

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2019/0350				
Responsible Officer:	Catriona Shirley				
Land to be developed (Address):	Lot 21 DP 1221896, 39 Heath Street MONA VALE NSW 2103				
Proposed Development:	Modification of Development Consent DA2018/1962 granted for alterations and additions to a dwelling house including swimming pool				
Zoning:	R2 Low Density Residential				
Development Permissible:	Yes				
Existing Use Rights:	No				
Consent Authority:	Northern Beaches Council				
Land and Environment Court Action:	No				
Owner:	Jeffrey John Atkinson				
Applicant:	Jeffrey John Atkinson				

Application Lodged:	19/07/2019			
Integrated Development:	No			
Designated Development:	No			
State Reporting Category:	Residential - Alterations and additions			
Notified:	06/08/2019 to 20/08/2019			
Advertised:	Not Advertised			
Submissions Received:	0			
Clause 4.6 Variation:	Nil			
Recommendation:	Approval			

PROPOSED DEVELOPMENT IN DETAIL

The modification seeks the approval of the following amendments in the approved design:

- Carport relocated to a minimum of 2.0m from the northern boundary
- Carport relocated to a minimum of 900mm from the eastern boundary
- Replace existing front gate and front fencing to accommodate amended carport location
- Storage area deleted from the rear of the carport (as per applied condition)
- A new storage area within the carport footprint
- Additional landscaping to the setback area on the eastern elevation of the carport
- Deck area between the dwelling and pool extended to connect to the front deck to the pool 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

Pittwater 21 Development Control Plan - D9.6 Front building line Pittwater 21 Development Control Plan - D9.10 Landscaped Area - General Pittwater 21 Development Control Plan - D9.12 Fences - General

SITE DESCRIPTION

Property Description:	Lot 21 DP 1221896 , 39 Heath Street MONA VALE NSW 2103
Detailed Site Description:	The subject allotment is described as 39 Heath Street, Mona Vale, being Lot 21 within Deposited Plan 1221896. The site is located within the R2 Low Density Residential zone under the Pittwater Local Environmental Plan 2014.
	The site is irregular in shape with a total site area of 702.9m2. The frontage to Heath Street is 18.64m and a secondary frontage to the road reserve of Stanley Street measures 36.295m. The site has western and southern side boundaries measuring 36.21m and 20.13m respectively.
	The site is currently developed with single dwelling house, two metal carports and an in-ground swimming pool within the Heath street front setback.
	Vehicular access to the site is currently provided via a concrete driveway to the existing carports located within the front and side setback.
	The site is generally level, and is mapped within Flood



Prone Land. The property is also located within the mapped coastal zone.

The site is surrounded by residential development of varying density, scale, age and character, and is situated in close proximity to Mona Vale Beach.



SITE HISTORY

A search of Council's records has revealed the following relevant development applications for the site:

- Development application **DA2018/1962** for the alterations and additions to a dwelling house including a swimming pool was approved by Northern Beaches Council on the 5 April, 2019.
- Development Application **N1107/01** for a carport was approved by Pittwater Council on the 19 December, 2001.

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 DA2018/1962, 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	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 DA2018/1962.			
(c) it has notified the application in accordance with:(i) the regulations, if the regulations so require, or	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.			
(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and				
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.			

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 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 '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	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)	<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.
	<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.
	<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.
	<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 matter has been addressed via a condition in the original consent.
	<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.
	<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.
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the /Pittwater 21 Development Control Plan section in this report.
	(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.



Section 4.15 'Matters for Consideration'	Comments		
	(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.		
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 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	No objections are raised to the proposed modifications.

External Referral Body	Comments
	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)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Infrastructure) 2007

<u>Ausgrid</u>

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Coastal Management) 2018

The subject site is identified as being located within the Coastal Use Area under the provisions of SEPP (Coastal Management) 2018. Upon review of the application, Council can be satisfied of the matters prescribed by clauses 13, 14 and 15 of this policy.

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	3.8m	3.8m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	2.5m Carport (conditioned) 12.0m Decking 14.0m Pool	2.0m Carport 11.7m Decking 14.9m Pool	Yes Yes Yes
Rear building line	6.5m	1.2m - 3.0m Deck 1.0m Coping (Conditioned) 1.0m Swimming Pool (Conditioned) 1.7m Carport (conditioned)	Unaltered 0.5m Coping 0.8m Swimming Pool 0.9m Carport	Yes No No No
Side building line	2.5m South	10.5m Coping 10.7m Swimming Pool	No change No change	Yes Yes
	1m West	1.35m Deck 9.8m Carport	1.2m Decking 9.5m Carport	Yes Yes
Landscaped area	50%	38.78% (272.59sqm)	42.86% (301.29sqm)	No

Compliance Assessment

Clause		Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
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
D9.1 Character as viewed from a public place	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	No	Yes
D9.7 Side and rear building line	Yes	Yes
D9.10 Landscaped Area - General	No	Yes
D9.12 Fences - General	Yes	Yes

Detailed Assessment

D9.6 Front building line

The modification proposes to vary the previously conditioned carport front setback of 2.5m to Heath Street.

The proposed carport setback of 2.0m is supported in this instance, as the setback would continue to be consistent with existing carports and built form in the Heath Street streetscape.

The modified works also seek to vary the previously conditioned secondary front setback of 1.7m from the carport to Stanley Street to 0.9m.

With the redesign of the carport, and the vehicle entry alignment, the setback can be varied and continue to satisfy Councils Traffic requirements.

The modified design of the carport also includes a wall on the eastern elevation to provide a storage area within the carport footprint. Whilst the carport was initially conditioned to be an open structure, the incorporation of a storage area can be supported. The design of the storage area incorporates windows, and significant screening landscaping within the side setback to screen and soften the built



form. This modified design can be supported as it minimises the bulk and scale and the any visual amenity impacts on the streetscape.

As recognised in the development assessment, the modified proposal continues to improve the onsite parking provision, and provides additional landscaping to screen the carport to the undeveloped section of Stanley Street. There is however, no site constraint that would restrict a greater secondary front setback to ensure amenity, and consistency with the residential area is maintained. Therefore, a 0.9m setback is not supported.

With the addition of the storage area within the carport footprint, a greater setback is required to ensure sufficient opportunities still exist for screening vegetation to be established. Therefore, the carport will be conditioned to maintain a minimum setback of 1.0m from the secondary setback of Stanely Street to ensure an adequate area for significant screening landscaping is maintained.

This 1.0m setback is consistent with the conditioned setback for the pool and swimming pool coping, as conditioned in the development application.

Therefore, the merit assessment below is based on the applied conditioned primary and secondary front setbacks listed above.

The application of these variations is considered to be warranted in the circumstances of this application, as the relevant outcomes are achieved, as follows:

• Achieve the desired future character of the Locality. Comment:

The bulk and scale of the conditioned development is appropriately minimised, by the additional landscaping and landscaping areas on the site. Overall, the conditioned proposal is considered to be consistent with the desired character of the Mona Vale Locality.

Equitable preservation of views and vistas to and/or from public/private places.
<u>Comment:</u>

Subject to conditions, the modified proposal will equitably preserve views of Pittwater from the street.

• The amenity of residential development adjoining a main road is maintained. <u>Comment:</u>

This outcome is not considered to be applicable, as the site does not adjoin a main road.

• Vegetation is retained and enhanced to visually reduce the built form. <u>Comment:</u>

The conditioned proposal results in increased landscaping, particularly along the eastern secondary front boundary, to provide appropriate screening and assist in softening the built form.

• Vehicle manoeuvring in a forward direction is facilitated. <u>Comment:</u>

The modified proposal makes no amendment to the access arrangements. The carport driveway is to be widened to accommodate two vehicles which will continue to comply with current P21 DCP controls and design standards, as well as improving the visibility to and from the street.

• To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment. Comment:



The conditioned proposal will incorporate additional landscaping on the primary and secondary front boundaries, which will improve the presentation to the stretescapes, as well as screening and softening the built form.

• To encourage attractive street frontages and improve pedestrian amenity. <u>Comment:</u>

The conditioned modified proposal is considered to improve the visual presentation to the street frontage, and pedestrian amenity will continue to be improved by increased visibility for vehicles entering and exiting the site.

• To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment. <u>Comment:</u>

The conditioned modified development is in keeping with the scale and alignment of built form along this particular stretch of Heath Street, noting that several other properties have been designed with carports and parking structures built within the front boundary.

D9.10 Landscaped Area - General

The proposal will result in technical non-compliance with the development control of 50%, as the landscaped area calculation as a result of the modified works is 42.86%, an increase of 4.08% (28.7sqm).

The landscaped area non-compliance will not result in any unreasonable impacts upon adjoining properties or impinge upon the amenity of the dwelling for future occupants. The modified development is adequately designed in order to retain a reasonable level of privacy and solar access to the subject site and adjacent sites.

Therefore, the additional increase in the landscaping area will enhance the quality of landscaping on the site to ensure that the development achieves consistency with the outcomes of the landscaped area control.

D9.12 Fences - General

The modified proposal seeks consent to replace the existing sliding gate, and the addition of 1.7m brushwood front fencing to accommodate the revised carport location.

The front fence is to be of a "brushwood" material, with sandstone pillars to compliment the existing 1.7m "brushwood" fencing along the front Heath Street boundary. The front fencing is accompanied by additional landscaping within the front setback, and the continuation of the use of natural materials ensures compatibility with the surrounding streetscape, while creating visual interest in the public domain.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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



POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

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. Mod2019/0350 for Modification of Development Consent DA2018/1962 granted for alterations and additions to a dwelling house including swimming pool on land at Lot 21 DP 1221896,39 Heath Street, MONA VALE, 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
Site Analysis Plan DA3	11/7/2019	SketchArc
Ground Floor Plan DA4	11/7/2019	SketchArc
Roof Plan DA5	11/7/2019	SketchArc
North and South Street Elevation DA6	11/7/2019	SketchArc
East and West Elevation DA7	11/7/2019	SketchArc
Section A and B DA8	11/7/2019	SketchArc
Section C and D DA9	11/7/2019	SketchArc
Sectional Elevations L-06	5/7/2019	Serenescapes Landscape Designs
Sectional Elevations L-07	5/7/2019	Serenescapes Landscape Designs

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

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans			
Drawing No.	Dated	Prepared By	
Landscape Plan DA10	11/7/2019	SketchArc	
Zone A Detail Plan L-02	05/07/2019	Senerenescapes Landscape Designs	
Zone B Detail Plan L-03	05/07/2019	Senerenescapes Landscape Designs	
Zone A Planting Plan L-04	05/07/2019	Senerenescapes Landscape Designs	
Zone B Planting Plan L-05	05/07/2019	Senerenescapes Landscape Designs	

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

B. Modify Condition 2. Amendments to approved plans to read as follows:

The following amendments are to be made to the approved plans:

a) The carport is to maintain a minimum distance of 1.0m from the secondary eastern boundary (Stanley Street).

b) The swimming pool and associated pool coping is to maintain a minimum distance of 1.0m from the secondary front boundary (Stanley Street)

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.



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

Signed

Catriona Shirley, Planner

The application is determined on 09/09/2019, under the delegated authority of:

Becho

Steven Findlay, Manager Development Assessments