

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0232
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Responsible Officer:	Tyson Ek-Moller
Land to be developed (Address):	Lot 2 DP 618622, 17 Minkara Road BAYVIEW NSW 2104
Proposed Development:	Modification of Development Consent N0028/16 granted for alterations and additions to existing dwelling
Zoning:	R5 Large Lot Residential RU2 Rural Landscape
Development Permissible:	Yes - Zone RU2 Rural Landscape Yes - Zone R5 Large Lot Residential
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Jonathan Ivor Douglas Natalia Scognamiglio
Applicant:	JJ Drafting

Application lodged:	10/05/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	22/05/2018 to 05/06/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	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

Pittwater 21 Development Control Plan - B3.2 Bushfire Hazard

SITE DESCRIPTION

Property Description:	Lot 2 DP 618622 , 17 Minkara Road BAYVIEW NSW 2104
Detailed Site Description:	<p>The subject site is identified as 17 Minkara Road, Bayview (Lot 2, DP 618622). It is a regularly shaped allotment; the front boundary is oriented to the east and adjoins the Minkara Road road reserve, the side and rear boundaries adjoin other residential allotments. The site has an area of 20240m² and contains a moderate front-to-rear slope.</p> <p>The majority of the site is within an RU2 Rural Landscape zone, while the northern part of the site is within an R5 Large Lot Residential zone. Parts of the front, rear and northern side boundaries adjoin R5-zoned areas, while the remainder adjoins other RU2 zoned areas. Other surrounding zone boundaries include E2 Environmental Conservation zones approximately 25m east and 250m southwest of the subject site, and an SP2 Infrastructure (Water Supply System) zone approximately 120m east of the subject site; there are no other zone boundaries within the surrounding area. The subject site is flood and bushfire prone, and is affected by Class 5 Acid Sulphate Soils and biodiversity considerations (Heathland Vegetation and Flora & Fauna Cat 1/2 Areas). The site does not contain a heritage item, nor is it within a heritage conservation area; there are also no heritage items within the surrounding area.</p> <p>Development on the subject site includes a large dwelling house that contains three approved "wings" and paved areas. Development within surrounding residential-zoned areas consists predominantly of low-density residential development and associated structures.</p>

Map:



SITE HISTORY

Site history:

- 29/12/1998 - Development Application No. N0176/98 approved for a new single dwelling.
- 21/10/1999 - Development Application No. N0899/99 refused. The application proposed a dual occupancy.
- 09/11/1999 - Development Application No. N0028/99 refused. The application proposed a septic tank.
- 22/12/1999 - Development Application No. N1258/99 approved for a new septic tank.
- 16/02/2001 - Complying Development Certificate No. N0124/01 approved for a detached metal garage.
- 12/11/2010 - Development Application No. N0443/10 approved for alterations and additions to the existing dwelling (a family retreat).
- 06/01/2014 - Development (Tree) Application No. T0551/16 approved for tree/bushland works.
- 14/04/2016 - Development Application No. N0028/16 approved for alterations and additions to the existing dwelling.
- 10/05/2018 - Subject Modification Application lodged.

PROPOSED DEVELOPMENT IN DETAIL

The subject modification application seeks to modify Development Consent No. N0028/16, which approved alterations and additions to an existing dwelling.

The proposed modifications seek to add an internal gas fireplace and associated chimney. No other changes are proposed.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

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 Development Application No. N0028/16 in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.15(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15(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	Yes 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 Development Application No. N0028/16.
(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	No submissions were received in relation to this application.

Section 4.15(1A) - Other Modifications	Comments
period prescribed by the regulations or provided 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	Pittwater 21 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&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&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&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&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>

Section 4.15 'Matters for Consideration'	Comments
	<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 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 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 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 proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered un/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 “Public Exhibition” 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.

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.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments	
Environmental Health (Solid Fuel/Oil Heater)	Solid Fuel/Oil Heater Referral	Compliance
	Does the proposed heater meet the emission control requirements of AS 4013.1999/AS 4013.2014?	N/A
	Does the proposed heater meet the requirements of AS/NZS 2918.2001?	N/A
	Does the flue pipe extend not less than 4.6m above the top of the floor protector?	N/A
	If the flue is 3m or less in horizontal distance from the highest point of the roof, is the top of the flue at least 600mm above highest point of the roof?	N/A
	If the flue is over 3m metres in horizontal distance from the highest point of the roof, is the height of the flue at least 1000mm above the roof penetration?	N/A
	Does the topography of the site or likely weather patterns or configuration of nearby dwelling/s indicate a potential to cause a smoke nuisance?	N/A
	Do significant trees or other environmental or structural factors in the immediate vicinity cause a smoke down draught?	N/A
	Does the application contain site, floor and elevation plans drawn to a scale of 1:100 or 1:200 clearly demonstrating the location of the proposed heater and the proposed flue in relation to the roof line of the dwelling and the closest neighbouring dwelling/building? (Only select this if all criteria are met).	YES
	Does the application contain specifications of the appliance to be installed indicating compliance with AS/NZS 2918:2001 and the Building Code of Australia?	N/A
<p>General Comments:</p> <p>This mod is for an as built Chimney on a new addition but is for a "gas heater" according to the EIS and as such does not require our approval as a solid fuel heater .</p> <p>No objections to a gas heater</p>		
Recommendation	Approval - No	

Internal Referral Body	Comments	
		conditions
	Comments completed by: Anthony Foy	
	Date: 12.6.2018	

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	A referral was sent to the energy supply authority on 18 May 2018; no response was received.

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 (Infrastructure) 2007

Pittwater Local Environmental Plan 2014

Is the development permissible?	Zone RU2: Yes Zone R5 : Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Zone RU2: Yes Zone R5 : Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Minimum subdivision lot size:					N/A
Minimum subdivision lot size for community title schemes					N/A

Minimum lot sizes for dual occupancies					N/A
Rural Subdivision:					N/A
Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones					N/A
Height of Buildings:	8.5m	4.5m	4.8m Note: Proposed height is less than maximum ridge RL of other parts of the existing dwelling.		Yes
Floor Space Ratio					N/A
Density controls for certain residential accommodation					N/A

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.10 Heritage conservation	N/A

Pittwater 21 Development Control Plan

Built Form Controls

The proposal is for a fireplace and chimney. No changes to proposed to major development controls.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.6 Ingleside Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D6.1 Character as viewed from a public place	Yes	Yes

Detailed Assessment

B3.2 Bushfire Hazard

The recommendations of the original bushfire report (in terms of placement for gas and electricity lines/utilities) are considered to be applicable to the proposed modifications.

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

Pittwater Section 94 Development Contributions Plan

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. Mod2018/0232 for Modification of Development Consent N0028/16 granted for alterations and additions to existing dwelling on land at Lot 2 DP 618622, 17 Minkara Road, BAYVIEW, subject to the conditions printed below:

The list of approved documents are to be amended as follows:

The Development Application has been determined by the granting of consent based on information provided by the applicant in support of the application, including the Statement of Environmental Effects, and in accordance with

1. Architectural drawings DA 18, job no. 489/15, dated September 2015, prepared by JJ Drafting, as amended by the following:

- Site Analysis & Site plan, prepared by JJ Drafting and dated May 2018
- Ground Floor Plan, prepared by JJ Drafting and dated May 2018
- Roof Plan and Contour Plan, prepared by JJ Drafting and dated May 2018
- Elevations, prepared by JJ Drafting and dated May 2018
- Elevations, prepared by JJ Drafting and dated May 2018
- Sections, prepared by JJ Drafting and dated May 2018

2. Schedule of exterior finishes, dated December 2015, prepared by JJ Drafting

3. BASIX certificate A 237 205_02, dated 18 March 2016, prepared by JJ Drafting

4. Arboricultural impact assessment 17 Minkara Road Bayview, dated October 2015, prepared by Bluegum Tree Care and Consultancy

5. Bushfire risk assessment report 17 Minkara Road Bayview, dated 22 September 2015, prepared by Bushfire Planning Services

6. Wastewater management letter, dated 11 January 2016, prepared by Gary Hobart/Wastewater Management.

as amended in red (shown clouded) or as modified by any conditions of this consent.

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

Signed




Tyson Ek-Moller, Planner

The application is determined under the delegated authority of:



Matthew Edmonds, Manager Development Assessments




ATTACHMENT A

Notification Plan	Title	Date
 2018/293921	Plan - Notification	10/05/2018

ATTACHMENT B

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2018/293922	Report - S96 Statement of Environmental Effects	10/05/2018
 2018/293929	Plans - Master Set	10/05/2018
 2018/293921	Plan - Notification	10/05/2018
 2018/293928	Plans - External	10/05/2018
 MOD2018/0232	17 Minkara Road BAYVIEW NSW 2104 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	10/05/2018
 2018/287499	DA Acknowledgement Letter - JJ Drafting	10/05/2018
 2018/293913	Development Application Form	15/05/2018
 2018/293915	Applicant Details	15/05/2018
 2018/293916	Fee Form	15/05/2018
 2018/302888	DA Acknowledgement Letter (not integrated) - JJ Drafting	18/05/2018
 2018/303036	Notification map - Mod2018-0232 - 17 Minkara Road Bayview	18/05/2018
 2018/303024	Notification Letter - Mod	18/05/2018
 2018/303233	COUNCIL NOTIFICATION - Mod2018-0232	18/05/2018
 2018/332781	Notification Sign - Mod2018/0232 - 17 Minkara Road Bayview	31/05/2018
 2018/348245	Environmental Health (Solid Fuel/Oil Heater) - Assessment Referral - Mod2018/0232 - 17 Minkara Road BAYVIEW NSW 2104	07/06/2018
 2018/355935	Environmental Health Referral Response - Solid Fuel Heaters	13/06/2018
 2018/406063	Stamped Plans	04/07/2018