

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

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| Application Number: | Mod2022/0529 |
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|---|---|
| Responsible Officer: | Grace Facer |
| Land to be developed (Address): | Lot 20 DP 241475, 26 Jeanette Avenue MONA VALE NSW 2103 |
| Proposed Development: | Modification of Development Consent DA2020/1682 granted for Alterations and additions to a dwelling house |
| Zoning: | R2 Low Density Residential |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Amanda Keira Baker Thomas Edward Baker |
| Applicant: | Thomas Edward Baker |

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|----------------------------------|----------------------------------|
| Application Lodged: | 07/10/2022 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Refer to Development Application |
| Notified: | 13/10/2022 to 27/10/2022 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

PROPOSED DEVELOPMENT IN DETAIL

The modification application seeks to make alterations to the approved development under DA2020/1682.

Specifically, the proposal comprises of the following works:

Ground Floor

- Modify and extend the approved laundry
- Modify and extend the approved dining room

- New eave over the approved front porch

First Floor

- New stair access from the rear yard to the balcony

Roof

- New ground floor roof form
- Extension of the eastern balcony roof on the first floor

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

Pittwater 21 Development Control Plan - D9.6 Front building line
Pittwater 21 Development Control Plan - D9.9 Building envelope
Pittwater 21 Development Control Plan - D9.10 Landscaped Area - General

SITE DESCRIPTION

| | |
|-----------------------------------|---|
| Property Description: | Lot 20 DP 241475 , 26 Jeanette Avenue MONA VALE NSW 2103 |
| Detailed Site Description: | <p>The subject site consists of one allotment located on the eastern side of Jeanette Avenue.</p> <p>The site is irregular in shape with a frontage of 32.8m and a maximum depth of 36.575m. The site has a surveyed area</p> |

of 698m².

The site is located within the R2 Low Density Residential zone and accommodates a residential dwelling house with an inground swimming pool located within the rear yard. Works have commenced on the site under the development consent for DA2020/1682 for alterations and additions to the dwelling house including a first floor addition, new entry and porch, double garage and various internal configurations to the ground floor.

Vegetation on the site consists of lawn areas and garden beds and the front of the site contains several tall native trees. There are no details of any threatened species on the subject site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by one and two storey residential dwelling houses varying in architectural style and design.

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:

DA2020/1682

Alterations and additions to a dwelling house
Approved on 30 April 2021

N0199/07

Complying Development Certificate for screen enclosure
Application Date - 18 May 2007

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 DA2020/1682, 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 proposed modifications, being relatively minor, are anticipated to have minimal environmental impact • The proposal will not adversely impact the amenity of the site or surrounding properties • The proposal requires very minimal additional earthworks • The landscaped open space area approved under DA2020/1682 will be retained as the minor modifications at the ground level occur over an existing concrete area |
| (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 | The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under |

| Section 4.55(1A) - Other Modifications | Comments |
|--|--|
| <p>granted and before that consent as originally granted was modified (if at all), and</p> | <p>DA2020/1682 for the following reasons:</p> <ul style="list-style-type: none"> • The proposed modifications are relatively minor in nature and will result in substantially the same development as approved under DA2020/1682 as the change to the building height is small (0.2m) and the setbacks previously approved will be retained • The modified development retains the approved architectural design • No changes are proposed to previously approved building colours or materials |
| <p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p> | <p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.</p> |
| <p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p> | <p>No submissions were received in relation to this application.</p> |

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 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 | Pittwater 21 Development Control Plan applies to this proposal. |

| Section 4.15 'Matters for Consideration' | Comments |
|--|--|
| Section 4.15 (1) (a)(iii) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021) | <p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition 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> <p>(iii) Economic Impact</p> |

| Section 4.15 'Matters for Consideration' | Comments |
|--|--|
| | The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use. |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report. |
| Section 4.15 (1) (e) – the public interest | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 13/10/2022 to 27/10/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

REFERRALS

| Internal Referral Body | Comments |
|--------------------------------|---|
| NECC (Development Engineering) | No objections to approval. No changes to the conditions of DA2020/1682. |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.A399552_03 dated 4 August 2022).

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

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 |

Principal Development Standards

| Development Standard | Requirement | Approved | Proposed | % Variation | Complies |
|----------------------|-------------|----------|----------|-------------|----------|
| Height of Buildings: | 8.5m | 6.6m | 6.8m | - | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|-------------------------|------------------------------|
| 4.3 Height of buildings | Yes |
| 5.21 Flood planning | Yes |
| 7.1 Acid sulfate soils | Yes |
| 7.2 Earthworks | Yes |
| 7.10 Essential services | Yes |

Pittwater 21 Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Approved | Proposed | Complies |
|---------------------|-------------|----------|---------------------------------------|-------------|
| Front building line | 6.5m | 4.9m | Unaltered (Approved Variation: 2.46%) | As approved |

| | | | | |
|--------------------|--------------------------|-------------------------------|---------------------------------------|-------------|
| Rear building line | 6.5m | 10.3m | 8m | Yes |
| Side building line | 2.5m (North) | 4.2m | Unaltered | Yes |
| | 1m (South) | 1.8m | Unaltered | Yes |
| Building envelope | 3.5m (North) | Within Envelope | Unaltered | Yes |
| | 3.5m (South) | Outside Envelope | Unaltered (Approved Variation: 5.6%) | As approved |
| Landscaped area | 50% (349m ²) | 33.4% (233.13m ²) | Unaltered (Approved Variation: 33.2%) | As approved |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted | Yes | Yes |
| A4.9 Mona Vale Locality | Yes | Yes |
| B1.3 Heritage Conservation - General | Yes | Yes |
| B1.4 Aboriginal Heritage Significance | Yes | Yes |
| B3.6 Contaminated Land and Potentially Contaminated Land | Yes | Yes |
| B3.11 Flood Prone Land | Yes | Yes |
| B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land | Yes | Yes |
| B5.15 Stormwater | Yes | Yes |
| B8.1 Construction and Demolition - Excavation and Landfill | Yes | Yes |
| B8.3 Construction and Demolition - Waste Minimisation | Yes | Yes |
| B8.4 Construction and Demolition - Site Fencing and Security | Yes | Yes |
| B8.6 Construction and Demolition - Traffic Management Plan | Yes | Yes |
| C1.1 Landscaping | Yes | Yes |
| C1.2 Safety and Security | Yes | Yes |
| C1.3 View Sharing | Yes | Yes |
| C1.4 Solar Access | Yes | Yes |
| C1.5 Visual Privacy | Yes | Yes |
| C1.6 Acoustic Privacy | Yes | Yes |
| C1.7 Private Open Space | Yes | Yes |
| C1.12 Waste and Recycling Facilities | Yes | Yes |
| C1.13 Pollution Control | Yes | Yes |
| C1.23 Eaves | Yes | Yes |
| D9.1 Character as viewed from a public place | Yes | Yes |
| D9.2 Scenic protection - General | Yes | Yes |
| D9.3 Building colours and materials | Yes | Yes |
| D9.6 Front building line | No | Yes |
| D9.7 Side and rear building line | Yes | Yes |
| | | |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---------------------------------|------------------------------|-----------------------------|
| D9.9 Building envelope | No | Yes |
| D9.10 Landscaped Area - General | No | Yes |

Detailed Assessment

D9.6 Front building line

The proposed modification works do not alter the non-compliant front setback approved under DA2020/1682. Therefore, the outcomes of the original consent are maintained and a detailed merit assessment is not required in this instance.

D9.9 Building envelope

The proposed modification works do not alter the non-compliant southern side boundary envelope approved under DA2020/1682. Therefore, the outcomes of the original consent are maintained and a detailed merit assessment is not required in this instance.

D9.10 Landscaped Area - General

The proposed modification works do not alter the non-compliant landscaped area on the subject site approved under DA2020/1682. Therefore, the outcomes of the original consent are maintained and a detailed merit assessment is not required in this instance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- 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. Mod2022/0529 for Modification of Development Consent DA2020/1682 granted for Alterations and additions to a dwelling house on land at Lot 20 DP 241475,26 Jeanette Avenue, MONA VALE, 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 |
| Site Plan and Site Analysis - Drawing No.A01 Revision B | 9 September 2022 | Raise the Roof |
| Existing Floor Plan - Drawing No.A02 Revision A | 4 January 2021 | Raise the Roof |
| Proposed Ground Floor Plan - Drawing No.A03 Revision B | 9 September 2022 | Raise the Roof |
| Proposed First Floor Plan - Drawing No.A04 Revision B | 9 September 2022 | Raise the Roof |
| West and East Elevations - Drawing No.A05 Revision B | 9 September 2022 | Raise the Roof |
| North and South Elevations - Drawing No.A06 Revision B | 9 September 2022 | Raise the Roof |

| | | |
|--|------------------|----------------|
| Section Plans (A-A and B-B) - Drawing No.A07 Revision B | 9 September 2022 | Raise the Roof |
| Window Schedule - Drawing No.A09 Revision B | 9 September 2022 | Raise the Roof |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|--|---------------|--|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| BASIX Certificate No.A399552_03 | 4 August 2022 | Jacaranda Trading International Pty Ltd |

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



Grace Facer, Planner

The application is determined on 31/10/2022, under the delegated authority of:



Steven Findlay, Manager Development Assessments