

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

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| Application Number: | Mod2020/0696 |
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| Responsible Officer: | Adam Urbancic |
| Land to be developed (Address): | Lot 190 DP 16902, 25 The Outlook BILGOLA PLATEAU NSW 2107 |
| Proposed Development: | Modification of Development Consent DA2020/0758 for alterations and additions to existing dwelling house |
| Zoning: | E4 Environmental Living |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Alexander Paul Rozenbroek |
| Applicant: | Drafting Help Pty Ltd |

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| Application Lodged: | 29/12/2020 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Alterations and additions |
| Notified: | 14/01/2021 to 28/01/2021 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

PROPOSED DEVELOPMENT IN DETAIL

The modification application seeks consent for modifications to development consent DA2020/0758 granted for alterations and additions to a dwelling house, specifically the following works:

- alteration to the internal staircase connecting the lower ground floor and ground floor of the dwelling;
- use of the approved ground floor study as a bedroom, including the conversion of the hallway storage cupboard to a built-in robe to service the bedroom;
- amalgamation of the master bedroom and the adjoining bedroom to create a larger master bedroom and a study, including the relocation of the hallway linen cupboard; and
- replacement of the existing sliding doors to the ground floor living and dining room with bi-fold doors within the same opening.

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 - B3.1 Landslip Hazard

SITE DESCRIPTION

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|-----------------------------------|---|
| Property Description: | Lot 190 DP 16902 , 25 The Outlook BILGOLA PLATEAU NSW 2107 |
| Detailed Site Description: | <p>The subject site consists of one (1) allotment located on the eastern side of The Outlook, near the intersection with Wollombi Road.</p> <p>The site is irregular in shape with a frontage of 15.32m along The Outlook and an average depth of 60.7m. The site has a surveyed area of 928.5m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a two (2) storey weatherboard dwelling house with a tiled roof located near the street frontage.</p> <p>The site has an overall slope of 35.84% and falls approximately 22m from the street frontage to the rear of the site.</p> <p>The site contains a number of trees, shrubs and areas of turf. A natural watercourse traverses the eastern portion of the site.</p> <p>Detailed Description of Adjoining/Surrounding</p> |

Development

Adjoining and surrounding development is characterised by two (2) to three (3) storey dwelling houses of varying architectural styles within a bushland setting.

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:

31 March 2005

Development Application N0730/04 for alterations and additions to an existing dwelling was granted consent.

24 September 2020

Development Application DA2020/0758 for alterations and additions to a dwelling house was granted consent.

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 DA2020/0758, 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 modified development does not require any additional earthworks; the modified development does not require the removal of any significant trees or vegetation, which is consistent with the original development consent; and the modified development does not impact upon any other natural features of the site. |
| (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 DA2020/0758 for the following reasons:</p> <ul style="list-style-type: none"> the built form of the building remains the same as that originally approved; the modified development generally retains the approved internal layout of the dwelling; and there are no adverse amenity or privacy impacts to adjoining and surrounding properties as a result of the modified development. |
| <p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has</p> | <p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environmental Plan 2014 and Pittwater 21 Development Control Plan.</p> |

| Section 4.55(1A) - Other Modifications | Comments |
|--|---|
| 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 (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 | Pittwater 21 Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&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 allow Council to request additional information. Additional information was requested in relation to a Statement of Modification and a revised</p> |

| Section 4.15 'Matters for Consideration' | Comments |
|--|---|
| | <p>BASIX Certificate.</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 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> <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 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 Pittwater 21 Development Control Plan 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 (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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Certificate and Report, prepared by Matthew Willis of Bushfire Planning Services Pty Ltd and dated 11 June 2020, was submitted with the original development application stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The Bush Fire Report and the associated recommendations were enforced as part of the original development consent.

In order to ensure that the modified development under this application remains consistent with the relevant specifications and requirements within Planning for Bush Fire Protection, a condition of consent will be included requiring bush fire certification to be provided by a suitably qualified person prior to the issue of the Construction Certificate.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 14/01/2021 to 28/01/2021 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

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

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 (Building Sustainability Index: BASIX) 2004

A revised BASIX Certificate has been submitted with the application (see Certificate No. A378097_04, dated 1 February 2021).

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

SEPP (Infrastructure) 2007

Ausgrid

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:

As the modified development does not meet any of the above criteria, a referral to Ausgrid was not required.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

The land is identified as being located in proximity to littoral rainforest located within private land, Hewit Park and Hamilton Reserve to the north-east of the subject site. The modified development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent littoral rainforest, or the quantity and quality of surface and groundwater flows to and from the adjacent littoral rainforest.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The land has not been identified as being affected by any coastal hazards and is not likely to cause increased risk of coastal hazards on other land.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Pittwater Local Environmental Plan 2014

| | |
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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

The modified development does not change the approved building height, therefore, no further assessment is required to be undertaken for this modification application.

Compliance Assessment

| Clause | Compliance with Requirements |
|--|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments | Yes |
| 5.10 Heritage conservation | Yes |
| 7.3 Flood planning | Yes |
| 7.7 Geotechnical hazards | Yes |
| 7.10 Essential services | Yes |

Pittwater 21 Development Control Plan

Built Form Controls

The modified development involves works within the approved building footprint which will not result in any changes to the approved built form, therefore, no assessment of the built form controls is required to be undertaken for this modification application.

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted | Yes | Yes |
| A4.3 Bilgola Locality | Yes | Yes |
| B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites | Yes | Yes |
| B1.4 Aboriginal Heritage Significance | Yes | Yes |
| B3.1 Landslip Hazard | Yes | Yes |
| B3.6 Contaminated Land and Potentially Contaminated Land | Yes | Yes |
| B3.11 Flood Prone Land | Yes | Yes |
| C1.2 Safety and Security | Yes | Yes |
| C1.5 Visual Privacy | Yes | Yes |
| C1.6 Acoustic Privacy | Yes | Yes |
| C1.13 Pollution Control | Yes | Yes |

Detailed Assessment

B3.1 Landslip Hazard

A geotechnical report, prepared by White Geotechnical Group (Ref: J2722) and dated 1 July 2020, was submitted with the original development application and was enforced as part of the original development consent. As the modified development is substantially the same as that approved and is wholly located within the approved building footprint, an addendum or revised geotechnical report was not required to be submitted for the assessment of this modification application. The original development consent included a condition (Condition 8) requiring the plans submitted as part of the Construction Certificate to be certified by a geotechnical engineer, which will remain applicable to the modified development. A condition (Condition 21) was also included as part of the original development consent requiring geotechnical certification of the works prior to the issue of the Occupation Certificate. This is considered to be acceptable.

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 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. Mod2020/0696 for Modification of Development Consent DA2020/0758 for alterations and additions to existing dwelling house on land at Lot 190 DP 16902,25 The Outlook, BILGOLA PLATEAU, subject to the conditions printed below:

A. Add Condition No. 1A - 'Modification of Consent - Approved Plans and Supporting Documentation' to read as follows:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|---|-----------------|---------------|
| Drawing No. | Dated | Prepared By |
| Sheet SP, Site Plan - Proposed, Rev A | 3 December 2020 | Drafting Help |
| Sheet 1, Lower Ground Floorplan, Rev A | 3 December 2020 | Drafting Help |

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|----------------------------------|-----------------|---------------|
| Sheet 2, Ground Floorplan, Rev A | 3 December 2020 | Drafting Help |
| Sheet 3, Roof Plan, Rev A | 3 December 2020 | Drafting Help |
| Sheet 4, South Elevation, Rev A | 3 December 2020 | Drafting Help |
| Sheet 5, West Elevation, Rev A | 3 December 2020 | Drafting Help |
| Sheet 6, North Elevation, Rev A | 3 December 2020 | Drafting Help |
| Sheet 7, East Elevation, Rev A | 3 December 2020 | Drafting Help |
| Sheet 8, Section, Rev A | 3 December 2020 | Drafting Help |
| Sheet 9, Section, Rev A | 3 December 2020 | Drafting Help |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|--|-----------------|--------------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| BASIX Certificate (Cert No. A378097_04) | 1 February 2021 | Daniel Raymond Architect |

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 No. 11A - 'Bushfire Certification' under the heading 'Conditions to be satisfied prior to the issue of the Construction Certificate' to read as follows:

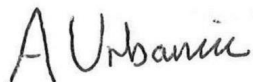
Certification is to be provided by a suitably qualified consultant confirming that the modified development, as shown on the approved plans, conforms to the specifications and requirements of the current version of the document entitled Planning for Bushfire Protection prepared by the NSW Rural Fire Service in co-operation with the Department that are relevant to the development.

The certification is to be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

Reason: To ensure that the modified development complies with the relevant code and standards for bush fire prone land.

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

Signed



Adam Urbancic, Planner

The application is determined on 09/02/2021, under the delegated authority of:



Lashta Haidari, Acting Development Assessment Manager