- *To provide opportunities for deep soil landscape areas.*

Comment:

A discussion on the provision of landscaping can be found in this report under Part D1 which concludes that the landscaped solution proposed is acceptable.

- *To ensure that development does not become visually dominant.*

Comment:

The development is not found to be of a scale or architecture that is unreasonably visually dominant. The area of non-compliance is located at ground level and is not of an unseasonable bulk and scale. Given these factors it is not considered that the courtyard will be visually dominant when viewed from the public domain. Further, the structure will not be visually dominant when viewed from both the properties to the north and south.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

The bulk of the development is considered to be acceptable within the R3 Medium Density Residential zone given the size of the allotment and the opportunities present for additional landscaping. The proposed development is consistent with the 8.5m Height of Building development standard, the primary control of bulk and scale. No further design changes are warranted to further minimise the bulk and scale of the development.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment:

As noted above, the proposed development adjoins similar size and scale development to neighbouring properties. The areas of non-compliance will not give rise to unreasonable privacy impacts to adjoining properties. Furthermore, the non-compliant components of the development will not result in an unreasonable level of overshadowing to the adjoining property to the south.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment:

The proposed development will not compromise views from to and from public and private properties including neighbouring properties.

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.

B7 Front Boundary Setbacks

Description of non-compliance

The control requires development to be setback 6.5m from the front boundary. The proposed carport is setback 6m, non-compliant with the numeric control. This represents a 7.7% variation to the numeric control.

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 carport occupies a small portion of the front setback area and ensures compliance with the parking requirements on site. In turn, the carport will not be visually imposing within the streetscape and will encourage a sense of openness. The variation sought to the front setback requirement is not found to detract from a sense of openness given that the proposed carport is of an open design.

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

Comment:

The proposed development is consistent with the established front setback along Ocean Street. Other surrounding allotments to the north and south have structures similarly within the front boundary line, and thereby the pattern of buildings is maintained.

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

Comment:

The encroaching elements are minor structures and are generally appropriate to the ground level, with landscape spaces adjacent. Landscape planting includes a mix of deep soil grassed

areas, small to medium shrubs and small trees appropriate to the coastal environment. In this regard, the landscaping proposed will ensure the development does not have an adverse impact on the visual quality of Ocean Street.

- *To achieve reasonable view sharing.*

Comment:

The proposed carport will not compromise views to and from private and public properties.

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.

B9 Rear Boundary Setbacks

Description of non-compliance

The control requires a rear setback of 6.0m. The proposed rear courtyard is setback 2.4m, non-compliant with the numeric control. This represents a 60% variation to the numeric control.

Merit consideration:

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

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

Despite the shortfall in landscaped open space, the proposal allow for adequate opportunities for deep soil landscape areas across the site.

- *To create a sense of openness in rear yards.*

Comment:

The non-complaint components of the proposal pertaining to the rear setback control occupy only a minor aspect of the rear setback area. In this regard, the proposed development is not considered to detract from a sense of openness within the rear yard.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

No unreasonable privacy impacts are anticipated to arise as a result of the proposed development. The proposed courtyard is sufficiently setback from the rear boundary so as not to encourage any unreasonable overlooking impacts between properties.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

Due to the irregularity of the allotment dimensions within the locality, there is not an established rear building line prevalent across nearby properties. This assessment concludes that the location of the proposal in relation to the rear boundary is acceptable, given no unreasonable amenity impacts will be associated with the development. Furthermore, the proposal does not necessitate the removal of important trees or significant landscape features within the rear yard.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

As noted above, the proposal will not give rise to unreasonable privacy impacts.

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 section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

The proposal does not comply with the control for Landscaped Open Space. However, the removal of the courtyard and re-arrangement of the bicycle parking results in a net increase of total landscaped area for the site.

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 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. Mod2021/1015 for Modification of Development Consent DA2019/1512 granted for *Demolition and construction of multi dwelling housing on land at Lot 13 DP 606591,140 Ocean Street, NARRABEEN, 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

| Architectural Plans - Endorsed with Council's stamp | | |
|--|--------------|--------------------|
| Drawing No. | Dated | Prepared By |
| DA101 - Ground Floor Plan | 1/12/2021 | John O'Brien |
| DA102 - Level 01 Plan | 1/12/2021 | John O'Brien |
| DA103 - Roof Plan | 1/12/2021 | John O'Brien |
| DA105 - Elevation North and South | 1/12/2021 | John O'Brien |
| DA106 - Elevation East and West | 1/12/2021 | John O'Brien |
| DA200 - External Finishes | 1/12/2021 | John O'Brien |

| Engineering Plans | | |
|--------------------------|--------------|-------------------------------|
| Drawing No. | Dated | Prepared By |
| Stormwater Plans | 23/11/2021 | Civil and Structural Engineer |

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

c) The development is to be undertaken generally in accordance with the following:

| Landscape Plans | | |
|---------------------------|--------------|--------------------|
| Drawing No. | Dated | Prepared By |
| SK010 - Landscape Drawing | 10/11/2021 | John O'Brien |

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



Thomas Prosser, Planner

The application is determined on 28/06/2022, under the delegated authority of:



Steven Findlay, Manager Development Assessments