

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2019/0656
Responsible Officer:	Kelsey Wilkes
Land to be developed (Address):	Lot 16 DP 23008, 74 Narrabeen Park Parade WARRIEWOOD NSW 2102
Proposed Development:	Modification of Development Consent DA2019/0134 granted for construction of a detached home office
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Lucy Rebecca Harley Nicholas James Harley
Applicant:	Nicholas James Harley
Application Lodged:	20/12/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	22/01/2020 to 05/02/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The application proposes to modify DA2019/0134 for which development consent was granted for the construction of a detached home office (home occupation) on 22 May 2019.

The proposal includes the following:

- Addition of three (3) 4000 Litre OSD tanks to be located adjacent to the western elevation of the home office
- Addition of one (1) 2000 Litre rainwater tank to be located adjacent to the southern elevation of the home office
- Addition of one (1) 1000 Litre rainwater tank to be located adjacent to the north western corner of the existing dwelling

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 - D14.8 Side and rear building line

SITE DESCRIPTION

Property Description:	Lot 16 DP 23008 , 74 Narrabeen Park Parade WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The subject site consists of Lot 16 within DP 23008 and is located on the western side of Narrabeen Park Parade, Warriewood.</p> <p>The site is slightly irregular in shape with a frontage of 18.29m along Narrabeen Park Parade and a depth of 45.72 and 45.75 meters. The site has a surveyed area of 771.4m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates an existing dwelling house and detached home office currently under construction. Further alterations and additions have been granted by Council including a pool in the rear yard.</p> <p>The site falls steeply by approximately 10 meters from east to west (front to rear).</p> <p>Landscaping on site is characterised by native vegetation and small to medium shrubs.</p>

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by one and two storey residential dwellings of varying ages, sizes and architectural styles.

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:

N0465/14

Alterations and additions to the dwelling including a new upper storey, swimming pool and carport - Approved 30 July 2015

Mod2018/0481

Modification of development consent N0465/14 granted for alterations and additions to the dwelling including a new upper storey, swimming pool and carport - Approved 5 February 2019

DA2019/0134

Construction of a detached home office (home occupation) - Approved 22 May 2019

NOC2019/1300

Construction of a detached home office (home occupation)

CC2019/1184

Construction of a detached home office (home occupation)

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 DA2019/0134 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	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/0134.
(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 consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided	See discussion on "Notification & Submissions Received" in this report.

Section 4.55(1A) - Other Modifications	Comments
by the development control plan, as the case may be.	

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 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 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>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 insurance requirements</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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 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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Matthew

Willis of Bushfire Planning Services Pty Ltd, dated 15 February 2019) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	<p>No objection to approval, subject to the following modification.</p> <p>Condition 10 (DA2019/0134) shall be replaced by the following.</p> <p>On-site Stormwater Detention</p> <p>An On-site Stormwater Detention system must be designed and constructed in accordance with Northern Beaches Council's Pittwater 21 DCP Clauses B5.7 and B5.10 and generally in accordance with the concept drainage plans prepared by Peninsula Consulting Engineers, drawing number 17-0927, H01, Rev D & H02, Rev C, dated December 2019 and the geotechnical report by Crozier Geotechnical Consultants.</p> <p>Detailed drainage plans are to be prepared by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field.</p> <p>Detailed drainage plans, including engineering certification from the Hydraulics and Geotechnical Engineers confirming the above requirements have been satisfied and complying with Council's requirements, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.</p> <p>Reason: To ensure appropriate provision for the disposal of storm water and storm water management arising from the development.</p>

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.

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:

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 proposed modification includes the addition of OSD and rainwater tanks. These works are located well away from the coast to the east and will not have any significant or unreasonable impacts on any of the matters for consideration listed above.

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 proposal is not likely to cause any increased risk of coastal hazards being located within the rear yard of a site which has numerous buffers including a road and public reserve between itself and the coast.

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	Home office - 4.4m	Tanks - 2.3m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form	Requirement	Approved	Proposed	Complies
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Control				
Front building line	6.5m	33.4m	Unaltered	Yes
Rear building line	6.5m	6.5m	5m	No (see further discussion under Part D14.8)
Side building line	2.5m	2.565m (South)	2m	No (see further discussion under Part D14.8)
	1m	1.1m (North)	2.4m	Yes
Building envelope	3.5m	Within	Unaltered	Yes
	3.5m	Within	Unaltered	Yes
Landscaped area	60%	60.6%	60%	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.14 Warriewood Locality	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D14.1 Character as viewed from a public place	Yes	Yes
D14.7 Front building line	Yes	Yes
D14.8 Side and rear building line	Yes	Yes
D14.11 Building envelope	Yes	Yes
D14.13 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D14.18 Scenic Protection Category One Lands	Yes	Yes

Detailed Assessment

D14.8 Side and rear building line

It is noted that four (4) of the proposed tanks located adjacent to the home office encroach slightly into the side and rear setback area. However, the definition of building line or setback under the PLEP 2014 refers to *a building wall, the outside face of any balcony, deck or the like, or the supporting posts of a carport or verandah roof*. The proposed tanks are therefore permitted to encroach within these setback areas as they do not form part of the measured setback distance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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. Mod2019/0656 for Modification of Development Consent DA2019/0134 granted for construction of a detached home office on land at Lot 16 DP 23008,74 Narrabeen Park Parade, 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
01 - Site Plan / Landscape Plan	June 2019	Gartner Trovato Architects
02 - Level Basement Plan	June 2019	Gartner Trovato Architects
10 - Home Office - Elevations	June 2019	Gartner Trovato Architects
H01 - Concept Stormwater Management Plan & Details	17 December 2019	Peninsula Consulting Engineers
H02 - Concept Stormwater Calculations & Details	17 December 2019	Peninsula Consulting Engineers

Engineering Plans		
Drawing No.	Dated	Prepared By
H01 - Concept Stormwater Management Plan & Details	17 December 2019	Peninsula Consulting Engineers
H02 - Concept Stormwater Calculations & Details	17 December 2019	Peninsula Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report	August 2018	Crozier Geotechnical Consultants
Bushfire Report	15 February 2019	Bushfire Planning Services Pty Ltd
BASIX Certificate no. 994415S_03	16 December 2019	Gartner Trovato Architects

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

B. Modify Condition 10 to read as follows:

On-site Stormwater Detention

An On-site Stormwater Detention system must be designed and constructed in accordance with Northern Beaches Council's Pittwater 21 DCP Clauses B5.7 and B5.10 and generally in accordance with the concept drainage plans prepared by Peninsula Consulting Engineers, drawing number 17-0927, H01, Rev D & H02, Rev C, dated December 2019 and the geotechnical report by Crozier Geotechnical Consultants.

Detailed drainage plans are to be prepared by a qualified experienced practicing Civil Engineer, with

Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field.

Detailed drainage plans, including engineering certification from the Hydraulics and Geotechnical Engineers confirming the above requirements have been satisfied and complying with Council's requirements, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of storm water and storm water management arising from the development.

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

Signed



Kelsey Wilkes, Planner

The application is determined on 13/02/2020, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments