

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0192
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Responsible Officer:	Kent Bull
Land to be developed (Address):	Lot 1 DP 514777, 174 Woorarra Avenue ELANORA HEIGHTS NSW 2101
Proposed Development:	Modification of Development Consent DA2020/1400 granted for alterations and additions to a dwelling house, including the construction of a detached carport
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Sean Francis Tapp Kathryn Joan Tapp
Applicant:	Sean Francis Tapp

Application Lodged:	11/05/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	17/05/2021 to 31/05/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The application seeks to modify Development Consent No. DA2020/1400 granted for alterations and additions to a dwelling house, including the construction of a detached carport.

The modification application seeks approval for the following changes:

- Concrete tile roof to a metal Colorbond roof (Finish: "Woodland Grey" - Dark Grey); and
- Deletion of kitchen window (W09).

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

Property Description:	Lot 1 DP 514777 , 174 Woorarra Avenue ELANORA HEIGHTS NSW 2101
Detailed Site Description:	<p>The subject site is known as 174 Woorarra Avenue, Elanora Heights and is legally referred to as Lot 1 DP 514777. The site consists of one (1) allotment located on the northern side of Woorarra Avenue.</p> <p>The site is regular in shape with a frontage of 19.2m along Woorarra Avenue and a depth of 40m. The site has a surveyed area of 645m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a two storey dwelling house and single carport.</p> <p>The slope of the site is measured at 28.6%, falling approximately 11.5m from the rear boundary to the road frontage.</p> <p>The site is mapped within the Geotechnical Hazard Map - W Hazard H1, the Northern Beaches Bush Fire Prone Land Map and Biodiversity Map.</p> <p>The site retaining walls and landscaping throughout the front garden and locally native canopy trees in the rear yard.</p>

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by detached one and two storey dwellings.

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:

19 June 2014

Development Application No. N0190/14 for the 'construction of masonry retaining walls and a new pathway to the front of the property with associated landscaping and earthworks' was granted consent.

10 October 2014

Construction Certificate No. CC0260/14 was issued in relation to Development Consent No. N0190/14.

5 November 2020

Development Application No. DA2020/1400 for the 'alterations and additions to a residential dwelling, including the construction of a detached carport' was granted consent.

APPLICATION HISTORY

8 June 2021

Site inspection undertaken by the assessing officer.

10 June 2021

Amended plans received from the Applicant clearly annotating on the architectural plans a revision number and date for the modified drawings. These plans form the basis of the following assessment.

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 DA2020/1400, 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>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p>The changes do not see an overall reduction to the approved building footprint or the resultant height and bulk of the development. The proposal does not seek any other changes that would result in additional amenity impacts of removal of vegetation. In this regard, the modifications are considered to be of minor environmental impact.</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 DA2020/1400 for the following reasons:</p> <p>A comparison of the modified proposal reveals that the overall building envelope, configuration, bulk and scale and design is largely consistent with the original approval. While the roofing to the existing dwelling is to be replaced from tile to metal sheeting (Colorbond), there is a high level of consistency between the approved roofing finish of the additions/alterations and that of the</p>

Section 4.55(1A) - Other Modifications	Comments
	proposed roofing to the dwelling house. The consent authority can therefore be satisfied that the development as modified will be "essentially or materially" substantially the same as the approved development.
(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, Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control 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 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.

Section 4.15 'Matters for Consideration'	Comments
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&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>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to providing revision numbers and dates to the architectural plans, as well as to confirm the finish of the roofing.</p> <p><u>Clause 92</u> of the EP&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><u>Clauses 93 and/or 94</u> of the EP&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&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&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&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) Environmental Impact 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) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and</p>

Section 4.15 'Matters for Consideration'	Comments
	proposed land use.
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 classified as bush fire prone land Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the previous application (prepared by Matthew Willis, dated 1 October 2020). The report stated that the bushfire attack level of the site is "Flame Zone". This development application was referred to the NSW Rural Fire Service (NSW RFS) for further assessment. The NSW RFS raised no objections to the approval (at the time), subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS were included in the original consent.

Whilst the works proposed as part of the current application are minor in nature, no addendum letter has been submitted. As such, certification is to be provided by a suitably qualified consultant confirming that the modified development, as shown on the approved plans, conforms to the specifications and requirements of the current version of the document entitled *Planning for Bushfire Protection* prepared by the NSW Rural Fire Service that are relevant to the development. The certification is to be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 17/05/2021 to 31/05/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that Ausgrid does not need to provide a decision in regards to the proposed modified works.

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. A389954_02, dated 4 May 2021).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

The proposal was referred to Ausgrid who provided a response stating that Ausgrid does not need to provide a decision in regards to the proposed modified works.

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	Requirement	Approved	Proposed	%	Complies
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Standard				Variation	
Height of Buildings:	8.5m	4.3m	Unchanged, however existing roofing to be replaced for the dwelling house is 6.9m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	0m - Carport 6.5m - Dwelling	unaltered	No, however unchanged from DA2020/1400
Rear building line	6.5m	16.6m	unaltered	Yes
Side building line	2.5m	1.27m - Dwelling unchanged	unaltered	No, however unchanged from DA2020/1400
	1m	0.913m - Dwelling unchanged 0m - Carport	unaltered	No, however unchanged from DA2020/1400
Building envelope	3.5m	Dwelling wall unchanged	unaltered	N/A
	3.5m	Dwelling wall unchanged	unaltered	N/A
Landscaped area	60%	48%	unaltered	No, however unchanged from DA2020/1400

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.5 Elanora Heights Locality	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
D5.1 Character as viewed from a public place (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.3 Building colours and materials (Excluding Elanora Heights	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Village Centre)		
D5.14 Scenic Protection Category One Area	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. Mod2021/0192 for Modification of Development Consent DA2020/1400 granted for alterations and additions to a dwelling house, including the construction of a detached carport on land at Lot 1 DP 514777,174 Woorarra Avenue, ELANORA HEIGHTS, 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
DA03, Rev E	8/06/2021	Action Plans
DA07, Rev E	8/06/2021	Action Plans
DA08, Rev E	8/06/2021	Action Plans

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate, Ref. A389954_02	4 May 2021	Action Plans

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

c) The development is to be undertaken generally in accordance with the following:

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

B. Add Condition 14A "Extenal Finishes to Roof" under heading "CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE" to read as follows:

The external finish to the new roofing shall be a colour equivalent or darker than Colorbond "Woodland Grey" (dark grey) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

C. Add Condition 14B "Bushfire Certification" under heading "CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE" to read as follows:

Certification is to be provided by a suitably qualified consultant confirming that the modified development, as shown on the approved plans, conforms to the specifications and requirements of the current version of the document entitled *Planning for Bushfire Protection* prepared by the NSW Rural Fire Service that are relevant to the development.

The certification is to be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

Reason: To ensure that the modified development complies with the relevant code and standards for bush fire prone land.

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

Signed



Kent Bull, Planner

The application is determined on 17/06/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments