

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0050
Responsible Officer:	Hugh Halliwell
Land to be developed (Address):	Lot 1 DP 238326, 22 Sunnyridge Place BAYVIEW NSW 2104
Proposed Development:	Modification of consent N0316/14 for the additions to the dwelling involving a new garage deck rear ground floor addition and second storey extension
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Adam John Lucas Vanessa Ann Lucas
Applicant:	JJ Drafting
Application lodged:	07/02/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	15/02/2018 to 01/03/2018
Advertised:	Not Advertised
Submissions Received:	2
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 - 2014 - A1.7 Considerations before consent is granted

Pittwater 21 Development Control Plan - 2014 - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - 2014 - D4.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 1 DP 238326 , 22 Sunnyridge Place BAYVIEW NSW 2104
Detailed Site Description:	The subject site is known as 22 Sunnyridge Place, Bayview. Its legal description is Lot 1 in DP 238326. It is located on the northern side of Sunnyridge Place. The subject site is roughly rectangular in shape. It has a frontage of 20.405m to Sunnyridge Place and an average depth of approximately 38.2m. It has a total area of 710.6sqm. The Site contains a two-storey dwelling house with an attached double garage to the front of the dwelling. Adjoining the site to all sides are similar low-density residential dwellings of similar character. Adjoining the site to the southwest is a 4.5m wide access handle and bitumen driveway servicing No. 21 Sunnyridge Place. The subject site has a slight cross-fall from the south-west to the north-east.

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:

1. Development Application N0316/14 for additions to the existing dwelling was approved by the delegated authority of the Development Unit Panel on 7 May 2015.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent to modify the original approval (N0316/14) by making changes to the lower ground floor, ground floor and first floor plans. Changes include: a

- Alterations to approved windows and doors;
- Provide new sliding doors to the ground floor on the north-west elevation;
- Removal of approved fireplace in the master bedroom;
- General internal re-configurations; and
- Construction of new timber deck and steps to the north-west of the kitchen/dining area.

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 N0316/14, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(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 N0316/14.
(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 2011 and Pittwater 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.	See discussion on "Notification & Submissions Received" in this report.

Section 79C Assessment

In accordance with Section 96(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 79C(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (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> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent</p>

Section 79C 'Matters for Consideration'	Comments
	<p>authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent/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 79C (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	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater Development Control Plan section in this report. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (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 process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Simon Anthony Cohen	20 Sunnyridge Place BAYVIEW NSW 2104
Simon Cohen	20 Sunnyridge Place BAYVIEW NSW 2104

The following issues were raised in the submissions and each have been addressed below:

- 20 Sunnyridge Place, Bayview

The matters raised within the submissions are addressed as follows:

- **Visual Privacy**

Comment:

- See clause C1.5 for comment in relation to the visual privacy concerns raised from the neighbour at No. 20.

- **Landscaping**

Comment:

- See clause D4.10 for comment in relation to the landscaping concerns raised from the neighbour at No. 20.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	no objection to modification application

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	No comments received from Ausgrid.

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A306501, dated 6 February 2018).

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	% Variation	Complies
Height of Buildings:	8.5m	8.5m	Works do not exceed approved building height.	0%	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan - 2014

Built Form Controls

Built Form Control	Requirement	Approved	Pro
Front building line	6.5m	6m	Una
Rear building line	6.5m	11m	
Side building line	2.5m	1.1m (north-east)	Una
	1m	1.2m (south-west)	Una
Building envelope	3.5m	Outside envelope	Una
	3.5m	Outside envelope	Una
Landscaped area	60%	57.45%	48

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.4 Church Point and Bayview Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
D4.1 Character as viewed from a public place	Yes	Yes
D4.2 Scenic protection - General	Yes	Yes
D4.3 Building colours and materials	Yes	Yes
D4.5 Front building line	Yes	Yes
D4.6 Side and rear building line	Yes	Yes
D4.8 Building envelope	Yes	Yes
D4.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D4.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

A1.7 Considerations before consent is granted

A site inspection confirmed that a number of proposed changes, including window and door changes have already been completed.

Modification applications can be granted retrospective approval under NSW case law as established in the case of *Windy Dropdown Pty Ltd v Warringah Council* [2000] NSWLEC 240. Commissioner J. Talbot considered the following:

the broad construction of s 96 leads to a practical result that enables a consent authority to deal with unexpected contingencies as they arise during the course of construction of development or even subsequently, provided of course that the development to which the consent as modified relates is substantially the same development.

Therefore, although some of the works which form the basis of this section 96 application have already been undertaken, modification approval can still be granted. The changes which have already been undertaken do not adversely impact on the amenity, including visual privacy of neighbouring properties (see C1.5 Visual Privacy), therefore the modifications are supported.

C1.5 Visual Privacy

A submission from No. 20 has raised concern with regards to changes to windows along the south-west elevation creating visual privacy concerns for that property. The neighbour has noted that changes in height of the bathroom windows have not been report in the Statement of Effects, nor any privacy

issues this modification has created raised in the documentation. However, the documentation notes changes to the size of these windows. A closer examination of the modified plans and approved plans, including a site inspection at No.22 finds that the windows of concern service non-principal living areas (a bathroom and ensuite). Despite the neighbour raising concern regarding the new louvered window creating a "direct line of sight into the bathroom from ALL front windows of 20 Sunnridge Place", these windows are to be frosted providing privacy for this neighbour. Furthermore, with a driveway separating the two properties, there is considerable separation between these windows (approx 9m) and the neighbour's property. There is considered to be no unreasonable impact upon visual privacy, therefore the window changes are supported.

D4.10 Landscaped Area - Environmentally Sensitive Land

It is noted that the original approval granted consent for a total landscaped of 57.45%. A site inspection confirmed that pathways along the north-east and south-west boundaries have recently been laid since the approval, further eroding the landscaped area. With the exception of a small area of deck/stairs to the rear, the subject application and proposed modifications are largely contained within the approved building envelope. The deck/stairs measuring 7.3sqm in area is considered minor and will not detrimentally impact on the character of the area nor impact the amenity of neighbouring properties.

Whilst a submission from No. 20 Sunnyridge Place raises concern with respect to the reduced landscaped area and supporting documentation not accurately reflecting this, this assessment finds the 'Landscape Calculation Plan', prepared by JJ Drafting, dated January 2018 to be accurate, in so far as the newly created hard surface areas have been accurately reflected. A site inspection has confirmed this. However, it is acknowledged that the new deck/stairs have been included in the landscaped area, which is inaccurate. The landscaped area (as modified), being 48.8%, although a reduction, is largely a result of previous works, including footpaths being laid prior to this application being lodged, which were not a part of the previous approval. With a permitted variation to allow for certain areas of outdoor recreational space to be included in the landscaped area calculation, the landscaped area is calculated to be 370.6m² or 52.2%. On merit, the overall landscaped area, which remains largely as approved (with exception of pathways and small deck/stairs), is considered acceptable and is therefore supported.

The same resident has lodged concerns regarding approved landscaping not yet being implemented, in accordance with the following condition:

Landscaping is to be implemented in accordance with the approved Landscape Plan number 1654-11, dated 23/06/2014 and drawn by J.D Evans and Company Pty Ltd. The new landscaping is to be approved as completed by the accredited certifier upon issue of the Occupation Certificate unless further conditions regarding the completion timeframe are imposed. This landscaping is to then be maintained for the life of the development.

It is understood that this condition is yet to be complied with, but is required to be complied with prior to the issuing of an occupation certificate. As an occupation certificate has not been issued, the approved landscaping, as per above, the condition is still able to be complied with.

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. Mod2018/0050 for Modification of consent N0316/14 for the additions to the dwelling involving a new garage deck rear ground floor addition and second storey extension on land at Lot 1 DP 238326,22 Sunnyridge Place, BAYVIEW, subject to the conditions printed below:

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
DA 1	January 2018	JJ Drafting
DA 2	January 2018	JJ Drafting
DA 3	January 2018	JJ Drafting
DA 4	January 2018	JJ Drafting
DA 5	January 2018	JJ Drafting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate, Certificate No. A306501	6 February 2018	JJ Drafting

c) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

f) 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. (DACPLB01)

Add Condition B19 to read as follows:

The existing screen planting along the north east boundary shall be retained and protected.

Reasons: to satisfy C1.5 Visual Privacy.

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

Signed




Hugh Halliwell, Planner

The application is determined under the delegated authority of:



Tyson Ek-Moller, Acting Development Assessment Manager

























ATTACHMENT A

Notification Plan	Title	Date
 2018/100521	Plans - Notification	06/02/2018

ATTACHMENT B

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2018/100545	Report - BASIX Certificate	06/02/2018
 2018/100665	Plans - Master set	06/02/2018
 2018/100521	Plans - Notification	06/02/2018
 2018/100663	Plans - Internals	06/02/2018
 2018/100658	Plans - External	06/02/2018
 2018/104397	Report - Statement of Environmental Effects Section 96	06/02/2018
 2018/100500	delete	06/02/2018
 MOD2018/0050	22 Sunnyridge Place BAYVIEW NSW 2104 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	07/02/2018
 2018/099196	DA Acknowledgement Letter - JJ Drafting	07/02/2018
 2018/100539	delete	07/02/2018
 2018/100502	delete	07/02/2018
 2018/100652	Plan - Landscape Calculation	07/02/2018
 2018/100645	Development Application	07/02/2018
 2018/100650	Applicant Details	07/02/2018
 2018/100898	Fee Form	07/02/2018
 2018/108949	DA Acknowledgement Letter (not integrated) - JJ Drafting	12/02/2018
 2018/109010	Notification Letter - Mod	12/02/2018
 2018/158851	DELETE - DOUBLE UP	28/02/2018
 2018/141522	Online Submission - Cohen	28/02/2018
 2018/164709	Submission Acknowledgement Letter - Simon Cohen - SA2018/158851	09/03/2018
 2018/183801	Landscape Referral Response	20/03/2018
 2018/209370	Site Photos	29/03/2018
 2018/221525	Memo - Notification of Application	06/04/2018
 2018/249307	Stamped Plans	20/04/2018