

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Mod2020/0107
Kent Bull
Lot 25 DP 11518, 2 Corniche Road CHURCH POINT NSW 2105
Modification of Development Consent DA2018/1132 granted for demolition works and construction of a dwelling house
E4 Environmental Living
Yes
No
Northern Beaches Council
No
Tony Mete
lan Bennett Design Studio
13/03/2020
No
No
Residential - Alterations and additions
27/03/2020 to 10/04/2020
Not Advertised
0
Nil

PROPOSED DEVELOPMENT IN DETAIL

Recommendation:

The application seeks the Modification of Development Consent DA2018/1132 granted for demolition works and construction of a dwelling house. In particular, the modifications include:

- 1. Increasing the floor area of both Level One + Level Two by 500mm towards the north-western boundary;
- 2. Increasing the Level One Powder Room by 600mm towards the south-western boundary, reconfiguring both the Powder Room and the WC internally;

Approval

- 3. Increasing the Undercroft Services area by 2.7m towards the south-western boundary;
- 4. Relocating the Bathroom on Level Two from the south-eastern flank to the north-western flank and increasing the size of the Bathroom.
- 5. Locating a new Powder Room to the south-eastern flank of Level Two where the Bathroom was originally and increasing the widths internally of the Master, Bed 01 and Bed 02;

6. Deleting Kitchen window in north-western wall;

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- 7. Deleting the Walk-in pantry, reconfiguring the Kitchen and Cellar.
- 8. Relocating the Ensuite window;
- 9. Deleting the aluminium baffle cladding;
- 10. Deleting the aluminium baffle screen to the north-eastern flank of the Level Two deck and replacing with a 1.0m high balustrade;
- 11. Extending the Wet Bar wall on Level One to the north-eastern extent of the approved Deck;
- 12. Deleting the Wet Bar window in the north-western wall;
- 13. Deleting the box gutter and replacing with an eaves gutter.

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 - C1.23 Eaves

Pittwater 21 Development Control Plan - D4.3 Building colours and materials

Pittwater 21 Development Control Plan - D4.5 Front building line

Pittwater 21 Development Control Plan - D4.8 Building envelope

Pittwater 21 Development Control Plan - D4.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 25 DP 11518 , 2 Corniche Road CHURCH POINT NSW 2105
Detailed Site Description:	The site has a legal description of Lot 25 in DP 11518, and is commonly referred to as 2 Corniche Road, Church Point.
	The site is irregular in shape, with combined frontage of 82.525m to Corniche Road and a total area of 1031m². An existing single storey dwelling is situated centrally on the site, with pedestrian access and vehicular access from the south-east on Corniche Road.

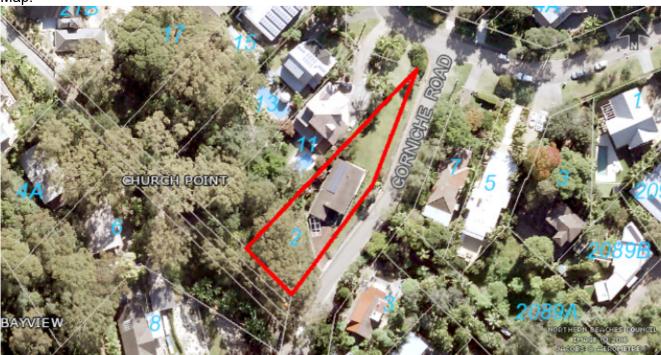
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The site is elevated above the street, with a stone retaining wall along the full length of the road reserve. Significant canopy trees are located at the upper end of the site to the south of the dwelling.

The site is surrounded by low density residential development of varied age and character.





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:

On 24 September 2019, Development Application No. DA2018/1132 for demolition works and construction of a dwelling house was approved by Council.

APPLICATION HISTORY

On 27 March 2020, photo evidence of the notification sign on site is provided to Council.

On 9 April 2020, a site inspection was undertaken by the development assessment officer.

On 20 May 2020, the development assessment officer seeked clarification from the Applicant confirming that bathroom window W19 is to be of translucent glazing.

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:

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- 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 DA2018/1132, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - 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 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 DA2018/1132 for the following reasons:

The modifications are for marginal increase to floor area towards the north-western side boundary, works involving internal room reconfigurations as well as minor changes to windows, roofing and external cladding. The modifications do not increase the approved building height or the number of bedrooms for the dwelling house. The resultant development is considered to be of a similar appearance in built form and is not seen to result in further unreasonable effects to the natural environment or to the amenity or the area when compared to that approved under DA2018/1132. As such, it is recommended that the consent authority be satisfied that the modifications are substantially the same development as the development for which consent was originally granted.

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) 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

Development Application DA2018/1132 did not require concurrence from the relevant Minister, public authority or approval body.

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Section 4.55 (2) - Other Modifications	Comments
(c) it has notified the application in accordance with:	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation
(i) the regulations, if the regulations so require,	2000, Pittwater Local Environmental Plan 2014 and Pittwater 21 Development Control Plan.
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	
(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 96 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	Comments
Consideration'	
Section 4.15 (1) (a)(i) – Provisions	See discussion on "Environmental Planning Instruments" in this
of any environmental planning instrument	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	Pittwater 21 Development Control Plan applies to this proposal.
control plan	
Section 4.15 (1) (a)(iiia) –	None applicable.
Provisions of any planning	
agreement	
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Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<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.
Trogalation 2000)	Clause 50(1A) 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.
	Clauses 54 and 109 of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.
	Clause 92 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.
	Clauses 93 and/or 94 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.
	Clause 98 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.
	Clause 98 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.
	Clause 143A 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.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and	(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.
economic impacts in the locality	(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.
	(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.

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Section 4.15 'Matters for	Comments
Consideration'	
Section 4.15 (1) (c) – the suitability	The site is considered suitable for the proposed development.
of the site for the development	
Section 4.15 (1) (d) – any	See discussion on "Notification & Submissions Received" in
submissions made in accordance	this report.
with the EPA Act or EPA Regs	
Section 4.15 (1) (e) – the public	No matters have arisen in this assessment that would justify the
interest	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

Internal Referral Body	Comments
NECC (Development Engineering)	No Development Engineering objection with no conditions

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

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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. 929827S_02, dated 20 February 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0002868586, dated 9 March 2020).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed	
Water	40	40	
Thermal Comfort	Pass	Pass	
Energy	50	91	

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.

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	

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Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.372m	8.372m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	2.37-3.9m	unaltered	No
Rear building line	6.5m	13.5	unaltered	Yes
Side building line	2.5m	3.4m	2.9m	Yes
Building envelope	3.5m	Outside envelope - North West Elevation	Outside envelope - North West Elevation	No
Landscaped area	60%	60% (618.6m ²)	58.6% (604.1m ²)	No

Compliance Assessment

Clause	_	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.4 Church Point and Bayview Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes

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Clause	<u> </u>	Consistency Aims/Objectives
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.23 Eaves	No	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D4.1 Character as viewed from a public place	Yes	Yes
D4.3 Building colours and materials	No	Yes
D4.5 Front building line	No	Yes
D4.6 Side and rear building line	Yes	Yes
D4.8 Building envelope	No	Yes
D4.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D4.11 Fences - General	N/A	N/A
D4.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

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	•	Consistency Aims/Objectives
D4.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.23 Eaves

The proposed modifications do not incorporate 450mm eaves on all elevations. As discussed in the previous Assessment Report for DA2018/1132, it is agreed that the development reflects the coastal character of the area and the desired character of the locality, consistent with the outcomes of this development control.

D4.3 Building colours and materials

The submitted material schedule indicates the use of white painted bricks that is inconsistent with the requirement for external surfaces to be finishes in dark and earthy tones, to blend with the surrounding natural environment. The Assessment Report for development consent no. DA2018/1132, details that compliance with this requirement is considered to be particularly important on sites such as this; where the house is situated on a slope, and when the resultant development will be visible from many public vantage points throughout the locality. To achieve consistency with this control, and given that the modification does not request for the Condition 9 of DA2018/1132 to be altered to removed, consideration is given that the condition is to remain in force.

D4.5 Front building line

The modifications do not seek any changes to the approved front building setback of between 2.37-3.9m, that was determined to adequately respond to the outcomes of the this control. As such, the maintenance of the approved setback is supported.

D4.8 Building envelope

The proposed modifications to reduce the approved side setback to the north-western elevation, results in a maximum breach to the building envelope of 350mm (5.5%). The variation sought for the proposed modification does not result in an unreasonable impact to neighbouring properties with regard to views, privacy and solar access. Furthermore, the proposal is consistent with achieving the desired future character of the locality and visual impacts on the streetscape by limiting the breach to an area that will not be directly visible from Corniche Road and by proposing extensive landscaping throughout the site. It should be noted, that the redesigned roof parapet, which now includes an eave, has been excluded from this calculation, as the control permits roof eaves that extend outside the building envelope.

Based on the above, the variations to the control are supported on merit in this instance, as the proposed development is considered to satisfy the outcomes of this clause.

D4.10 Landscaped Area - Environmentally Sensitive Land

The modification results in a landscaped area of 58.6% (604.1m²) which is technically non-compliant with the requirement for 60% of the total site area to be dedicated for landscaping. The variations of this clause allow for a revised landscape area calculation to include impervious areas of less than 1m in width and up to 6% of the total site area if used for outdoor recreational purposes. On this basis, the revised landscaped area is compliant with the control requirement. Whilst the modification does reduce

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landscaping along the north-western side setback area on the site, consideration is given that appropriate screening shrubs can still be accommodated along this boundary. Further, extensive plantings proposed within the front setback area and native canopy trees within the rear setback are to remain unchanged. As such, the landscaping arrangement maintains compliance with the outcomes which seek to enhance the landscaped character of the site and visually reduce the built form of the dwelling. Council's Development Engineer has reviewed the application with regards to stormwater run off and disposal, outlining no objections. Based on the above, the changes are not considered to result in an unreasonable impact on the amenity, privacy and solar access for neighbouring residents, and therefore the non-compliance is supported on merit and considered to satisfy the outcomes of the control.

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;
- 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

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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. Mod2020/0107 for Modification of Development Consent DA2018/1132 granted for demolition works and construction of a dwelling house on land at Lot 25 DP 11518,2 Corniche Road, CHURCH POINT, 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	
A.02, Issue B (Site Plan)	04.03.20	Ian Bennett Design Studio	
A.04, Issue B (Level One Plan)	04.03.20	Ian Bennett Design Studio	
A.05, Issue B (Level Two Plan)	04.03.20	Ian Bennett Design Studio	
A.06, Issue B (Elevations)	04.03.20	Ian Bennett Design Studio	
A.07, Issue B (Sections X, T, Z)	04.03.20	Ian Bennett Design Studio	

Reports / Documentation – All recommendations and requirements contained within:			
Report No. / Page No. / Section No.	Dated	Prepared By	
BASIX Certificate, Ref. 929827S_02	20.02.20	Ian Bennett Design Studio	
NatHERS Certificate, Ref. 0002868586	20.02.20	Chad Whittaker (Dartecha Design)	
Geotechnical Addendum Letter, Ref. J1795A	02.03.20	White Geotechnical Group Pty Ltd	
Stormwater Addendum Letter	04.03.20	GZ Consulting Engineers	

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

B. Add Condition under heading CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE

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CONSTRUCTION CERTIFICATE to read as follows:

Bathroom window marked W19 along the north west elevation is to be of obscured (i.e. translucent) glazing.

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

Reason: To address visual privacy impacts.

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

Signed

Kent Bull, Planner

The application is determined on 21/05/2020, under the delegated authority of:

Matthew Edmonds, Manager Development Assessments

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