

# Memo

## Environment

<b>To:</b>	Matthew Edmonds , Development Assessment Manager
<b>From:</b>	Megan Surtees, Planner
<b>Date:</b>	25 June 2019
<b>Application Number:</b>	Mod2019/0268
<b>Address:</b>	Lot 36 DP 9877 , 6 Gertrude Avenue NEWPORT NSW 2106
<b>Proposed Modification:</b>	Modification of Development Consent DA2018/1705 granted for use of outbuilding as a secondary dwelling

### Background

The abovementioned development consent was granted by Council on 21 February 2019 for use of an outbuilding as a secondary dwelling.

### Details of Modification Application

Under Section 96(1) of the EPA Act 1979, a consent containing an error or mis-description may be amended. Pittwater 21 Development Control Plan Clause A4 (Exhibition, Advertisement and Notification of Applications) does not require the notification of Section 96(1) modification applications as they are considered to be for minor changes that do not affect the development or the amenity of adjoining properties.

The application seeks to amend the approval of a secondary dwelling under consent DA2018/1705 to the approval of a detached non-habitable studio, as per the approved plans under DA2018/1705.

### Consideration of error or mis-description

Following incorrect advice, the applicant lodged a Development Application requesting consent for the existing outbuilding to be used as a secondary dwelling. However, following a discussion with the applicant, it was determined the use of the outbuilding was not to be a secondary dwelling. The applied condition was a result of the applicant's desire to simply have the existing outbuilding authorised as a separately accessible structure. However, the inclusion of this condition has since created an issue for the applicant and the determination of their current Building Certificate. The condition was not created in error, and Condition 7 remains consistent with the desire to maintain the detached studio as such.

Accordingly, the provisions of Section 4.55(1) apply.

### Conclusion

It is considered that the modification is minor in nature and consistent with the provisions of section 4.55(1) of the EPA Act 1979 and is therefore recommended for approval.

### Recommendation

THAT Council as the consent authority approve Modification Application No. Mod2019/0268 for Modification of Development Consent DA2018/1705 granted for use of outbuilding as a secondary

dwelling on land at Lot 36 DP 9877,6 Gertrude Avenue, NEWPORT, as follows:

All conditions under consent DA2018/1705 are to remain. The use of the existing structure is solely for the use of a detached studio, ancillary to the principle dwelling. This modification application approval is not for a secondary dwelling.

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

**Signed**



**Megan Surtees, Planner**

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



**Matthew Edmonds, Manager Development Assessments**