

Section 4.55 Modification To Consent

Determination No: 2019/0382
Deferred Commencement
Approval Activated: 22 April 2020

Subdivision of land into five residential lots
and construction of five dwellings



Client:
Project:
Project No:
Date:
Project Contact:

Qasabian Family Investments
312 Warringah Road Beacon Hill
2022/2
April 2022
Mitchell Drake

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1.0 INTRODUCTION

This application relates to a request for the modification of the 22 April 2020 activated deferred commencement consent DA2019/0382 proposing subdivision of land into five residential lots and construction of five dwellings at 312 Warringah Road Beacon Hill. The request for modification is made pursuant to: Section 4.55(2) 2 of The Environmental Planning and Assessment Act 1979 (The Act).

2.0 SITE SUMMARY

Address of Site:	312 Warringah Road Beacon Hill
Local Government:	Northern Beaches Council
Local Environmental Plan:	Warringah L.E.P. 2012
Development Control Plan:	Warringah D.C.P. 2012
Zone:	R2 Low Density Residential
Name of Owner:	Qasabian Family Investments
Brief Description / Purpose of Proposal:	Reconfiguration of lot 1 and lot 5

3.0 SITE AND APPLICATION HISTORY

The land was used for the purpose of a service station for an extended period of time. A search of Council's records has revealed the following relevant history:

- DA2011/0681 - Consent granted by Warringah Council on 5 July 2011 for the Demolition of a Service Station. A condition of development consent required the following prior to the commencement of works:

Condition 9 - Remedial Action Plan A Remedial Action Plan is to be prepared by a suitably qualified Environmental Consultant in accordance with State Environmental Planning Policy No. 55 - Remediation of Land, and with any contaminated land planning guidelines under the Contaminated Land Management Act 1997.
- On 16 August 2011, OTEK Environmental Consultants provided notification to Warringah Council that Remediation Work was due to take place on the subject land including removal of eight (8) underground petroleum tanks, one (1) above ground petroleum tank, the removal of associated infrastructure and follow up groundwater monitoring.
- On 22 December 2015, 7-Eleven Stores wrote to Council to notify that further remediation works were to be undertaken at the site as an extension to the previous works undertaken.
- On 22 April 2020 activated deferred commencement consent DA2019/0382 proposing Subdivision of land into five residential lots and construction of five dwellings.
- On 22 April 2020 modification MOD2020/0131 was granted consent to amend the location of a stormwater pipe and associated easement through the rear property which drains the subdivision to Dareen Street.
- On 8 September 2020 modification MOD2020/0300 was granted consent to amend the application make amendments to the five dwelling houses approved under DA2019/0382. No changes are proposed to the approved earthworks or subdivision pattern.

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4.0 PROPOSED MODIFICATIONS

The proposed modifications are shown and outlined below:

Lot 1

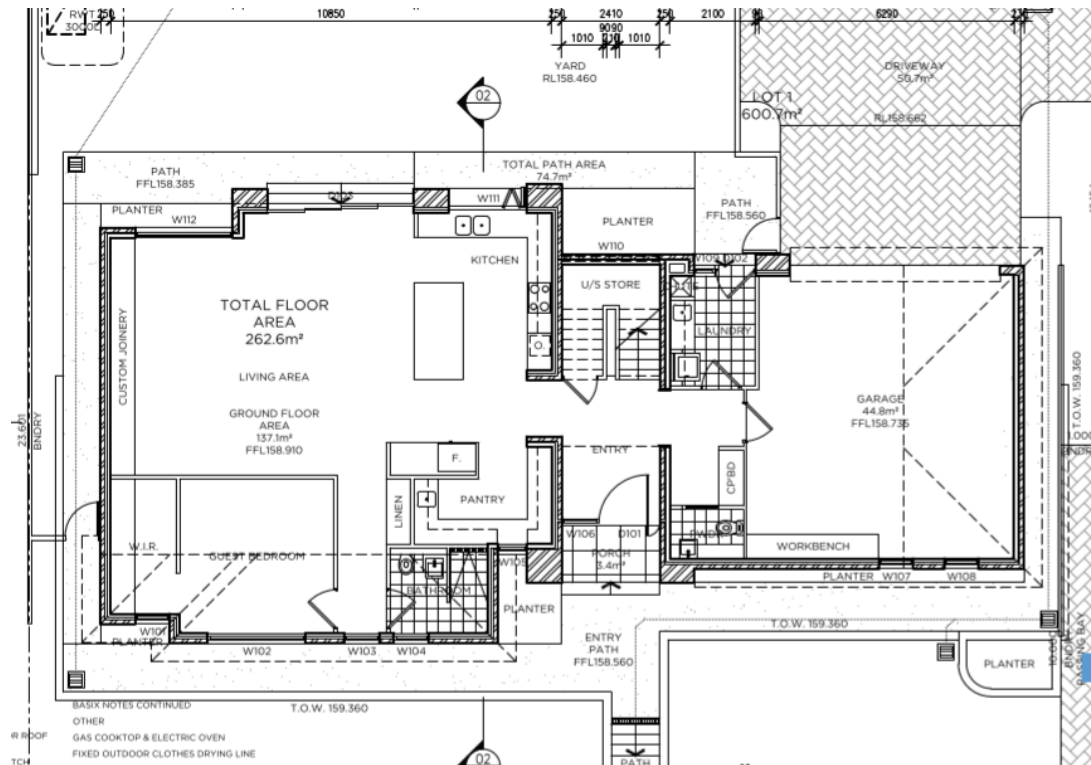


Figure 1: Approved Ground floor plan Lot 1

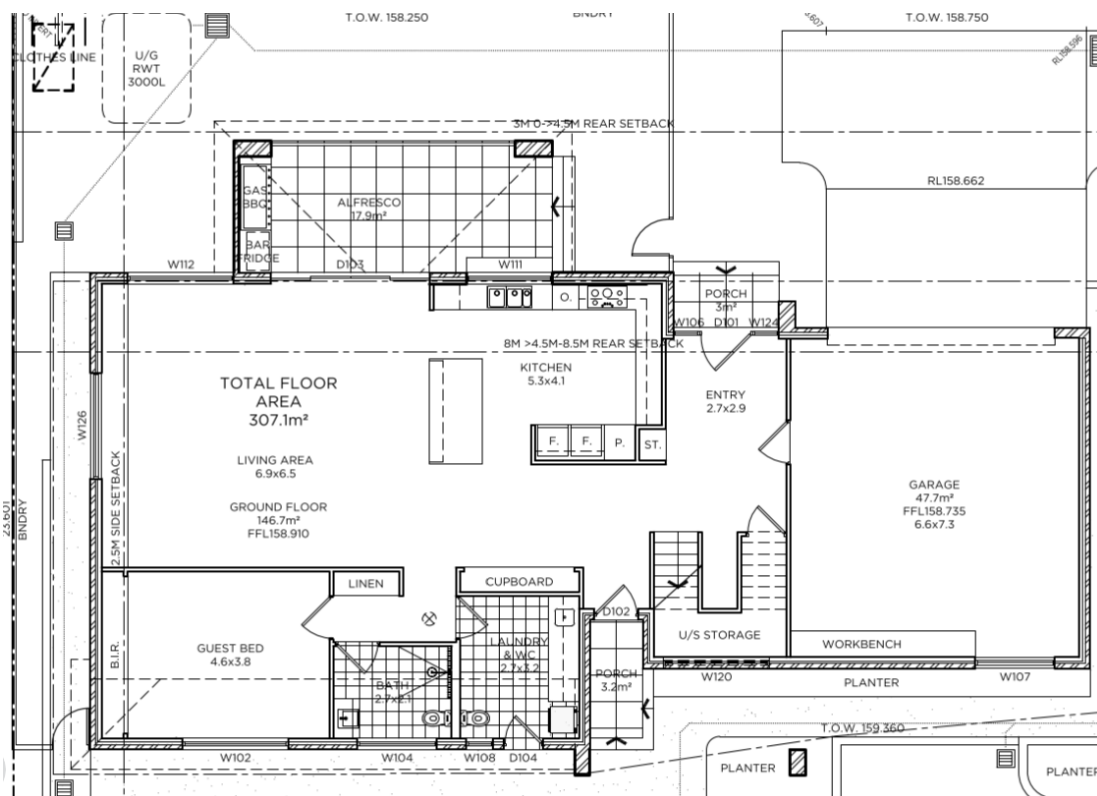


Figure 2: Proposed ground floor plan Lot 1

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- The ground floor plan includes changes to the garage from 44.8m² to 47.7m²
- Shifting the laundry from its current position to being adjacent bathroom,
- Shifting the stairs forward and providing rear open space access directly from the living areas,
- Deletion of the walk in wardrobe from the guest room,
- Re-configuration of the living, pantry and kitchen areas,
- Provision of a toilet adjacent to the laundry,
- Provision of an alfresco area (open structure) off the living area

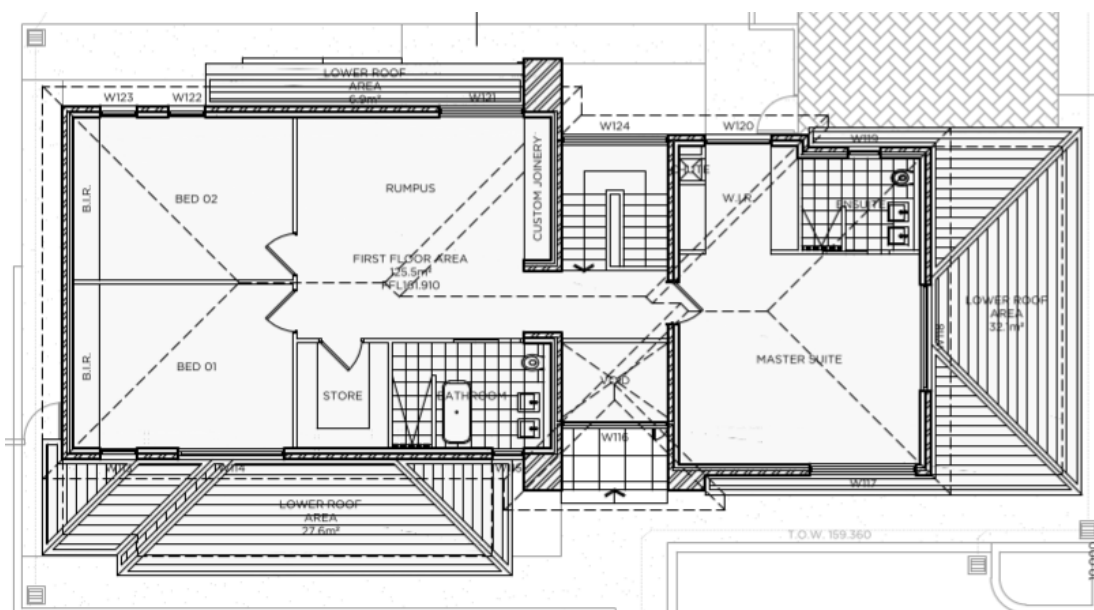


Figure 3: Existing first floor plan Lot 1

- Reconfiguration of the master bedroom ensuite shifted forward and a walk in wardrobe reduced,
- Relocation of the void to the frontage and the access stairs to the rear,
- A reduction of the bedrooms 1 and 2 and the rumpus to accommodate a study.
- Minor changes to openings on the rear elevation
- No changes to openings on the west elevation
- A reduction and reconfiguration of openings with frosted glazing and window relocations for wet rooms on the southern elevation,
- The deletion of the window on the west elevation.

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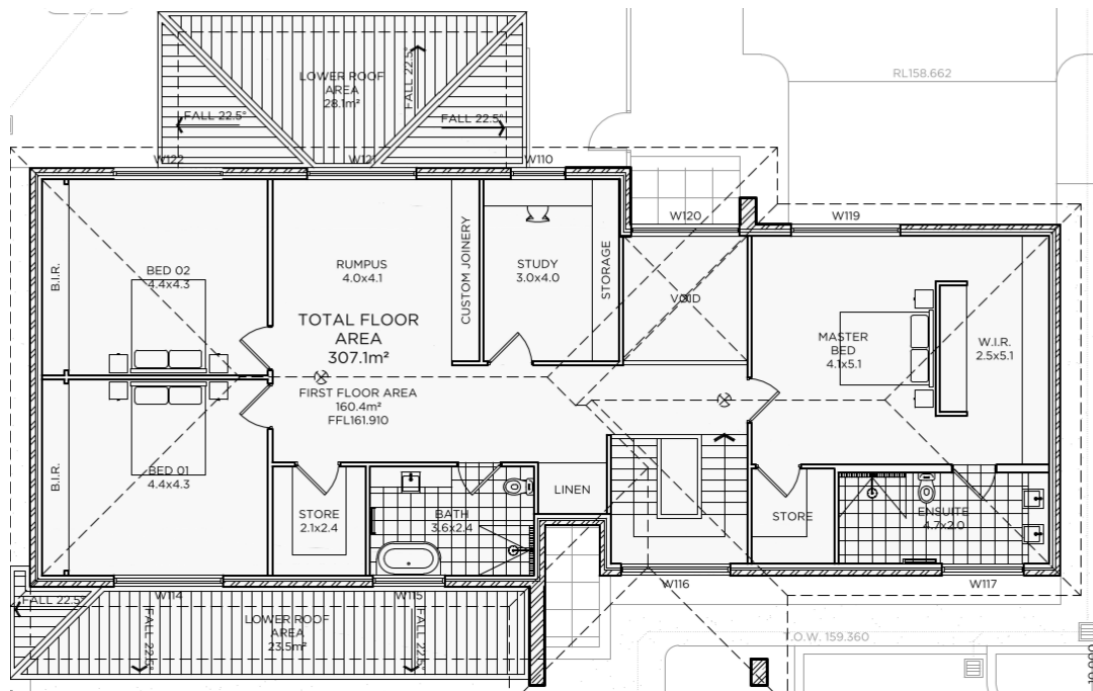


Figure 4: Proposed first floor plan Lot 1

Lot 5

The changes to lot 5 include the following:

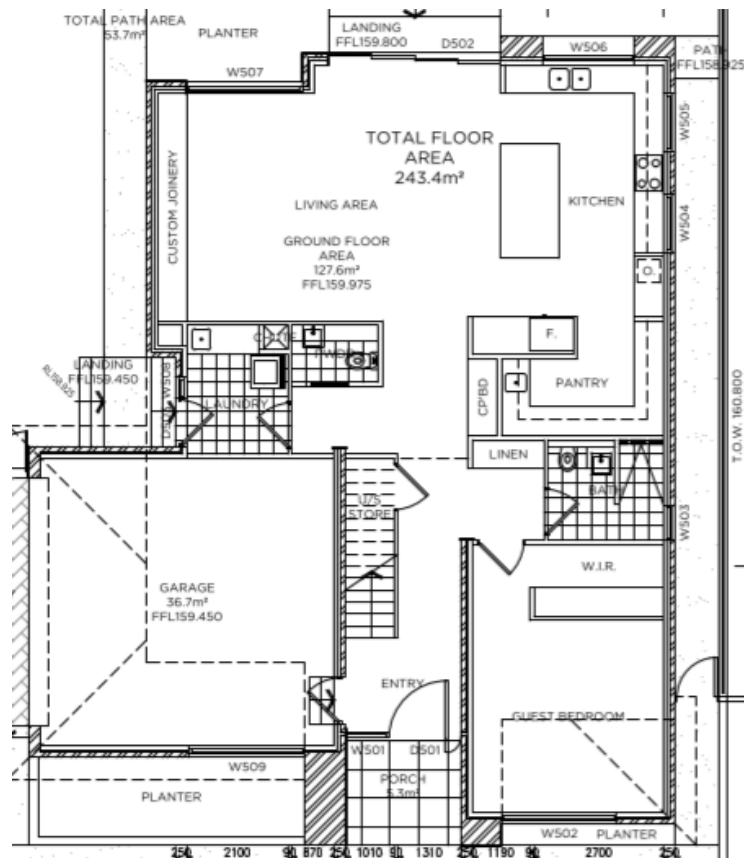


Figure 5: Existing ground floor plan Lot 5

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- Reconfiguration of the planter and garage at the site frontage,
- Shifting of the laundry from the east to the west elevation,
- The shifting of the pantry and living area from the west to the east
- Provision of a separate WC,
- An alfresco area at the rear

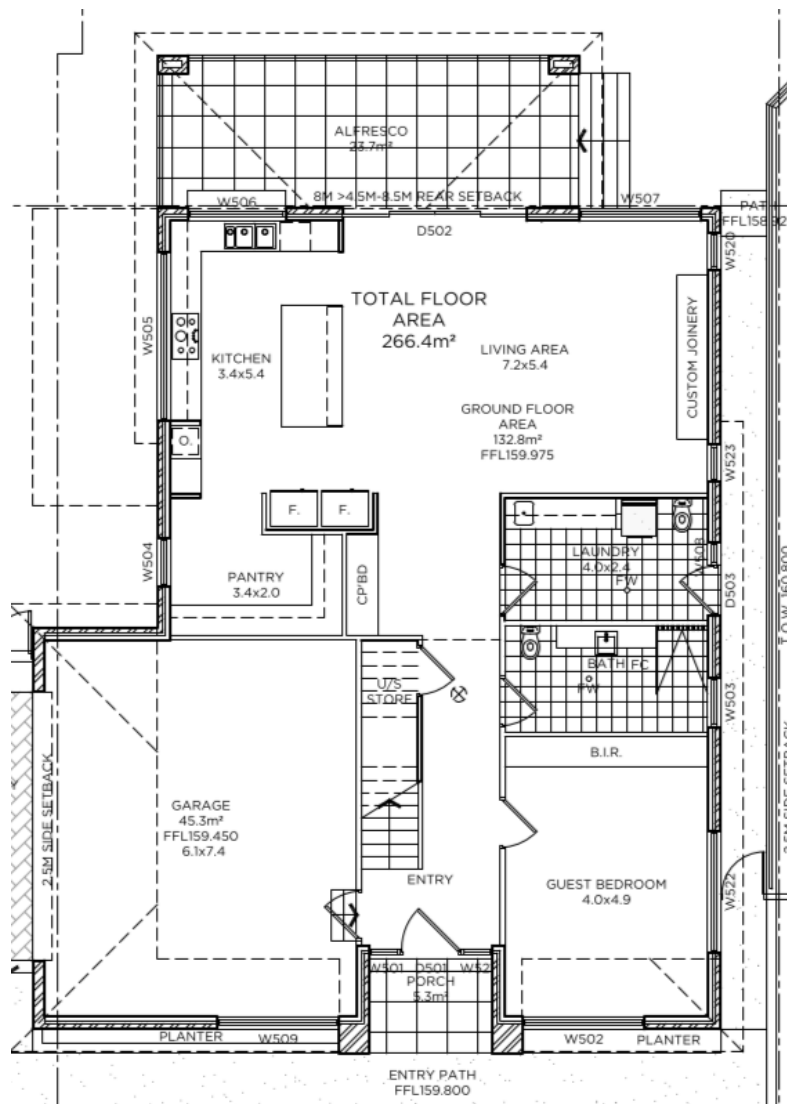


Figure 6: Proposed ground floor plan Lot 5

- Provision of the study on the upper floor
- Reversing the entry of both walk in wardrobes
- Creation of a landing within the stairway
- Deletion of the walk in wardrobe in bedroom 2

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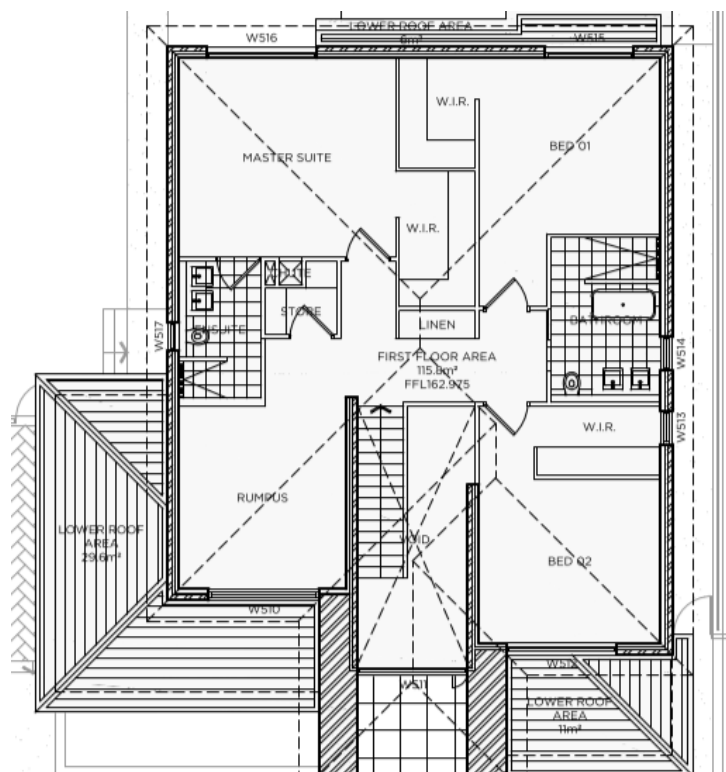


Figure 7: Existing first floor plan Lot 5

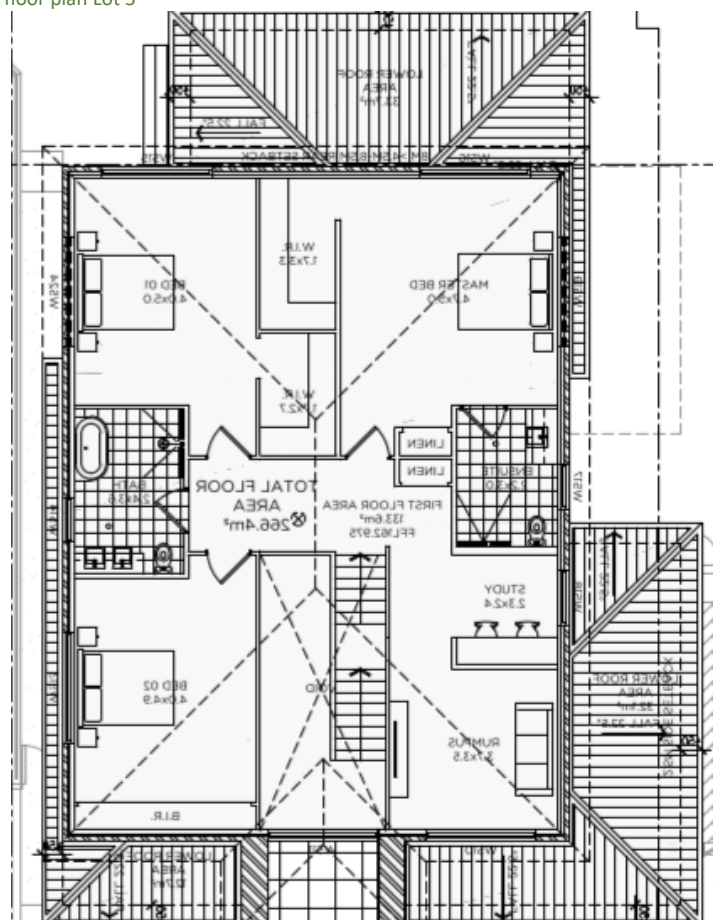


Figure 8: Proposed first floor plan Lot 5

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- A reconfiguration of, resulting in a reduction in window openings on the southern elevation
- Changes and reconfiguration of windows and openings on the eastern elevation
- Minimal changes to the openings on the western elevation, and
- Minimal changes to the northern elevation.

There are no changes to the building heights or footprints (aside from to small alfresco areas) as part of this proposal

5.0 SECTION 4.55 – MODIFICATION OF CONSENTS

(2) Other modifications 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 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

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(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 that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

(3) In determining an application for modification of a consent under this section, 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 consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

5.1. Section 4.15(1) Matters for consideration

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—

The provisions of:

Any environmental planning instrument, and

Response

A review of the relevant EPI's indicates that the modifications do not result in the proposal fundamentally deviating from that which was approved. The responses to the aims and objectives remain appropriate in these circumstances.

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved),

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Response

There are no relevant proposed instruments applicable

Any development control plan, and

Response

A review of the Warringah Development Control Plan indicates that the modifications do not result in the proposal fundamentally deviating from that which was approved. The responses to the aims and objectives and the responses to the numerical standards remain consistent.

Any planning agreement

Response

There are currently no Draft Planning Agreements or Planning Agreements applicable to the development.

(iv) the regulations, that apply to the land to which the development application relates,

Response

5.1.1. Division 8A

The consent authority is to consider 'Prescribed conditions' of development consent. This matter may be addressed within any consent documentation.

5.1.2 Clauses 54 and 109

Were Council to require additional information, consideration must be given to the number of days taken in this assessment in light of this clause within the Regulation. No additional information has been requested at the time of writing of the Statement.

5.1.3 Clause 92

The consent authority is to consider AS 2601- 1991: The Demolition of Structures. This matter is addressed via an existing condition of consent.

5.1.4 Clauses 93 and/or 94

The consent authority is to consider the upgrading of a building (including fire safety upgrade of development). This matter may be addressed via a condition of consent.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

Response

5.2 Environmental

The assessment of the proposal has shown that any environmental impacts resulting from the proposal will be negligible. Regard is shown for the natural environment in terms of on-site management of storm water and drainage, with appropriate measures incorporated into the overall design that operate in concert with the extensive areas of landscaping provided by the site layout.

The built environment will be enhanced by the upgraded site and its increased yield allowing for the more economical use of the available resource, without impacting or dominating the area in terms of built form.

The proposal satisfies the requirements of both the natural and built environments.

5.3 Social

The proposal adds to housing stock, allowing for a more diverse accommodation typology within the appropriate R2 Zone. This allows a more diverse population cross section to "settle and stay "within the Northern Beaches LGA. The increased choice of housing in this area provided by the proposal increases the longevity of the site whilst allowing residents an upgraded modern alternative. The upgraded dwellings will continue to fill an existing void and increase the services available to the occupants of dwellings on the northern beaches in terms of

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housing and add to the available housing stock within the area and provide opportunities for more varied dwelling choice. The proposal is consistent with the social requirements in these regards.

5.4 Economic

The provision of separate housing opportunities within this appropriately zoned locality, contributes to the easing of housing affordability pressure on potential homeowners whilst showing regard for the requirements of this R2 Zone on the fringe of areas undergoing radical built form change due to the construction of the northern beaches hospital. The proposal provides economic benefits that extend beyond the dwelling. Increased residents in this appropriate zone, adding to the economic stability of the area by allowing for residents to live in a locality that is gentrified and economically vibrant, in close proximity to local services and within reasonable distance to local business and upgraded infrastructure that will benefit from the employment and economic input provided by the future residents.

The suitability of the site for the development

Response

The site suitability is indicated by the appropriate land use being located within the appropriate R2 Low Density Residential Zone. The proposal has demonstrated compliance with all the standards and controls together with a consistency of all underlying objectives of both State and Local controls. The subject site is serviced by existing infrastructure, is easily accessible and is within a gentrified residential area. The proposal is an appropriate fit to the naturally developed character of the locality and will add a further unique land use and housing opportunity within this residential area. The application is considered acceptable with regards to suitability of the site.

Any submissions made in accordance with this Act or the regulations,

Response

There have been no submissions received from any public person, private or Government Authorities at the time of the preparation of this report.

The public interest.

Response

The public interest is served by the provision of the appropriate land use that is consistent with local and state planning objectives. The land use responds at a strategic level to desired planning outcomes together with increased affordable housing opportunities within the Sydney region and the Northern Beaches LGA specifically. The proposal is consistent with the underlying objectives of the EP and A Act in that it is an appropriate and economical use of the available resource.

6.0 CONCLUSION

The modifications are appropriate for the development and do not result in a development inconsistent with that which has been approved. The proposal is supported in this regard.

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3 April 2022