

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2020/0421
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<b>Responsible Officer:</b>	Anne-Marie Young
<b>Land to be developed (Address):</b>	Lot CP SP 19795, 2 Darley Street East MONA VALE NSW 2103 Lot 2 S/P 19795, 2 / 2 Darley Street East MONA VALE NSW 2103 Lot 2 S/P 19795, 2 / 2 Darley Street East MONA VALE NSW 2103 Lot 1 S/P 19795, 1 / 2 Darley Street East MONA VALE NSW 2103 Lot 1 S/P 19795, 1 / 2 Darley Street East MONA VALE NSW 2103
<b>Proposed Development:</b>	Modification of Development Consent DA2018/0423 granted for alterations and additions to a dwelling
<b>Zoning:</b>	R3 Medium Density Residential R3 Medium Density Residential R3 Medium Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Melinda Jane Bailey David Cameron Cosgrave Wendy Elizabeth Cosgrave John Leigh Bailey
<b>Applicant:</b>	JJ Drafting

<b>Application Lodged:</b>	01/09/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	10/09/2020 to 24/09/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks the following modification of DA2018/0423 for alterations and additions to the existing dwelling house. The modification comprises a 90mm increase in the over all building height as detailed below:

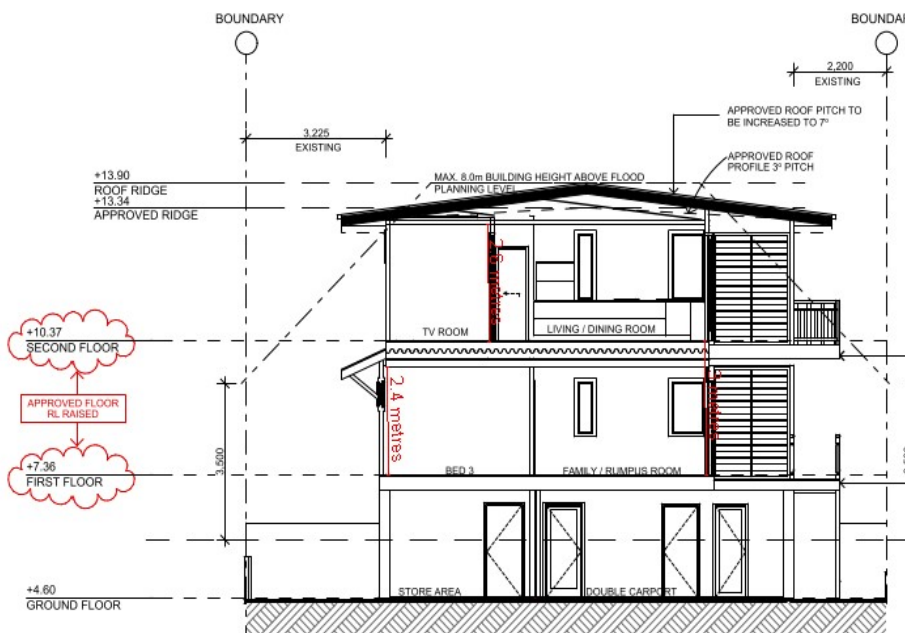
#### First Floor

- Floor level raised by 90mm, from RL7.27 to RL7.36
- Balcony level raised by 90mm , from RL7.17 – RL7.26
- Middle Post deleted from balcony.

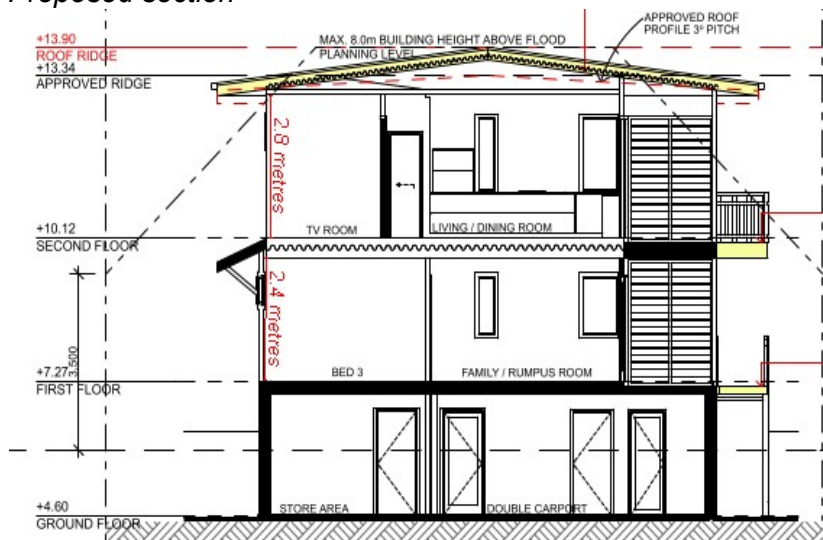
#### Second Floor

- Floor level raised by 250mm, from RL10.12 to RL10.37
- Balcony level raised by 100mm , from RL10.17 – RL10.27

The proposed change in levels relate to the internal floors of level 1 and 2. There will be no increase in the overall height of the dwelling at RL13.9 as shown on the section below.



*Proposed section*



*Approved section*

## 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

<b>Property Description:</b>	<p>Lot CP SP 19795 , 2 Darley Street East MONA VALE NSW 2103</p> <p>Lot 2 S/P 19795 , 2 / 2 Darley Street East MONA VALE NSW 2103</p> <p>Lot 2 S/P 19795 , 2 / 2 Darley Street East MONA VALE NSW 2103</p> <p>Lot 1 S/P 19795 , 1 / 2 Darley Street East MONA VALE NSW 2103</p> <p>Lot 1 S/P 19795 , 1 / 2 Darley Street East MONA VALE NSW 2103</p>
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment located on the north-eastern side of Darley Street East, adjacent to Apex Park.</p> <p>The site is regular 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 696.8m<sup>2</sup>.</p> <p>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.</p> <p><b>Detailed Description of</b></p>

### 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 for alterations and additions to a dwelling was approved on 12 October 2018 by Council under staff delegation.
- Mod2019/0595 for modification of Development Consent DA2018/0423 granted for alterations and additions to a dwelling was approved on 28 November 2019 by Council under staff delegation.
- Mod2020/0091 for modification of Development Consent DA2018/0423 granted for alterations and additions to a dwelling was approved on 16 April 2020 by Council under staff delegation.
- Mod2020/0222 for modification of Development Consent DA2018/0423 granted for alterations and additions to a dwelling was approved on 26 June 2020 by Council under staff delegation.

### 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 DA2018/0423 and MOD0222, 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><b>Yes</b></p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p>The proposed change in levels relate to the internal floors of level 1 and 2. There will be no increase in the overall height of the dwelling at RL13.9 . The modification will not result in any adverse amenity or visual impacts on the surrounding area.</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 DA2018/0423 and MOD2020/0222 for the following reasons:</p> <p>The proposed change in levels relate to the internal floors of level 1 and 2. There will be no increase in the overall height of the dwelling at RL13.9 . The modification will not result in any adverse amenity or visual impacts on the surrounding area.</p>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of</p>	<p>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.</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
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&amp;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&amp;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&amp;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&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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&amp;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&amp;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&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. 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) <b>Environmental Impact</b> 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) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 10/09/2020 to 24/09/2020 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
Parks, reserves, beaches, foreshore	<p>The application is for the modification to development consent DA2018/0423, involving design changes to the approved building.</p> <p>Council's Parks Referral is assessed against the following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> <li>• B8.2 Construction and Demolition - Erosion and Sediment Management</li> </ul> <p>The site adjoins Apex Park and Parks Referral has no objections to the modification proposal.</p>

## 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. A306741\_03 dated 26 May 2020). A condition is included in the modified consent 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 (13.9AHD)	13.34 AHD in original DA 13.9 AHD approved under DA2020/0222	13.9 AHD unaltered	N/A	Yes

### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	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	unaltered	Yes
Rear building line	6.5m	3.65m	unaltered	No
Side building line	1m - 2.5m	1.13m - 3.25m	unaltered	Yes
Building envelope	3.5m	Within envelope (northwest)	unaltered	Yes
	3.5m	1.38m outside envelope (southeast)	unaltered	No
Landscaped area	50%	36.5%	unaltered	No

The proposal will not result in a change of the footprint or height of the approved dwelling. The merit assessment relating to the non-compliance with the rear building line and envelope as discussed under the previous applications therefore remains relevant.

### 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
B3.11 Flood Prone Land	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
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
C5.21 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

## 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. Mod2020/0421 for Modification of Development Consent DA2018/0423 granted for alterations and additions to a dwelling on land at Lot CP SP 19795,2 Darley Street East, MONA VALE, Lot 2 S/P 19795,2 / 2 Darley Street East, MONA VALE, Lot 2 S/P 19795,2 / 2 Darley Street East, MONA VALE, Lot 1 S/P 19795,1 / 2 Darley Street East, MONA VALE, 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
02 Rev E Ground Floor	29 July 2020	JJ Drafting
03 Rev E First Floor	29 July 2020	JJ Drafting
04 Rev E Ground Floor	29 July 2020	JJ Drafting
05 Rev E South West Elevation	29 July 2020	JJ Drafting
06 Rev E South East and North West Elevation	29 July 2020	JJ Drafting
07 Rev E North East Elevation	29 July 2020	JJ Drafting
08 Rev E Section A-A	29 July 2020	JJ Drafting

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

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

**Signed**



**Anne-Marie Young, Planner**

The application is determined on 16/10/2020, under the delegated authority of:



**Anna Williams, Manager Development Assessments**