

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0259
Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 1 S/P 19795, 1 / 2 Darley Street East MONA VALE NSW 2103
Proposed Development:	Modification of Development Consent DA2018/0423 granted for alterations and additions to a dwelling
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Melinda Jane Bailey David Cameron Cosgrave Wendy Elizabeth Cosgrave John Leigh Bailey
Applicant:	JJ Drafting
Application Lodged:	17/05/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	25/05/2021 to 08/06/2021
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves modification to the existing approval for alterations and additions to the existing dwelling. In detail, this involves:

Ground Floor

- Relocation of external stair to south east balcony

First Floor

- Floor level raised from RL7.36 to RL7.38

- Balcony Level raised from RL7.26 to RL7.28
- Deletion of Window 3
- Removal of wall between family room and bedroom 3 (replaced with bi-fold door)
- New kitchen (relocated from top level)
- Opening heights raised to 2.345m
- Increase in height to the following openings: N5, W11, N6, D3, W9, W8, N9, N8
- Balcony window to the north east replaced with a solid balustrade with privacy screen above
- Reduction in length of sliding door

Second Level

- Floor level raised from RL10.37 to RL10.42
- Balcony Level raised from RL0.27 to RL10.32
- New wet bar (relocation of kitchen)
- Opening heights raised to 2.345m
- Reduction in length of sliding door
- Approved balcony window replaced with solid balustrade
- Approved pantry to form a store cupboard
- Internal cupboard near entry to be deleted
- Increase in height to the following openings: W24, D4, W22, W21, N11, N10

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 1 S/P 19795 , 1 / 2 Darley Street East MONA VALE NSW 2103
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Detailed Site Description:

The subject site consists of one (1) allotment located on the north-eastern side of Darley Street East, adjacent to Apex Park.

The site is regular/irregular in shape with a frontage of 15.24m along Darley Street East and a depth of 45.72m. The site has a surveyed area of 696.8m².

The site is located within the R3 Medium Density Residential zone and accommodates a three-storey detached dwelling and a two-storey detached dwelling (subject of this application).

The site is relatively level and includes some minor vegetation.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by two- and three-storey detached dwellings, and three-storey 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:

- DA2018/0423 was approved for Alterations and additions on 12 October 2018. This application has been modified under MOD2020/0222 and MOD2020/0421.

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 DA2021/0375, 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> <p>The proposal maintains the existing footprint of the building and involves minor modifications to openings, internal area, and levels of the building. These changes do not result in any substantial addition of bulk or any additional area which would allow for an unreasonable environmental impact.</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>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 DA2021/0375 for the following reasons:</p> <p>The proposal involves changes to the approved alterations and additions that are within the existing footprint, as well as minor changes to levels. As such, the proposal will not result in any substantial bulk or change of use that would substantially change the existing consent.</p>
(c) it has notified the application in accordance with:	The application has been publicly exhibited in accordance with the Environmental Planning and

Section 4.55(1A) - Other Modifications	Comments
(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	Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environment Plan and Pittwater Development Control Plan.
(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	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)(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)	<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.

Section 4.15 'Matters for Consideration'	Comments
	<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 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 Manly 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 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 25/05/2021 to 08/06/2021 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Mark Stephen Schafer	2 / 2 Darley Street East MONA VALE NSW 2103

The matters raised within the submissions are addressed as follows:

- Concern regarding overlooking from all windows on the south-west elevation. Request for louvres and opaque glass.

Comment:

This proposal involves minor changes to the height of the windows at the south-west elevation. The top level windows will retain the approved timber louvre shutters, and the lower floor windows will be maintained as high level (highlight) windows. As such, potential for overlooking is minimised to a reasonable extent.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	No Development Engineering objection to the MOD with no conditions. The proposal is therefore supported.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed DA generally meets the flood controls in the LEP and DCP.
Parks, reserves, beaches, foreshore	The application is to modify development consent DA2018/0423 for proposed alterations and additions to an existing dwelling. The development site adjoins Apex Park. Parks & Reserves raise no objections to the proposed modification.
Property Management and Commercial	The proposal is for modifications to a previously approved DA. Property has no objections to the proposal as submitted.

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.A416590).

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

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:	8m above 5.55 AHD Flood Planning Level (13.55 AHD)	13.04 AHD (8.57m)	13.04 AHD -no change (8.57m)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	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	28.47m	28.47m / unaltered	Yes
Rear building line	6.5m	3.65m	3.65m	No (unaltered)
Side building line	2.5m	3.225m (northwest)	3.225m (northwest)	Yes
	1m	1.13m (southeast)	1.13m (southeast)	Yes
Building envelope	3.5m	Within envelope (northwest)	Within envelope / unaltered	Yes
	3.5m	1.38m outside envelope (southeast)	1.38m outside envelope (southeast)	No (unaltered)
Landscaped area	50%	36.5% (254sqm)	36.5% (254sqm) / unaltered	No (unaltered)

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
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	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
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	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	Yes	Yes
D9.7 Side and rear building line	No	Yes
D9.9 Building envelope	No	Yes
D9.10 Landscaped Area - General	No	Yes
D9.12 Fences - General	Yes	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

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;
- 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. Mod2021/0259 for Modification of Development Consent DA2018/0423 granted for alterations and additions to a dwelling on land at Lot 1 S/P 19795,1 / 2 Darley Street East, 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
DWG02- Ground Floor Plan - Rev I	12/05/21	JJ Drafting
DWG03 - First Floor Plan - Rev I	12/05/21	JJ Drafting
DWG04 - Top Floor Area - Rev I	12/05/21	JJ Drafting
DWG05- South West Elevation - Rev I	12/05/21	JJ Drafting
DWG06- South East Elevation & North West	12/05/21	JJ Drafting

Elevation - Rev I		
DWG07-North East Elevation - Rev I	12/05/21	JJ Drafting
DWG08 - Section AA - Rev I	12/05/21	JJ Drafting

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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 24/06/2021, under the delegated authority of:



Lashta Haidari, Acting Development Assessment Manager