

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0481
Responsible Officer:	David Auster
Land to be developed (Address):	Lot 16 DP 23008, 74 Narrabeen Park Parade WARRIEWOOD NSW 2102
Proposed Development:	Modification of Development Consent N0465/14 granted for Alterations and additions to the dwelling including a new upper storey swimming pool and carport
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:	07/09/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	13/09/2018 to 01/10/2018
Advertised:	Not Advertised
Submissions Received:	3
Recommendation:	Approval

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 16 DP 23008 , 74 Narrabeen Park Parade WARRIEWOOD NSW 2102
Detailed Site Description:	The site is known as 74 Narrabeen Park Parade, Warriewood and has a legal description of Lot 16 in Deposited Plan 23008. The site is regular in shape and has a total area of 794.6m ² . Vehicular and pedestrian access is gained via the 18.29m wide frontage of Narrabeen Park Parade. The site is located on the northern side of Narrabeen Park Parade and experiences a fall of 11.93m from the eastern front boundary of the site, down towards the western rear boundary, with a slope of approximately 24.4%. The site is currently occupied by a single dwelling and attached garage. The property is surrounded by residential properties to the north, south and west, and Warriewood beach Reserve is located adjacent to the site to the north and east. North Narrabeen Reserve is located to the far south.

Map:



SITE HISTORY

Application N0465/14 for Alterations and additions to the dwelling including a new upper storey, swimming pool and carport was approved by Council on 30/07/2015.

PROPOSED DEVELOPMENT IN DETAIL

The proposed modifications involve deletion of the approved living spaces for the cinema and games room on the Basement level. The approved pool is to be reduced in size. A new home office is also proposed to be built in the rear yard area.

As a result of the assessment, the home office was considered to be beyond what could be considered under a modification application, given what was approved under the original development application. As such, the applicant was requested to remove the home office from the plans.

Amended plans were submitted with the home office removed. Re-notification of the application was not considered necessary in this case, as the environmental impacts were reduced in accordance with the Pittwater Development Control Plan.

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 N0465/14, 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 the amended plans for this application, is considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the	The development, as proposed, was found to be such that Council was not satisfied that the proposed works were

Section 4.55(1A) - Other Modifications	Comments
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	substantially the same as those already approved under N0465/14. This was due to the inclusion of the home office, which was completely separate from the dwelling, and represented a significant new element to the approved development. However, the home office has now been deleted from the plans. The other proposed modifications are generally minor in nature, and result in a development that will be substantially the same as that previously approved under N0465/14.
(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 2011 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 by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

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 '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 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, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No Additional information was requested.</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 insurance requirements 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</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>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 (prepared by Bushfire Planning Services dated 31 August 2018) 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 process council is in receipt of 3 submission/s from:

Name:	Address:
Mrs Tracey Jane Van Grieken	76 Narrabeen Park Parade WARRIEWOOD NSW 2102
Gregory Van Grieken	
Mr John Edward Donald Crook Mrs Dianne Barbara Gibbons Crook	65 Sydney Road WARRIEWOOD NSW 2102

The following issues were raised in the submissions and each have been addressed below:

- Carport roof overhang and privacy screen
- Home office

The matters raised within the submissions are addressed as follows:

- Carport roof overhang and privacy screen
Comment: Concerns were raised by the northern adjoining neighbours that the increased height of the parking platform and carport would lead to greater impacts on their privacy and amenity due to the bulk and scale. They requested a privacy screen on the carport, and a reduction in the extent of the roof overhang on the northern side.

The proposed modifications do not relate to the carport or parking platform. The changes to those elements are a result of an existing condition of consent to make the driveway and parking area conform to Council driveway profiles. As such, it is not considered reasonable to apply new conditions of consent to this element of the development, as there is no strong nexus between the modifications proposed and this element.

- Home office
Comment: Concerns were raised by neighbours to the north and to the rear regarding the home office shown on the plans. The neighbours to the north requested Council assess the development in accordance with the relevant planning controls. The neighbours to the rear raised the following concerns with the home office:

- The home office should not be a modification but a new application
- Home office will be used as a dwelling with resulting amenity impacts
- Height of the structure causing privacy impacts
- Shading
- Stormwater
- Use of the home office for short term letting

Comment: Section 4.55 of the EP&A Act requires that Council be "*satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted*". The proposed home office represents a significant and substantial new element, which did not form part of the original approval for alterations and additions in any way. In this regard, the submission is supported, and the applicant was requested to delete the home office from the plans. The applicant has provided amended plans which do not include the home office.

As such, the submissions are considered to be generally satisfied with respect to the home office. If the applicant lodges a new application, the proposal will be assessed on its merits.

The other proposed modifications are generally minor, and relate to elements of the proposal which did form part of the original approval.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A207709_02).

A condition has been included in the original consent requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.

- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

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.

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	Complied	New home office: 4.5m Other modifications are lower equivalent to previous approval.	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	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	Nil	Unaltered by proposed modifications	Yes
Rear building line	6.5m	In excess of 20m	4.05m (home office), other modifications similar to previous approval.	Yes (home office deleted)

Side building line	2.5m	N 1m	Home office: 1m Pool setback increased to north. Other modifications maintain existing approval.	Yes
	1m	S 1m	Home office: 2.565m Pool and other modifications maintain existing approval.	Yes
Building envelope	3.5m	Outside envelope	Home office and other proposed modifications are within envelope.	Yes
Landscaped area	50%	60% (476sqm)	63% (including paved recreation and paths)	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
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	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
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	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
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D14.1 Character as viewed from a public place	Yes	Yes
D14.3 Building colours and materials	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
D14.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D14.18 Scenic Protection Category One Lands	Yes	Yes

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.

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. Mod2018/0481 for Modification of Development Consent N0465/14 granted for Alterations and additions to the dwelling including a new upper storey swimming pool and carport 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 Issue B	29.01.19	GartnerTrovato Architects
02 Issue B	29.01.19	GartnerTrovato Architects
05 Issue B	29.01.19	GartnerTrovato Architects
07 Issue B	29.01.19	GartnerTrovato Architects
08 Issue B	29.01.19	GartnerTrovato Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Report	31 August 2018	Bush Fire Planning Services
Geotechnical Report 2014-255.1	August 2018	Crozier Geotechnical Consultants

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



David Auster, Principal Planner

The application is determined on 05/02/2019, under the delegated authority of:

A handwritten signature in black ink, appearing to read 'Luke Perry'.

Luke Perry, Acting Development Assessment Manager