

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2019/0012
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<b>Responsible Officer:</b>	Ashley Warnest
<b>Land to be developed (Address):</b>	Lot 2 DP 518427, 4 Prince Alfred Parade NEWPORT NSW 2106
<b>Proposed Development:</b>	Modification of Development Consent DA2018/1024 granted for alterations and additions to an existing dwelling house
<b>Zoning:</b>	E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Caroline Elizabeth Kimmorley
<b>Applicant:</b>	Caroline Elizabeth Kimmorley

<b>Application lodged:</b>	16/01/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	22/01/2019 to 07/02/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	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 - C1.19 Incline Passenger Lifts and Stairways

Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)

Pittwater 21 Development Control Plan - D10.13 Landscaped Area - Environmentally Sensitive Land

Pittwater 21 Development Control Plan - D15.15 Waterfront development

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 2 DP 518427 , 4 Prince Alfred Parade NEWPORT NSW 2106
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the western side of Prince Alfred Parade.</p> <p>The site is regular in shape with pedestrian and vehicular access gained via a Right of Carriage Way to Prince Alfred Parade. The site has a surveyed area of 1005m<sup>2</sup> with a depth of 51.8m and a slope of 33.1% that falls from the east to the west. The site adjoins Pittwater Waterway to the rear of the site.</p> <p>The site is located within the Environmental Living E4 zone and accommodates dwelling houses.</p> <p>The site contains a two (2) storey rendered dwelling house with a hip and valley roof. An elevated deck adjoins the rear of the dwelling. Waterway access can be gained via an existing jetty and associated deck.</p> <p>The rear of the site contains six (6) mature native canopy trees and assorted low lying shrubs.</p> <p><u>Detailed Description of Adjoining/Surrounding Development</u></p> <p>Adjoining and surrounding development is characterised by similar one (1) and two (2) storey dwelling houses with associated jetties and water way access.</p>

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:

- Development Application DA2018/1024  
Alterations and additions to an existing dwelling house including the construction of a boatshed and inclinor. Determined 31/10/2018.

## PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent to modify Development Consent DA2018/1024 to include bathroom facilities within the boatshed.

## 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 DA2018/1024, 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:

<b>Section 4.55(1A) - Other Modifications</b>	<b>Comments</b>
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	<b>Yes</b> 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 DA2018/1024.
(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:

<b>Section 4.15 'Matters for Consideration'</b>	<b>Comments</b>
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.

Section 4.15 'Matters for Consideration'	Comments
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&amp;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&amp;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&amp;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&amp;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&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;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&amp;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&amp;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,	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the</p>

Section 4.15 'Matters for Consideration'	Comments
including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. In summary, the proposed development is found to be consistent with the desired future character of the Newport Locality and relevant locality specific controls. The proposed works are respectful to the site and the adjoining neighbours.</p> <p><b>(ii) Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b> 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 suitable for the proposed development as the key characteristics of the site including the location, orientation, aspect, character, size, and topography. The proposal is consistent with the zoning of the land and predominantly complying with the DCP controls that are applicable to the subject site.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received in relation to this application.
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. The public interest is best served by the orderly and economic use of land for purposes which are permissible and which, in their design and operation satisfy the intent of the relevant controls.

## 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

Internal Referral Body	Comments
Environmental Health (unsewered lands)	<p>Environmental Health has been requested to comment on this Mod for installation of toilet and sink facilities in a boat shed.</p> <p>Although the site is sewerred the provision of waste water infrastructure is required to pump waste water up to the sewer. The risk of blockage and discharge of untreated effluent from the maceration pump pit to Pittwater is significantly increased due to the location immediately beside the Water Body. An approval to install a water water management system will be required showing how risks will be managed.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.

### 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)

Nil

### 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 Standard	Requirement	Approved	Proposed	Complies

Height of Buildings:	8.5m	3.7m	unaltered	Yes
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### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.7 Development below mean high water mark	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
7.8 Limited development on foreshore area	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	N/A	unaltered	N/A
Rear building line	FBL applies	N/A	unaltered	N/A
Side building line	2.5m (south)	7.4m	unaltered	Yes
	1m (north)	0m	unaltered	<b>No</b>
Building envelope	3.5m (south)	Within envelope	unaltered	Yes
	3.5m (north)	Within envelope	unaltered	Yes
Landscaped area	60%	49.5%	unaltered	<b>No</b>

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	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
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
Community		
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	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
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
C1.13 Pollution Control	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	No	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.17 Scenic Protection Category One Areas	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	No	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes
D15.11 Waterfront lighting	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D15.12 Development seaward of mean high water mark	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes
D15.15 Waterfront development	No	Yes
D15.18 Seawalls	Yes	Yes
D15.19 Dredging	Yes	Yes

### Detailed Assessment

#### **C1.19 Incline Passenger Lifts and Stairways**

There are no changes proposed to the location of the inclinor and is therefore supported on merit.

#### **D10.8 Side and rear building line (excluding Newport Commercial Centre)**

There are no changes proposed to the northern side setback. The side setback is therefore supported on merit.

#### **D10.13 Landscaped Area - Environmentally Sensitive Land**

There are no changes proposed to the landscaped area. The landscaped area is therefore supported on merit.

#### **D15.15 Waterfront development**

The proposed toilet within the boat shed does not comply with the requirements of the control. The variation is considered reasonable due to the topography of the site, the separation from the dwelling, and the specific circumstances of the residents. In addition the incorporation of a toilet does not limit the capacity of the development to meet the outcomes of the control. The outcomes are achieved in the following ways:

- The applicant is to attain an 'Approval to Install an On-Site Sewage Management System' to ensure the wastewater system will not have an adverse impact on the water quality and estuarine habitat of Pittwater waterway.
- Public access along the foreshore is not impeded.
- Waterway navigation is not impeded.
- The toilet facilities are located within the boatshed and will not appear out of character with the natural environment.
- The incorporation of the toilet will not impede the use of the boatshed for storage of small boats and/or boating equipment.

With consideration of the above the variation to the requirement is considered satisfactory in addressing this 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.

## **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. Mod2019/0012 for Modification of Development Consent DA2018/1024 granted for alterations and additions to an existing dwelling house on land at Lot 2 DP 518427,4 Prince Alfred Parade, NEWPORT, 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**

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
2247 - DA01A and DA02A - Rev. A	10/01/2019	Stephen Crosby And Associates Pty. Ltd.

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

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

**B. Delete Condition 20 - Toilet Facilities**

**C. Modify Condition 4 - Boat Shed Not to be Used for Habitable Purposes to read as follows:**

At no time shall the boat shed be utilised or converted to provide for habitation. The boatshed must not be used for any other purpose than the storage of small boats, light watercraft and boating and marine equipment. The incorporation of any internal kitchen facilities, habitable rooms, or shower facilities is not permitted.

Reason: To minimise risk to life associated with estuarine hazards for development in the coastal zone.

**D. Add Condition Prior to Construction Certificate - Approval to Install an On-site Sewage Management System to read as follows:**

Prior to the release of the Construction Certificate (CC), the applicant must receive an 'Approval to Install an On-Site Sewage Management System' (maceration pump and holding tank), from Council. Particular attention being paid to how any overflow will be managed in regard to the adjacent water body.

Details demonstrating compliance are to be submitted to the Certifying Authority.

Reason: To fulfill the requirements under Section 68 of the Local Government Act 1993

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

**Signed**



**Ashley Warnest, Planner**

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



**Steven Findlay, Manager Development Assessments**