

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2019/0160
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<b>Responsible Officer:</b>	Thomas Prosser
<b>Land to be developed (Address):</b>	Lot 1 DP 201629, 22 Richmond Road SEAFORTH NSW 2092
<b>Proposed Development:</b>	Modification of Development Consent DA2018/1483 granted for alterations and additions to a dwelling house
<b>Zoning:</b>	Manly LEP2013 - 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>	Eric Thomas Traynor Charlotte Traynor
<b>Applicant:</b>	Rich Carr Architects

<b>Application lodged:</b>	12/04/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	07/05/2019 to 21/05/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	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

Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 201629 , 22 Richmond Road SEAFORTH NSW 2092
<b>Detailed Site Description:</b>	<p>The subject site consists of an allotment located on the northern side of Richmond Road.</p> <p>The site is irregular in shape with a frontage of 12.192m along Richmond Road and a depth of 44.465-44.73m. The site has a surveyed area of 719.5m<sup>2</sup>.</p> <p>The site is located within the R2 Low density residential zone and accommodates a dwelling house on site.</p> <p>The site has a slope of approximately 8-10m from Richmond Road down to the rear of the site.</p> <p>The site has vegetation throughout including trees to the front and rear of the site.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by dwelling houses on either side of Richmond Road.</p>

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:

- DA271/1995- Alts and adds (balcony plus stairs) approved on 13 November 1995.
- DA339/1995- Extension to existing rear balcony approved on 31 August 1995.
- DA2018/1483- Alterations and additions to the dwelling house approved on 7/01/2019

## PROPOSED DEVELOPMENT IN DETAIL

The proposed modification to the approved alterations and additions to a dwelling house includes the following:

- Extension of rear balcony at level 1
- Lowering of finished floor level of level 1 (by 220mm)
- Raise in the gutter level on the south elevation
- Reconfiguration of bathroom and laundry
- Extension of lower ground bedroom
- New window to bedroom 3
- Existing windows to bathroom removed and new window added
- Modification of approved roof, reduced footprint of roof, reduction in pitch/ridge height
- New pergola structure
- Reduction in building footprint with associated changes to windows W02 and W04
- Chimney and fireplace deleted
- Modification to skylight and additional skylight added
- High level windows removed

## 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 DA2018/1483, 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	<b>Yes</b> 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 DA2018/1483.
(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, Manly Local Environment Plan 2011 and Manly Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided	No submissions were received in relation to this application.

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	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – 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, 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&amp;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&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</p>



Section 4.15 'Matters for Consideration'	Comments
	consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly 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 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

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	

## 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. A319000\_03).

A condition has been included in the recommendation of this report 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.

#### **Manly Local Environmental Plan 2013**

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

Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.01m	7.01m	N/A	Yes
Floor Space Ratio	FSR: 0.4:1 (287.8m <sup>2</sup> )	FSR: 0.359:1 (258m <sup>2</sup> )	FSR: 0.3756:1 (271m <sup>2</sup> )	N/A	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

#### Mainly Development Control Plan

##### Built Form Controls

Built Form Controls - Site Area: 719.5m <sup>2</sup>	Requirement	Approved	Proposed	Complies
4.1.2.1 Wall Height	North: 6.9m (based on gradient 1:9)	5.2m	5.2m	Yes
	South: 6.9m (based on gradient 1:9)	5.4m	5.4m	Yes
4.1.2.2 Number of Storeys	2	2	2	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	12.6m	12.6m	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	South: 1.8m (based on wall height)	0.9m-3m	0.4m-1.9m (Level 1 roof)	No (see comments)
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 60% of site area	65% (470m <sup>2</sup> )	67% (499m <sup>2</sup> )	Yes
	Open space above ground 25% of total open space	10% (48m <sup>2</sup> )	12.8% (64m <sup>2</sup> )	
4.1.5.2 Landscaped Area	Landscaped area 40% of open space	63.8% (300m <sup>2</sup> )	60% (300m <sup>2</sup> )	Yes



4.1.5.3 Private Open Space	18m	18sqm	36sqm	Yes
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#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation		
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

#### Detailed Assessment

#### **4.1.4 Setbacks (front, side and rear) and Building Separation**

##### Description of non-compliance

The proposed modification does not comply with the numerical control for side setback at the southern boundary (1.8m). In this regard, the proposal involves a new roof that has a vaired setback of 0.4m-1.8m.

##### Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

*Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.*

Comment:

The subject dwelling has a front setback that complies with the required control under the Manly DCP and the proposed works are to the rear of the dwelling. As such, the proposal would not have any unreasonable visual impact on the street and provide for appropriate spatial proportions and landscape character.

*Objective 2) To ensure and enhance local amenity by:*

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment:

The proposal provides for a compliant building height and compliant floor space ratio as well as an articulated design at the side boundaries to ensure that there would be no unreasonable impact on amenity. Additionally, the compliant setback at the rear of the site provides an open corridor which contributes to providing appropriate opportunity for views, privacy and sunlight access.

*Objective 3) To promote flexibility in the siting of buildings.*

Comment:

The proposed works are within the footprint of the approved dwelling. As a result of the adequate physical separation to neighbours, lack of unreasonable impact on amenity and sufficient visual presentation, this remains a suitable siting.

*Objective 4) To enhance and maintain natural features by:*

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

The proposal is compliant with the requirement for landscaped area and provides adequate front and

rear setbacks with potential for natural features. The adequate setback of the first floor level from ground floor walls and boundary ensures the development would not have an unreasonable visual impact on natural features.

*Objective 5) To assist in appropriate bush fire asset protection zones.*

Comment:

Not applicable.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent / consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported / is not supported, in this particular circumstance.

## **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;
- Manly Local Environment Plan;
- Manly 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. Mod2019/0160 for Modification of Development Consent DA2018/1483 granted for alterations and additions to a dwelling house on land at Lot 1 DP 201629,22 Richmond Road, SEAFORTH, 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
S961101 - RevA - Lower Ground Floor Plan	4.03.19	Rich Carr Architects
S961102 - RevA - Ground Floor Plan	4.03.19	Rich Carr Architects
S961103 - RevA - Level 01 Plan	4.03.19	Rich Carr Architects
S961104 - RevA - Roof Plan	4.03.19	Rich Carr Architects
S961201 - RevA -Section A-A	4.03.19	Rich Carr Architects
South Elevation and West Elevation	4.03.19	Rich Carr Architects
S961302 - RevA -Elevations - Sheet 2	4.03.19	Rich Carr 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.

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

**Signed**



**Thomas Prosser, Planner**

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



**Steven Findlay, Manager Development Assessments**