

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2020/0214
<b>Responsible Officer:</b>	Thomas Burns
<b>Land to be developed (Address):</b>	Lot 17 DP 224872, 15 - 16 Mulawa Place FRENCHS FOREST NSW 2086 Lot 18 DP 224872, 15 - 16 Mulawa Place FRENCHS FOREST NSW 2086
<b>Proposed Development:</b>	Modification of Development Consent DA2019/1259 granted for alterations and additions to a dwelling house
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential Warringah LEP2011 - Land zoned R2 Low 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>	Michael Craig North Kristin Anne North Jessie David Edwards Louella Rose North
<b>Applicant:</b>	Michael Craig North
<b>Application Lodged:</b>	26/05/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	08/06/2020 to 22/06/2020
<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

Development Consent was granted on 11 December 2019 under DA2019/1259 for alterations and additions to a dwelling house. This Section 4.55(1A) Modification has been submitted seeking to make the following changes:

- Increase the depth from the ground floor finished ceiling level to the first floor finished floor level

by approximately 190mm for structure support.

It is noted that the building height approved under DA2019/1259 will remain unchanged. The increase in floor levels is achieved without increasing the building height through reducing the floor to ceiling height on the first floor and reducing the roof pitch.

## 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

Warringah Development Control Plan - C8 Demolition and Construction  
Warringah Development Control Plan - C9 Waste Management  
Warringah Development Control Plan - D12 Glare and Reflection

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 17 DP 224872 , 15 - 16 Mulawa Place FRENCHS FOREST NSW 2086 Lot 18 DP 224872 , 15 - 16 Mulawa Place FRENCHS FOREST NSW 2086
<b>Detailed Site Description:</b>	<p>The subject site consists of two (2) allotments (Lot 17 DP224872 and Lot 18 DP 224872) located the corner of Mulawa Place and Pound Avenue in Frenches Forest.</p> <p>The site is irregular in shape with a frontage of 35.765m along Mulawa Place and a secondary frontage of 43.765m along Pound Avenue. The site has a surveyed area of 1671.2sqm.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a single storey detached dwelling</p>

house located at the rear of the property. It is noted that the first floor addition approved under DA2019/1259 is currently under construction.

The site contains landscaped open space throughout the majority of the site and a number of shrubs and trees of varying sizes.

The site is generally flat and experiences a fall of approximately 1.5m that slopes from the centre of the site towards the north-eastern and south-eastern corners.

The site contains the following easements:

- An easement for services 0.9m wide located along the south-western rear boundary;
- An easement for transmission line purposes 30.48m wide and variable width located throughout the central and front portions of the site; and
- An easement to drain water 0.9m wide located along the south-eastern side boundary.

#### **Detailed Description of Adjoining and Surrounding Development**

Adjoining and surrounding development is characterised by one (1) and two (2) storey detached dwelling houses. Furthermore, Davidson High School is located on the opposite side of Pound Avenue (approximately 20m to the north-west).

Map:



## SITE HISTORY

The site has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- Development Application DA2019/1259 for alterations and additions to a dwelling house approved by Council staff under delegated authority on 11 December 2019; and
- Construction Certificate No. CC2020/0290 for alterations and additions to existing dwelling approved by Waratah Certifiers on 20 March 2020.

### Site Visits

A site visit was undertaken at the subject site on 2 June 2020.

## 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 DA2019/1259, 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> <ul style="list-style-type: none"> <li>• The height and footprint of the modified proposal will remain consistent with the approved development; and</li> <li>• No unreasonable streetscape or amenity impacts will arise as a consequence of the modified proposal.</li> </ul>



Section 4.55(1A) - Other Modifications	Comments
(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 DA2019/1259 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The height and footprint of the modified proposal will remain consistent with the approved development</li> <li>• The use of the site will remain the same.</li> </ul>
(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, Warringah Local Environment Plan 2011, Warringah Development Control Plan 2011 and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

#### Section 4.15 Assessment

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

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiiia) – 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>Division 8A 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>Clause 50(1A) 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>Clauses 54 and 109 of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to owner's consent.</p> <p>Clause 92 of the EP&amp;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>Clauses 93 and/or 94 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>Clause 98 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>Clause 98 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>Clause 143A 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 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) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>impact in the locality considering the character of the proposal.</p> <p><b>(iii) 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	No submissions were received.
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 bushfire prone land (north-western portion of Lot 18 DP 224872).

Accordingly, a Bushfire Attack Level Assessment Statement prepared by Fire Support NSW was submitted with this application. The report stipulates that the bushfire attack level for the development is 'BAL Low'.

The application was not referred to NSW Rural Fire Service for comment.

## 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

No referrals were sent in relation to this application

## 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 revised BASIX Certificate has been submitted with the application (see Certificate No. A358789\_04 dated 7 February 2020). A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

### Warringah Local Environmental Plan 2011

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	8.42m (RL 157.91)	8.42m (RL 157.91)	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.4 Development on sloping land	Yes

### Warringah Development Control Plan

#### Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	6.27m	6.41m	Yes



B3 Side Boundary Envelope	4m (north-west)	Within envelope	Within envelope	Yes
	4m (south-east)	Within envelope	Within envelope	Yes
B5 Side Boundary Setbacks	0.9m (south-west)	13.1m	13.1m	Yes
B7 Front Boundary Setbacks - Secondary Frontages	3.5m (north-west)	4.1m	4.1m	Yes
B7 Front Boundary Setbacks	6.5m (north-east)	34.69m	34.69m	Yes
B9 Rear Boundary Setbacks - Corner Allotments	0.9m (south-west)	1.69m	1.69m	Yes
D1 Landscaped Open Space and Bushland Setting	40% (668.48sqm)	79.03% (1320.7sqm)	79.03% (1320.7sqm)	Yes

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

#### Detailed Assessment

#### **C8 Demolition and Construction**

A condition was imposed under DA2019/1259 to ensure the applicant submits a detailed Waste Management Plan to the Certifying Authority prior to the issue of the Construction Certificate. The applicant submitted a Waste Management Plan to the Certifying Authority's satisfaction prior to the Issue of Construction Certificate No. CC2020/0290.

#### **C9 Waste Management**

A condition was imposed under DA2019/1259 to ensure the applicant submits a detailed Waste Management Plan to the Certifying Authority prior to the issue of the Construction Certificate. The applicant submitted a Waste Management Plan to the Certifying Authority's satisfaction prior to the Issue of Construction Certificate No. CC2020/0290.

#### **D12 Glare and Reflection**

A condition was imposed under DA2019/1259 to ensure the chosen roof colour was within the medium to dark range to mitigate potential reflectivity issues. This information was subsequently submitted to the Certifying Authority's satisfaction prior to the Issue of Construction Certificate No. CC2020/0290.

#### **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;
- Warringah Local Environment Plan;
- Warringah 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. Mod2020/0214 for Modification of Development Consent DA2019/1259 granted for alterations and additions to a dwelling house on land at Lot 17 DP 224872,15 - 16 Mulawa Place, FRENCHS FOREST, Lot 18 DP 224872,15 - 16 Mulawa Place, FRENCHS FOREST, 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
Sheet 05 Issue G	21 May 2020	VNdraft PTY LTD
Sheet 07 Issue G	21 May 2020	VNdraft PTY LTD
Sheet 08 Issue G	21 May 2020	VNdraft PTY LTD
Sheet 09 Issue G	21 May 2020	VNdraft PTY LTD

Sheet 10 Issue G	21 May 2020	VNdraft PTY LTD
Sheet 11 Issue G	21 May 2020	VNdraft PTY LTD
Sheet 12 Issue G	21 May 2020	VNdraft PTY LTD
Sheet 17 Issue G	21 May 2020	VNdraft PTY LTD

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A358789_04	7 February 2020	VNdraft PTY LTD

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**



**Thomas Burns, Planner**

The application is determined on 24/06/2020, under the delegated authority of:



**Matthew Edmonds, Manager Development Assessments**