

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0875
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Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 52 DP 22369, 6 Hillcrest Place NORTH MANLY NSW 2100
Proposed Development:	Modification of Development Consent DA2019/0810 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:	Rochelle Anne Robinson Blithe Francis John Robinson
Applicant:	Cadence & Co Design Pty Ltd

Application Lodged:	11/11/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	22/11/2021 to 06/12/2021
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

"This application seeks to clarify the balustrading heights along the southern boundary of the proposed works. The new finished ground / floor levels are split across two levels, so the respective balustrading / screening is proposed to do the same. The natural ground line is considerably lower so these works are both a privacy and safety (fall prevention) consideration for the development.

Aesthetically, the materials and finishes are to match the already approved DA and Modification; being a combination of rendered masonry and vertical timber battens. As with most residential side boundary fences the total height proposed is 1.8m."

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

Warringah Development Control Plan - B5 Side Boundary Setbacks
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 52 DP 22369 , 6 Hillcrest Place NORTH MANLY NSW 2100
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Hillcrest Place.</p> <p>The site is irregular in shape with a frontage of 15.24m along Hillcrest Place and a maximum depth of 43.48m. The site has a surveyed area of 619.9m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a one and two storey rendered brick residence with new double constructed double garage in the northeast corner of the front yard.</p> <p>The site has a steep topography, with a fall of approximately 25% from the front to the rear of the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low density residential dwellings including ancillary structures and/or outbuildings.</p>

Map:



SITE HISTORY

DA2019/0810 - Alterations and additions to a dwelling house approved 11 October 2019

MOD2020/0633 - Modification of Development Consent DA2019/0810 granted for alterations and additions to a dwelling house approved 16 January 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 DA2019/0810, 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	

Section 4.55(1A) - Other Modifications	Comments
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> <p>The proposed modifications are considered to be of minimal environmental impact (subject to conditioning).</p>
(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 DA2019/0810 for the following reasons:</p> <p>Modifications seeks to alter the balustrading heights along the southern boundary of the proposed works located in the southeast front corner of the property. These modifications will be assessed and conditioned accordingly.</p>
(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 2000, and the Northern Beaches Community Participation Plan.
(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	
(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	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 control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested by Council on 22 November 2021 for a Long Section of the proposed modifications along the southern boundary. Additional information was submitted by the applicant to Council on 7 December 2021.</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>Clause 98</u> 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.</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>
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 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>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 (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 22/11/2021 to 06/12/2021 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Jeffrey Alan Lock	4 Hillcrest Place NORTH MANLY NSW 2100

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

- Height of the proposed wall/balustrade
- Solar access and airflow to verandah and garage
- Additional information request from the applicant
- Front fence
- Artificially raised height of ground levels
- The drawings fail to detail height of the railing/balustrade on the stairs
- Water flowing on 6 Hillcrest Place
- Sewer vent location

The matters raised within the submissions are addressed as follows:

- Height of the proposed wall/balustrade

Comment: A inspection was undertaken by Council on 22 December 2021 by Council's Planner this included a meeting with the respective owners of No. 6 Hillcrest Place (subject site) and their builder and the adjoining owner to the south (No. 4 Hillcrest Place). After a detailed review of the proposal it is considered that the height is excessive and any future development will be located adjacent to a 4m high structure and a condition will be imposed that that section of wall/screening adjacent to the lawn area be replaced with a 1m high and 1m wide planter box which will be suitable balustrade. Additionally, the planter box will allow for adequate screen planting to ensure visual privacy for both parties.

Given the above it is considered that this issue has been addressed and does not warrant refusal subject to condition.

- Solar access and airflow to verandah and garage

Comment: Issue was raised in relation to solar and airflow to the lower verandah and garage at 4 Hillcrest Place. As per requirements of Clause D6 Access to Sunlight of the Warringah Development Control Plan 2011 (WDCP 2011) solar access to be at least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.

The proposed modifications will satisfy this requirement. Additionally, the garage is classified as an outbuilding and there is no requirement for solar access and/or ventilation to this type of building.

The modified conditioned boundary wall/screen will ensure adequate airflow to the adjoining property and it is deemed not be sufficient to warrant refusal of the proposal.

Given the above it is considered that this issue has been addressed and does not warrant refusal subject to condition.

- Additional information request from the applicant

Comment: Council request additional information for a long section along the southern side boundary for the proposed modifications to the boundary wall/screen on 22 November 2021. Council received amended plans from the applicant on 7 December 2021 which included a long section of the southern boundary. Council informed the owner of 4 Hillcrest Place of this additional information on 10 December 2021. Additionally, issues from the owner of 4 Hillcrest Place were raised which are addressed below.

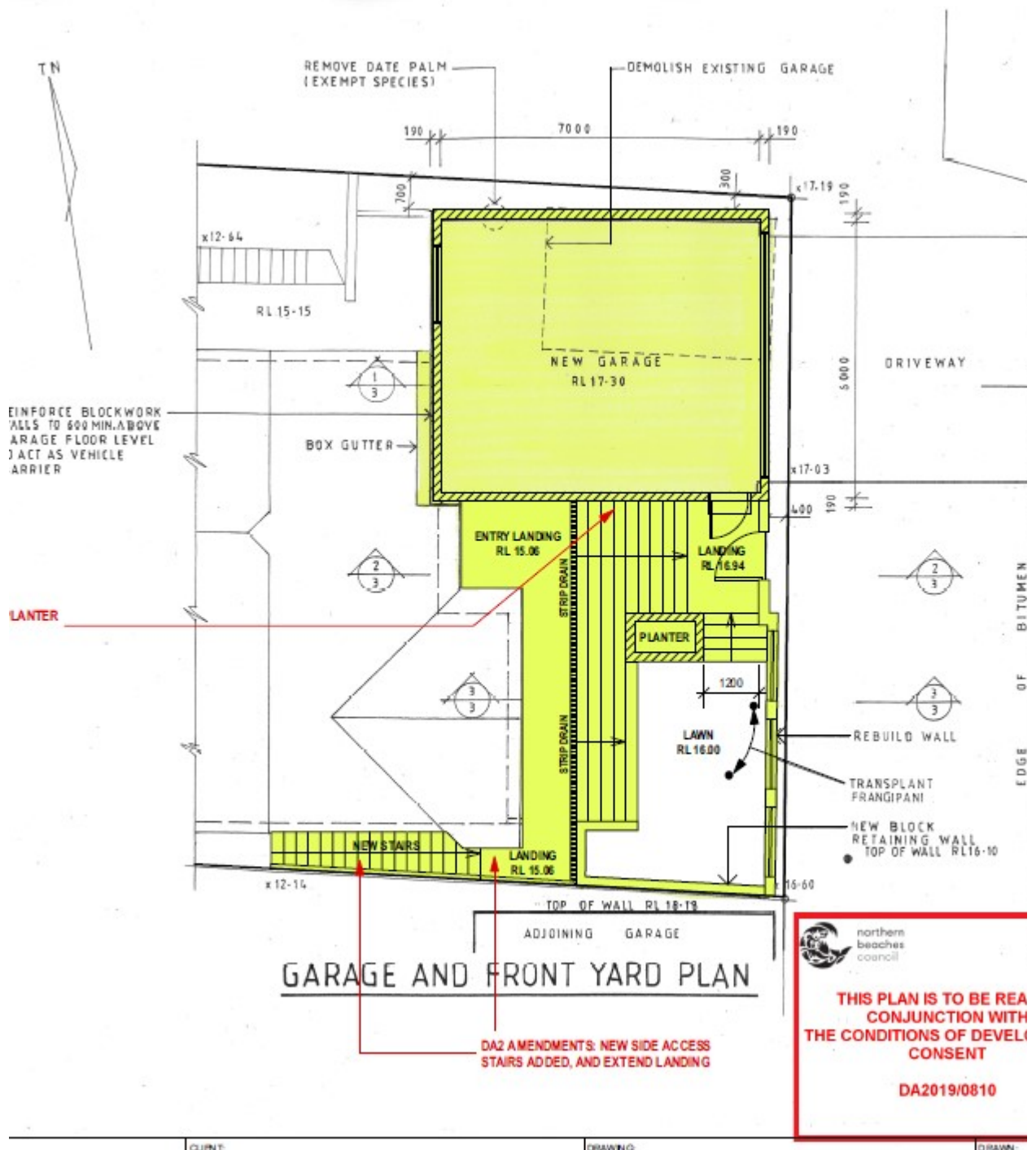
- Front fence

Comment: Issues were raised about the height of the front fence which is not been modified by this current modification. Additionally, the owner of 4 Hillcrest Place raised issue that front fence will allow for invaders on his property by climbing on the garage and entry his home.

As stated the front fence does not form part of this assessment and it is considered that the proposed modifications do not contribute to "invaders" entering the adjoining property as there located along the southern side boundary.

- Artificially raised height of ground levels

Comment: Issue was raised about the raised ground levels on the subject property. A review of the original approved Development Application (DA2019/0810 Alterations and additions to a dwelling house) clearly demonstrates the approved ground levels which are consistent with the current proposed modification plans under assessment.

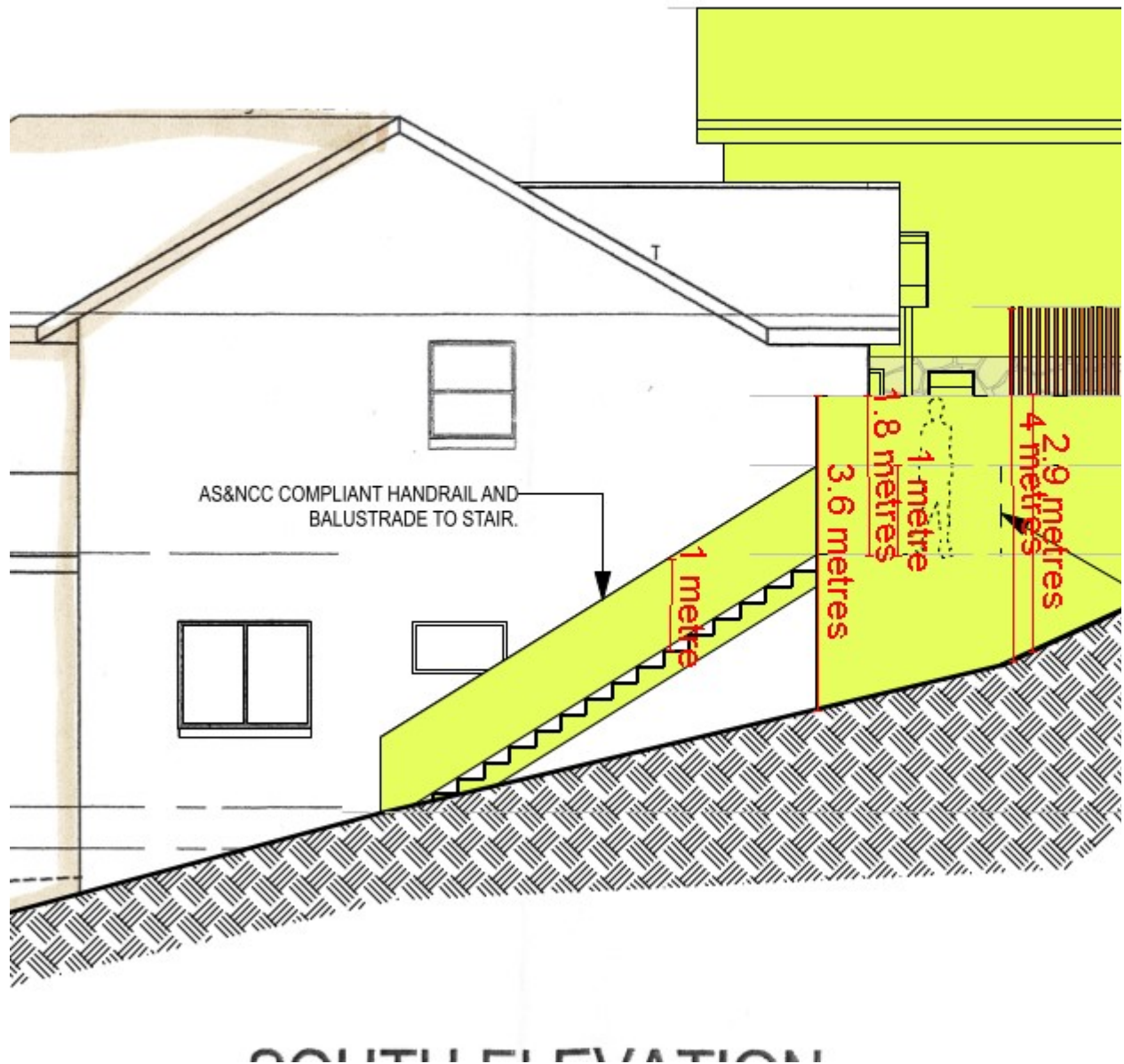


Approved stamped plans DA2019/0810

- The drawings fail to detail height of the railing/balustrade on the stairs

Comment: Yes it is noted that the plans do not indicate the height of the railing/balustrade on

the stairs, however a demonstrated below the height is 1m in accordance with the Australian Standards and National Construction Code (BCA).



- Water flowing on 6 Hillcrest Place

Comment: During the site inspection undertaken on the 22 December 2021 it was noted that this issue had been rectified.

- Sewer vent location

Comment: Works are still be undertaken on the subject site and have not been completed. Additionally, this part of the building does not form part of the assessment and any future issues relating to this matter need to be directed to the Principal Certifying Authority.

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 55 - Remediation of Land

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.

SEPP (Coastal Management) 2018

The site is located within the Coastal Use Area and Coastal Environment Area as identified by State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) and the provisions of this policy are applicable in relation to the proposal. Following detailed assessment of the proposed development, the consent authority can be satisfied of the following:

- The proposal is not likely to cause an adverse impact upon the matters listed in clause 13(1) of the CM SEPP
- The proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 13(1) of the CM SEPP
- The proposal is not likely to cause an adverse impact upon the matters listed in clause 14(1) of the CM SEPP
- The proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 14(1) of the CM SEPP
- The proposal is not likely to cause increased risk of coastal hazards on the site or other land as listed in clause 15 of the CM SEPP

As such, the proposal is considered to be consistent with the provisions of the CM SEPP, including the matters prescribed by clauses 13, 14 and 15 of this policy.

Coastal Management Act 2016

The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development.

The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.

Warringah Local Environmental Plan 2011

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	6.8m (storeroom/garage) 3.95m (garage)	4m (Top of timber fence screen)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
Part 6 Additional Local Provisions	Yes
6.1 Acid sulfate soils	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	5m	Unaltered	Yes
B3 Side Boundary Envelope	N - 4m	Within envelope	Unaltered	Yes
	S - 4m	Within envelope	Unaltered	Yes
B5 Side Boundary Setbacks	N - 0.9m	0.3m to 0.7m (garage)	Unaltered	As approved
	S - 0.9m	Nil (access stairs)	Unaltered	As

				approved
B7 Front Boundary Setbacks	6.5m	0.4m (garage)	Unaltered	As approved
B9 Rear Boundary Setbacks	6m	No change to existing dwelling	Unaltered	N/A
D1 Landscaped Open Space and Bushland Setting	40%	47% (297m ²)	Unaltered	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Built Form Controls	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
Part C Siting Factors	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
Part D Design	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
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
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
D22 Conservation of Energy and Water	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part E The Natural Environment	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

Detailed Assessment

B5 Side Boundary Setbacks

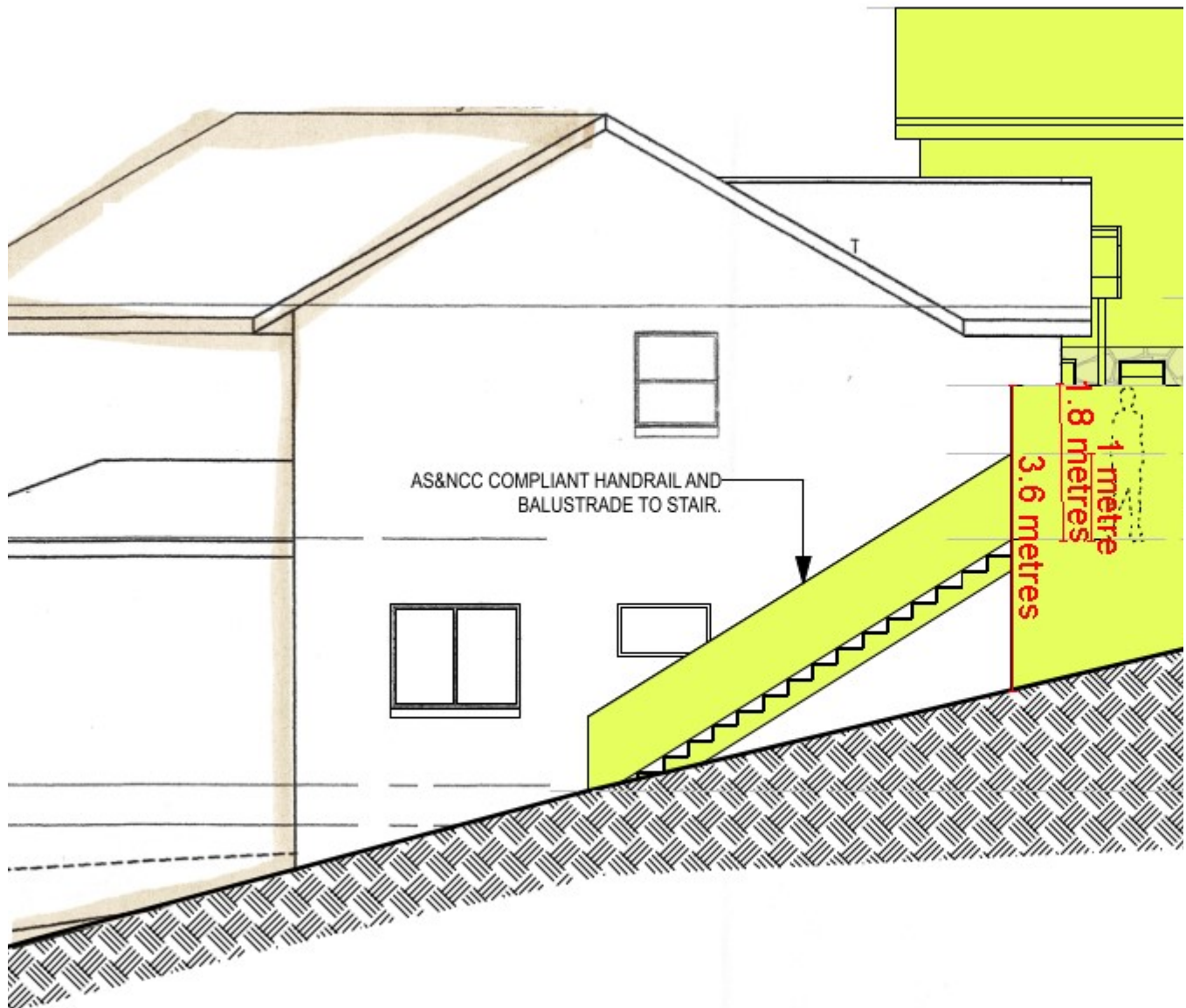
The proposed modification does not alter the approved side setback non-compliance. Consistency with the objectives of the control is maintained.

B7 Front Boundary Setbacks

The proposed modification does not alter the approved front setback non-compliance. Consistency with the objectives of the control is maintained.

D9 Building Bulk

The proposed side boundary wall/fence is currently considered to be excessive in height and any future development at 4 Hillcrest Place will be positioned against a structure which is 4m in height at the upper most point. A condition will be imposed that the section of wall and screening adjacent to the lawn area be deleted and be replaced with a 1m high and 1m wide planter box for this section which will allow for suitable planting for screening and physical separation between Nos. 4 and 6 Hillcrest Place while ensuring compliance with this clause.



SOUTH ELEVATION

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 2021

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. Mod2021/0875 for Modification of Development Consent DA2019/0810 granted for Alterations and additions to a dwelling house on land at Lot 52 DP 22369,6 Hillcrest Place, NORTH MANLY, 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
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Drawing No.	Dated	Prepared By
A01 (Rev B)	2 November 2021	Cadence & Co Design
A02 (Rev B)	2 November 2021	Cadence & Co Design
A05 (Rev A)	6 December 2021	Cadence & Co Design

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. Add Condition 1C - Planter box to read as follows:

A planter box measuring 1m in height and 1m width is to replace the proposed masonry wall and timber screening section (4.13m length) adjacent to the lawn area.

Reason: To ensure the bulk of the proposal is consistent with Clause D9 Building Bulk of the Warringah Development Control Plan 2011.

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

Signed



Phil Lane, Principal Planner

The application is determined on 14/01/2022, under the delegated authority of:



Rodney Piggott, Manager Development Assessments