

SUBJECT: N0302/12/S96/1– Section 96(1A) Modification

3 BILGOLA TERRACE, BILGOLA (Lot 7 DP 822263)

Modification of Development Consent N0302/12/S96/1 which approved Alterations and additions to the dwelling and a secondary dwelling

Determination Level: PRINCIPAL DEVELOPMENT OFFICER

Date: 06/02/2017

SUMMARY OF RECOMMENDATION

MODIFY CONSENT

REPORT PREPARED BY:	NICK ARMSTRONG
APPLICATION SUBMITTED ON:	24/10/2016
APPLICATION SUBMITTED BY:	GUY TRELOAR 3 BILGOLA TERRACE BILGOLA BEACH NSW 2107
OWNERS:	GUY TREOLAR

1.0 Development Controls

The site was previously zoned 2(a) Residential and 9(d) Arterial Road Reservation under the provisions of the Pittwater Local Environmental Plan 1993. The site is currently zoned E4 Environmental Living and SP2 Infrastructure under the provisions of Pittwater Local Environmental Plan 2014 Pursuant to the PLEP 2014, the proposed development being alterations and additions to the existing dwelling and a secondary dwelling is permissible on this land. The following relevant local and state policies apply to this site:

- Environmental Planning and Assessment Act 1979 (the Act);
- Environmental Planning and Assessment Regulation 2000 (the Regulation);
- Pittwater Local Environmental Plan 1993 (PLEP 1993)
- Pittwater Local Environmental Plan 2014 (PLEP 2014);
 - Acid Sulphate Soils – 5
 - Biodiversity
 - Height of Buildings – I ~ 8.5m
 - Lot Size Map – Q ~ 700m²
 - Geotechnical Hazard Map
- Pittwater 21 Development Control Plan
 - Bilgola Locality
 - Bushfire Prone Property
 - Geotechnical Risk Management Policy for Pittwater
 - OSD Required
 - Landscaped Area Map: Area 1
 - Areas of Habitat Mapped as Flora and Fauna Conservations Areas – Category 2

2.0 Site Details

The site is known as 3 Bilgola Terrace, Bilgola Beach and legally referred to as Lot 7 in DP 822263. The site is irregular in shape with a total area of 530.1m² and a frontage of 18.46m facing northwestern side of Bilgola Terrace. The site currently contains a two storey residential dwelling.

The slope of the site is 28.1% and falls from rear boundary to the road frontage. Adjoining the site are similar low density residential dwellings.

3.0 Proposal in Detail

A Section 96(1A) modification application has been lodged in relation to development consent N0302/12 which approved the alterations and additions and secondary dwelling.

The modification application has been submitted to alter the previously approved application in the following ways:

- Change of use of the secondary dwelling to be a part of the existing dwelling.

4.0 Background

N0302/12/S96/1 was lodged at Council on 24/10/2016 and referred to Council's Development Engineers and Natural Environment Officer.

Property History

04/03/2013

Development Application N0302/12 for alterations and additions and a secondary dwelling was approved.

Application History

28/12/2016

Additional information was requested in the form of amended plans as concerns were raised that the ground floor would still be able to be used for the purposes of separate habitation.

01/02/2017

Amended plans were received which removed an internal wall between the TV room and entry, removed the notation of 'fire rated walls' and included the notation of 'all internal doors to be non-lockable'. These changes are considered appropriate.

5.0 Discussion of Issues

The application proposes no further physical works than what was approved under the existing application. The only change within the modification application is the conversion of the approved secondary dwelling to be a part of the existing single dwelling. These changes create no further issues with the application than what was discussed and assessed under the original development application.

It is recommended that a condition be included if consent is granted for this area to not be used for the purposes of separate habitation.

6.0 Internal Referral Comments

Council's Development Engineer provided the following comments;

There are no engineering objections to the proposed modifications.

Paul Brisby – 06/12/2016

Council's Nat Res Officer provided the following comments;

The proposed Section 96 modification is to alter the use of the approved lower floor from a granny flat to part of the principal dwelling. No physical changes are proposed as part of this application.

Jodie Harvey – 01/11/2016

Therefore, Council's Development Engineer and Natural Environment Officer support this modification.

7.0 Assessment – Consideration of Section 96 of The EP&A Act 1979

The modification application has been lodged and considered in accordance with Section 96(1A) of the *Environmental Planning & Assessment Act 1979*.

Section 96(1A) of the *Environmental Planning & Assessment Act 1979* is considered as follows;

Is the proposed modification of minimal environmental impact?

The development proposes no further physical changes to the approved application. Therefore the development is considered to be of a minimal environmental impact.

Are the proposed modifications considered to result in substantially the same development as that which was originally approved?

The development seeks to change the use of the approved secondary dwelling to form a part of the principal dwelling. The overall nature and appearance of the existing dwelling does not change. The application is therefore considered to result in substantially the same development as the existing approval.

Has the proposed modification application been notified in accordance with the regulations and P21 DCP?

The application was notified for a period of fourteen (14) days from 27/10/2016 to 10/11/2016 in accordance with the regulations and Council's notification policy.

Have all submissions made within the notification period been considered as part of the assessment?

During the course of the notification period two (2) submissions were received from the neighbouring properties regarding the potential privacy issues created by the proposed decking extension. The application proposes no changes to the existing approved decking, which under the original assessment was considered to achieve an appropriate level of visual privacy to the neighbouring dwellings. As the current application poses no built form changes the existing arrangement is acceptable.

The proposal is considered to fall under the provisions of Section 96(1A) of the EP&A Act 1979.

8.0 Conclusion

The modification application has been assessed in accordance with the provisions of Section 96(1A) of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan 2014 and Pittwater 21 DCP and other relevant Council policies.

The proposed amendments to the existing dwelling are considered to be of minimal environmental impact and will not result in any unreasonable impacts upon adjoining properties. Accordingly, the application is recommended for approval.

9.0 Recommendation

That Council as the consent authority pursuant to Section 96 of the Environmental Planning and Assessment Act 1979 modify development consent N0302/12 in the following way:

- **Architectural Drawing 1231 – A-02, Issue A, prepared by Gartner Trovato Architects, dated 01/02/2017.**

B. Matters to be incorporated into the development and maintained over the life of the development:

10. DELETED

21. The lower ground floor is not to be used for the purposes of separate habitation.

Report prepared by

**Nick Armstrong
PLANNER**