

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

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| Application Number: | Mod2021/0594 |
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| Responsible Officer: | Julie Edwards |
| Land to be developed (Address): | Lot 1 DP 362530, 93 Warriewood Road WARRIEWOOD NSW 2102 |
| Proposed Development: | Modification of Development Consent DA2020/1109 granted for the construction of a dwelling house including secondary 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: | Patrick Joseph Lanzon Jannette Ann Lanzon Helga Hildegard Vaughan |
| Applicant: | Patrick Joseph Lanzon |

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| Application Lodged: | 13/08/2021 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Single new detached dwelling |
| Notified: | 23/08/2021 to 06/09/2021 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

PROPOSED DEVELOPMENT IN DETAIL

This proposal seeks to extend the right of carriageway to include the existing sewer inspection shaft for Lot 1 to be within the boundaries of Lot 1. As currently approved the sewer inspection shaft for Lot 1 is located within the boundaries of Lot 2.

Current approved lot sizes are as follows:

- Rear Lot 2: 868.7m²
- Front Lot 1: 551.6m²

The amendments will result in the following lot sizes:

- Rear Lot 2: 852.2m²
- Front Lot 1: 569.3m²

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 - A4.16 Warriewood Valley Locality

SITE DESCRIPTION

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| Property Description: | Lot 1 DP 362530 , 93 Warriewood Road WARRIEWOOD NSW 2102 |
| Detailed Site Description: | <p>The subject site consists of one (1) allotment located on the western side of Warriewood Road.</p> <p>The site is irregular in shape with a frontage of 23.775m along Warriewood Road and a depth of 52m. The sites have a combined surveyed area of 1442m².</p> <p>The site is located within the R3 Medium Density Residential zone and accommodates a dwelling house to the existing rear lot.</p> <p>The site is currently vacant and has a slope from the street towards the rear (western) boundary with a fall of approximately 2m.</p> |

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by single residential dwelling houses.

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:

Mod2020/0444

Modification of Development Consent N0253/11 granted for subdivision of site into two lots with erection of dwelling and secondary dwelling on the rear lot
Approved - 04/02/2021

PLM2020/0076

Modification of N0253/11 for boundary adjustment and construction of a dwelling house.
Meeting held - 28 April 2020

N0253/11/S96/1

Application relating to the payment of the Section 94 Contribution fees can be paid at subdivision stage rather than with the Construction Certificate. It is also to approve the proposed subdivision which was omitted accidentally in the earlier submission.
Approved - 6 September 2012

N0253/11

Application for subdivision of site and erection of dwelling and secondary dwelling on rear lot.
Approved - 13 March 2012

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 N0253/11, 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 modifications does not result in any unreasonable impacts upon adjoining properties or the natural environment.</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 N0253/11 for the following reasons:</p> <ul style="list-style-type: none"> • The modifications do not alter any elements of the development that were fundamental to the approval of the original application. |
| <p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require, 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</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 |
|--|---|
| 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 |
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| 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 | 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>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. 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 insurance requirements under the Home Building Act 1989. This matter has been addressed via a</p> |

| Section 4.15 'Matters for Consideration' | Comments |
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| | condition in the original consent. Clause 98 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. |
| 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 | (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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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. |
| 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 23/08/2021 to 06/09/2021 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 of the application Council received no submissions.

REFERRALS

| Internal Referral Body | Comments |
|--------------------------------|----------------------------|
| NECC (Development Engineering) | No objections to approval. |

| External Referral Body | Comments |
|------------------------|--|
| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended. |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

Pittwater Local Environmental Plan 2014

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| 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 | Complies |
|-------------------------------|---------------------|--|--|----------|
| Minimum subdivision lot size: | No Minimum lot size | Lot 1: 551.6m ² Lot 2: 868.7m ² | Lot 1: 569.3m ² Lot 2: 852.2m ² | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|--|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments | Yes |
| 5.10 Heritage conservation | Yes |
| 6.1 Warriewood Valley Release Area | Yes |
| 7.10 Essential services | Yes |

Pittwater 21 Development Control Plan

Built Form Controls

The Built Form Controls do not apply to the subject application as the proposal is for a boundary adjustment.

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted | Yes | Yes |
| A4.16 Warriewood Valley Locality | Yes | Yes |
| B3.6 Contaminated Land and Potentially Contaminated Land | Yes | Yes |
| B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land | 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 |
| C6.8 Residential Development Subdivision Principles | Yes | Yes |
| C6.9 Residential Land Subdivision Approval Requirements | Yes | Yes |

Detailed Assessment

A4.16 Warriewood Valley Locality

No amendment to the approved number of dwellings is proposed under this modification.

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.

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
- Inconsistent 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. Mod2021/0594 for Modification of Development Consent DA2020/1109 granted for the construction of a dwelling house including secondary dwelling on land at Lot 1 DP 362530,93 Warriewood Road, WARRIEWOOD, 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 |
| Plan of Subdivision of Lot 1 in DP 362530 Sheet 1 of 1 sheets | 01-03-2021 | George Owusu-Afriyie |

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



Julie Edwards, Planner

The application is determined on 16/09/2021, under the delegated authority of:



Lashta Haidari, Acting Development Assessment Manager