

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

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| Application Number: | Mod2022/0326 |
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| Responsible Officer: | Stephanie Gelder |
| Land to be developed (Address): | Lot 11 DP 28512, 9 Vines Avenue FORESTVILLE NSW 2087 |
| Proposed Development: | Modification of Development Consent DA2019/1536 granted for Alterations and additions to a dwelling house. |
| Zoning: | Warringah LEP2011 - Land zoned R2 Low Density Residential |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Tracy Helen Wallace Hart |
| Applicant: | Tracy Helen Wallace Hart |

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| Application Lodged: | 04/07/2022 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Refer to Development Application |
| Notified: | 13/07/2022 to 27/07/2022 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

PROPOSED DEVELOPMENT IN DETAIL

The proposed modification works to those approved under DA2019/1536 and Mod2020/0154 comprise of the following:

- Addition of window along the eastern facade of Bed 5; and
- Addition of awning above rear northern deck.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

SITE DESCRIPTION

| | |
|-----------------------------------|--|
| Property Description: | Lot 11 DP 28512 , 9 Vines Avenue FORESTVILLE NSW 2087 |
| Detailed Site Description: | <p>The subject site consists of one (1) allotment located on the northern side of Vines Avenue.</p> <p>The site is regular in shape with a frontage of 18.745m along Vines Avenue and a depth of 37.185m. The site has a surveyed area of 697m².</p> <p>The site is located within the R2 Low Density Residential zone from WLEP 2011 and accommodates a dwelling house, carport, and swimming pool.</p> <p>The site slopes from the southern front boundary downwards to the northern rear boundary over approximately 3 metres.</p> <p>The site contains lawn area, garden beds, shrubs and trees. There are no details of any threatened species on the subject site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one and two storey dwelling houses varying in architectural style and design.</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:

DA2017/0693

Development Application for Alterations and Additions to an existing dwelling house.
Approved on 19 September 2017.

DA2019/1536

Development Application for Alterations and additions to a dwelling house.
Approved on 11 March 2020.

Mod2020/0154

Modification of Development Consent DA2019/1536 granted for alterations and additions to a dwelling house.
Approved on 21 May 2020.

CC2020/0772

Construction Certificate for Alterations and additions to a dwelling house.
Approved on 5 August 2020 by External Private Certifying Authority.

NOC2020/0876

Notice of Commencement for Alterations and additions to a dwelling house.
Dated 10 August 2020.

DA2021/0214

Development Application for Construction of a boundary retaining wall.
Approved on 26 April 2021.

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 DA2019/1536, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

| Section 4.55(1A) - Other Modifications | Comments |
|---|--|
| A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if: | |
| (a) it is satisfied that the proposed modification is of minimal environmental impact, and | <p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> • The proposed modified works are considered to be of minimal environmental impact as the awning is located above the rear deck and will not give rise to any unreasonable amenity impacts. Furthermore, the addition of the window located 1.6m from the ground floor finished level along the eastern facade of Bed 5 will not result any any unacceptable amenity impacts. • The proposed modified works demonstrates compliance with the height of buildings development standard, and compliance with the approved built form controls. • Therefore, it is considered the proposed modified works are 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 | <p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/1536 for the following reasons:</p> <ul style="list-style-type: none"> • The development, as proposed, has been found to be such that Council is satisfied that the proposed |

| Section 4.55(1A) - Other Modifications | Comments |
|---|--|
| | works are substantially the same as those already approved under DA2019/1536 as the proposed modification works include an awning over the rear deck, and the addition of a window along the eastern facade of Bed 5. |
| (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, and the Northern Beaches Community Participation 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 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 | There are no current draft environmental planning instruments. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Warringah Development Control Plan 2011 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 2021 (EP&A Regulation 2021) | <u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. |

| Section 4.15 'Matters for Consideration' | Comments |
|--|---|
| | <p><u>Clause 29</u> of the EP&A Regulation 2021 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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 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 62</u> and/or 64 of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 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 suitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report. |

| Section 4.15 'Matters for Consideration' | Comments |
|--|---|
| Section 4.15 (1) (e) – the public interest | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 13/07/2022 to 27/07/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

No referrals were sent in relation to this application

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.A365047_04 dated 9 June 2022).

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Warringah Local Environmental Plan 2011

| | |
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| 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 | 3.9m | 4.5m (Awning) | - | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|---------------------------------|------------------------------|
| 4.3 Height of buildings | Yes |
| 6.2 Earthworks | Yes |
| 6.4 Development on sloping land | Yes |

Warringah Development Control Plan

Built Form Controls

| Standard | Requirement | Approved | Proposed | Complies |
|---|-------------|--|------------------------|------------|
| B1 Wall height | 7.2m | 3.9m | unaltered | N/A |
| B3 Side Boundary Envelope | 4m (East) | Within Envelope | Within Envelope | Yes |
| | 4m (West) | Within Envelope | Within Envelope | Yes |
| B5 Side Boundary Setbacks | 0.9m (East) | 1.565m | 1.565m | Yes |
| | 0.9m (West) | 0.9m | 0.9m | Yes |
| B7 Front Boundary Setbacks | 6.5m | 1.07m (Carport) 5.72m (Dwelling) | unaltered unaltered | N/A N/A |
| B9 Rear Boundary Setbacks | 6m | 14.2m (Dwelling) | 16.3m | Yes |
| D1 Landscaped Open Space and Bushland Setting | 40% | Proposed: 29.3% (204m ²) Existing: 20.8% | unaltered | N/A |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A.5 Objectives | Yes | Yes |
| B1 Wall Heights | N/A | N/A |
| B3 Side Boundary Envelope | Yes | Yes |
| B5 Side Boundary Setbacks | Yes | Yes |
| B7 Front Boundary Setbacks | N/A | N/A |
| B9 Rear Boundary Setbacks | Yes | Yes |
| C2 Traffic, Access and Safety | Yes | Yes |
| C3 Parking Facilities | Yes | Yes |
| C4 Stormwater | Yes | Yes |
| C7 Excavation and Landfill | Yes | Yes |
| C8 Demolition and Construction | Yes | Yes |
| C9 Waste Management | Yes | Yes |
| D1 Landscaped Open Space and Bushland Setting | N/A | N/A |
| D2 Private Open Space | Yes | Yes |
| D3 Noise | Yes | Yes |
| D6 Access to Sunlight | Yes | Yes |
| D7 Views | Yes | Yes |
| D8 Privacy | Yes | Yes |
| D9 Building Bulk | Yes | Yes |
| D10 Building Colours and Materials | Yes | Yes |
| D11 Roofs | Yes | Yes |
| D12 Glare and Reflection | Yes | Yes |
| D14 Site Facilities | Yes | Yes |
| D20 Safety and Security | Yes | Yes |
| D21 Provision and Location of Utility Services | Yes | Yes |
| E1 Preservation of Trees or Bushland Vegetation | Yes | Yes |
| E2 Prescribed Vegetation | Yes | Yes |
| E6 Retaining unique environmental features | Yes | Yes |
| E10 Landslip Risk | Yes | Yes |

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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;
- Warringah Local Environment Plan;
- Warringah 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. Mod2022/0326 for Modification of Development Consent DA2019/1536 granted for Alterations and additions to a dwelling house. on land at Lot 11 DP 28512,9 Vines Avenue, FORESTVILLE, subject to the conditions printed below:

A. Add Condition No.1B - 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 |
| Proposed Site & Roof Plan - A-06, Rev 3 | 30 May 2022 | IQ Homes |
| Proposed Ground Floor Plan - A-07, Rev 3 | 30 May 2022 | IQ Homes |
| Proposed West Elevation & Approved South Elevation - A-08, Rev 3 | 30 May 2022 | IQ Homes |
| Proposed East Elevation & Proposed North Elevation - A-09, Rev 3 | 30 May 2022 | IQ Homes |
| Proposed Section Y-Y - A-10, Rev 3 | 30 May 2022 | IQ Homes |
| Deck / Awning Plan - A-11, Rev 3 | 30 May 2022 | IQ Homes |
| North Elevation - A-12, Rev 3 | 30 May 2022 | IQ Homes |
| West Elevation - A-13, Rev 3 | 30 May 2022 | IQ Homes |
| Section X-X - A-14, Rev 3 | 30 May 2022 | IQ Homes |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|--------------|--------------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| BASIX Certificate (No.A365047_04) | 9 June 2022 | IQ Homes |
| Geotechnical Report - Updated | 9 June 2022 | White Geotechnical Group |

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

| Waste Management Plan | | |
|---|--------------|--------------------|
| Drawing No. | Dated | Prepared By |
| Proposed Site and Waste Management Plan - A-15, Rev 3 | 30 May 2022 | IQ Homes |

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

B. Add Condition 7A - External Finishes to Roof to read as follows:

The external finish to the roof shall have a medium to dark range (BCA rating M or D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

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

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

Signed



Stephanie Gelder, Planner

The application is determined on 28/07/2022, under the delegated authority of:



Phil Lane, Acting Development Assessment Manager