

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2020/0542
<b>Responsible Officer:</b>	Thomas Burns
<b>Land to be developed (Address):</b>	Lot 1 DP 234584, 32 A Oxford Falls Road BEACON HILL NSW 2100
<b>Proposed Development:</b>	Modification of Development Consent DA2020/0059 for alterations and additions to a dwelling house including a secondary dwelling
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Craig Stephen Te Oru Lowe Lenamaree Teresa Sunshine Johnston Lowe
<b>Applicant:</b>	Lenamaree Teresa Sunshine Johnston Lowe
<b>Application Lodged:</b>	26/10/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	03/11/2020 to 17/11/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

Development Consent was granted on 11 March 2020 under DA2020/0059 for alterations and additions to an existing dwelling house included a secondary dwelling.

This Section 4.55(1A) Modification has been submitted to Council seeking to make the following minor amendments to the approved development:

#### Ground Floor

- Revised garage finished floor level.
- External stair access increased eastern setback.

- Laundry wall (north) to be constructed with additional width.

#### First Floor

- External stair access increased eastern setback.
- Revised secondary dwelling finished floor level.
- Rear (northern) deck extended in size to align with the western deck.

#### Modification to Roof

- Variation to allow for roof over deck extension.
- Revised maximum RL of 130.023.
- Modified northern roof to remove gable and install solar panels.

### **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 - B3 Side Boundary Envelope

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

### **SITE DESCRIPTION**

<b>Property Description:</b>	Lot 1 DP 234584 , 32 A Oxford Falls Road BEACON HILL NSW 2100
<b>Detailed Site Description:</b>	The subject site consists of one (1) allotment with frontages to the eastern and northern sides of Oxford Falls Road,

Beacon Hill. Vehicular and pedestrian access is gained from the western boundary (eastern side of Oxford Falls Road).

The site is irregular in shape with a primary frontage of 26.822m along the eastern side of Oxford Falls Road (western boundary) and a secondary frontage of 18.593m along the northern side of Oxford Falls Road (southern boundary). The site has a surveyed area of 581.98sqm.

The site is located within the R2 Low Density Residential zone pursuant to the WLEP 2011 and accommodates a two (2) storey detached dwelling house.

The site contains a large landscaped open space area within the northern and western portions. Furthermore, the site accommodates one (1) large canopy tree within the north-western corner; two (2) medium sized trees along the southern boundary; and two (2) medium sized palm trees and numerous shrubs along the western boundary.

The site experiences a gradual fall of approximately 2.5m that slopes from the southern boundary towards the northern boundary.

The site is identified within the 'Landslip Area B' precinct under the provisions of the WLEP 2011.

The site is burdened by an easement to drain water 0.9m wide that runs contiguous to the northern boundary.

#### **Detailed Description of Adjoining and Surrounding Development**

Adjoining and surrounding development is characterised by one (1) and two (2) storey detached dwelling houses.

Map:



## SITE HISTORY

The site has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- Tree Application DA2013/0659 for the removal of one (1) tree approved by Council staff under delegated authority on 17 June 2013.
- Development Application DA2020/0059 for alterations and additions to a dwelling house including a secondary dwelling approved by Council on 11 March 2020.

## Application History

The Assessment Officer requested additional plans to include landscaping calculations. The additional plans were subsequently submitted to Council's satisfaction. Given the amendments did not result in design changes, the application was not required to be re-notified for 14 days, in accordance with the Northern Beaches Community Participation Plan.

## 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 DA2020/0059, 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><b>Yes</b></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"> <li>• The modified development does not result in any unacceptable amenity impacts.</li> <li>• The modified development does not have an unacceptable impact on the natural and built environment.</li> </ul>
(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 DA2020/0059 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The development does not intensify the use of the site.</li> <li>• The built form remains generally consistent with the approved development.</li> </ul>
(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	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Northern Beaches Community Participation Plan.</p>
(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.	<p>No submissions were received in relation to this application.</p>



#### 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 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 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;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&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to a landscape calculation plan.</p> <p><u>Clause 92</u> of the EP&amp;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&amp;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&amp;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,	<p>(i) <b>Environmental Impact</b></p> <p>The environmental impacts of the proposed development on the</p>

Section 4.15 'Matters for Consideration'	Comments
including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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	No submissions were received.
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 03/11/2020 to 17/11/2020 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 (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

### Division 2: Secondary dwellings

#### Clause 19: Definition

Development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

**Note:** The standard instrument defines secondary dwelling as follows:

**"secondary dwelling means a self-contained dwelling that:**

- (a) is established in conjunction with another dwelling (the principal dwelling), and*
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling."*

#### Comment:

The proposed use is defined under WLEP 2011 as a secondary dwelling. The definition is the same as the Standard Instrument LEP definition.

#### Clause 20: Land to which this Division applies:

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is permissible on the land:	



<p>(a) Zone R1 General Residential, or</p> <p>(b) Zone R2 Low Density Residential, or</p> <p>(c) Zone R3 Medium Density Residential, or</p> <p>(d) Zone R4 High Density Residential, or</p> <p>(e) Zone R5 Large Lot Residential.</p>	<p><b>Consistent.</b></p> <p>The site is located within the R2 Low Density Residential zone and, as such, the proposed use is permissible with consent under WLEP 2011.</p>
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Clause 21: Development to which this Division applies

Requirement	Comment
This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling.	<p><b>Consistent.</b></p> <p>The development involves the construction of a secondary dwelling, as defined by the Standard Instrument. Therefore, this Division applies.</p>

Clause 22: Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	The proposal will result in one (1) principal dwelling and one (1) secondary dwelling on the site. The proposed secondary dwelling will be attached to the existing principal dwelling.
<p>(3) A consent authority must not consent to development to which this Division applies unless:</p> <p>(a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and</p> <p>(b) the total floor area of the secondary dwelling is no more than 60m<sup>2</sup> or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.</p>	<p>The site is not subject to a Floor Space Ratio Development Standard.</p> <p>Clause 5.4 (9) of the WLEP 2011 stipulates that the gross floor area of secondary dwellings must not exceed 60sqm, which correlates with this SEPP</p> <p>The proposed secondary dwelling has an internal floor area of 49.87sqm, which satisfies the requirements of this SEPP and the WLEP 2011.</p>
<p>(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:</p> <p>(a) site area if:</p> <p>(i) the secondary dwelling is located within, or is attached to, the principal dwelling, or</p> <p>(ii) the site area is at least 450 square metres.</p> <p>(b) parking if no additional parking is to be provided on the site.</p>	The application is not being refused on any of the grounds specified within subclause (4).

**Note:** A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

#### Clause 24: No subdivision

Requirement	Comment
A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.	<b>Consistent.</b> This application does not propose any subdivision of the existing allotment.

#### Conclusion

The proposed secondary dwelling demonstrates compliance with the requirements of the SEPP ARH and is worthy of Council support.

#### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX Certificate has been submitted with the application (see Certificate No. 1066565S\_02 and 25 September 2020). 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:

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.

#### **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	7.73m (RL129.443) *	7.57m (RL130.023)	-	Yes

Note: The Assessment Report under DA2020/0059 noted the maximum building height to be 7.73m. This measure was incorrect as the height was measured from the ridge to the excavated level of the ground floor. The building height must be taken from the natural ground level, that being the ground level of an undisturbed site (interpolated ground level). The maximum building height approved under DA2020/0059 was in fact 6.99m, when taken from the interpolated ground level.

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	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	5.24m (eastern elevation)	5.88m (eastern elevation)	Yes
B3 Side Boundary Envelope	4m then projected at 45 degrees (east)	Outside Envelope	Outside Envelope	No
	4m then projected at 45 degrees (north)	Within Envelope	Within Envelope	Yes
B5 Side Boundary Setbacks	0.9m (north)	2.58m	2.58m	Yes
B7 Front Boundary Setbacks	Primary Frontage: 6.5m (west) Secondary Frontage: 3.5m (south)	5.24m 2.07m	5.18m 2.07m	No No
B9 Rear Boundary Setbacks (corner allotments)	0.9m (east)	1.17m	1.18m	Yes
D1 Landscaped Open Space and Bushland Setting	40%	32.27% (187.8sqm)	28.49% (165.8sqm)	No

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	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	No	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
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
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

#### Detailed Assessment

### **B3 Side Boundary Envelope**

#### Description of non-compliance

The modified development remains outside of the prescribed building envelope along the eastern elevation, which fails to comply with the control.

#### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying

objectives of the control as follows:

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

The development remains within the statutory height limit and is two (2) storeys in height, which is consistent with surrounding residential development. The development is well articulated and incorporates varied wall planes to reduce building bulk. In turn, the modified development will not become visually dominant by virtue of its height and bulk.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

The shadow analysis submitted with the application indicates that the development will allow private open space on adjoining properties to maintain adequate sunlight, in accordance with the requirements prescribed within Clause D8 of the WDCP 2011. Moreover, conditions imposed under DA2020/0059 requiring the installation of a privacy screen have ensured that the visual privacy impacts resulting from the development are reasonable within the low-density residential environment.

- *To ensure that development responds to the topography of the site.*

Comment:

The overall height and density of the development is not out of context with the established streetscape character and therefore, the modified development is considered to be appropriate in the context of the site.

### Concluding Remarks

Having regard to the above assessment, it is concluded that the applicable objectives of the control have been achieved. Therefore, the modified development is supported on merit.

### **B7 Front Boundary Setbacks**

#### Description of non-compliance

The control prescribed a 6.5m setback from primary frontages. DA2020/0059 approved a reduced front building line of 5.24m, given consistencies with the objectives of this control. The reduced building line pertained to additional floor space within the footprint of an existing dwelling. The modified proposal increases the footprint of the approved deck to adjoin the western elevation of the dwelling, which was approved under DA2020/0059. This modification reduces the front building line from 5.24m to 5.18m, which fails to satisfy the prerequisite. It is important to note that the non-compliant secondary front setback approved under DA2020/0059 is not exacerbated by the modified development.

#### Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying objectives of the control as follows:

- *To create a sense of openness.*

Comment:

The extended deck aligns with the northern elevation of the dwelling and only exacerbates the primary front setback non-compliance as a consequence of the angled boundary. The area between the front building line and front boundary will remain landscaped and as such, the modified development will not significantly detract from a sense of openness in the front yard.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The modified development will maintain visual continuity as the deck will align with the northern elevation of the dwelling, which was approved under DA2020/0059.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The bulk and scale is generally consistent to surrounding residential development and as such, the modified proposal will maintain an appropriate visual relationship with the surrounding environment.

- *To achieve reasonable view sharing.*

Comment:

As noted within the Assessment Report for DA2020/0059, the development will not result in significant view loss. The modified proposal at large slightly increases the overall building height, however this will not constitute any unreasonable view loss.

### Concluding Remarks

Having regard to the above assessment, it is concluded that the applicable objectives of the control have been achieved. Therefore, the modified development is supported on merit.

### **D1 Landscaped Open Space and Bushland Setting**

#### Description of non-compliance

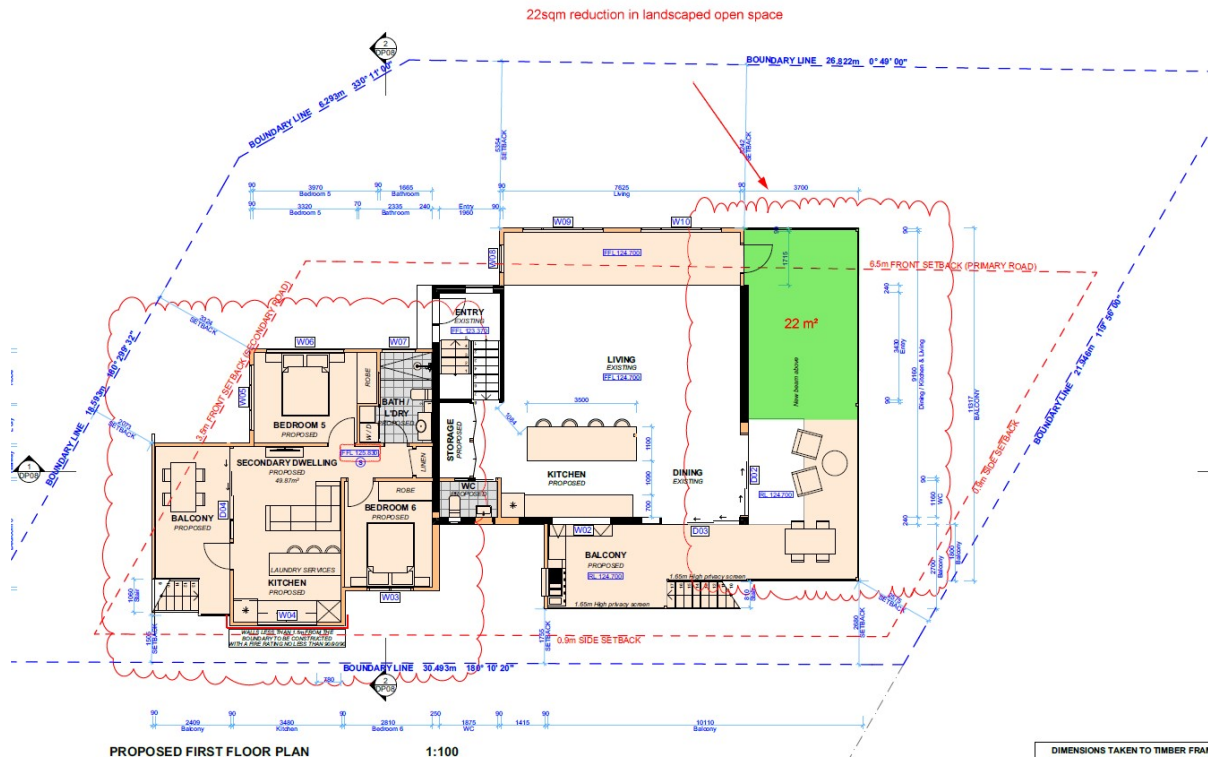
Clause D1 of the WDCP 2011 stipulates that development is to ensure at least 40% (232.79sqm) of the site area is landscaped open space (LOS). In calculating LOS, landscaped areas with dimensions less than 2m are excluded from the calculation. DA2020/0059 approved a variation to the control, with the LOS equating to 32.27% (187.8sqm) of the site.

The modified proposal comprises extending the footprint of the approved deck to correlate with the



northern elevation. This results in a further 22sqm reduction in LOS, which in turn reduces the LOS to 28.49% (165.8sqm) of the site. This is illustrated in Figure 1 below.

**Figure 1: reduction in LOS**



### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- To enable planting to maintain and enhance the streetscape.

#### Comment:

The site accommodates numerous trees and shrubs of varying sizes. The existing landscape features contributes to an attractive streetscape and will soften the visual impact of the built form. The deck is an unenclosed structure and does not exacerbate the visual bulk of the development when viewed from the public domain.

- To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.

#### Comment:

The deck extension is over a lawn area and does not obscure any important vegetation or topographic features.

- To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.

#### Comment:

The existing landscape treatment located along the northern and eastern portions of the site will soften the built form. The deck is an open structure and does not exacerbate the building bulk.

- *To enhance privacy between buildings.*

Comment:

The deck extension is orientated towards the front setback area of 34 Oxford Falls Road (northern adjoining site), which in turn will preserve the private open space within the adjoining rear yard. The modified development will not result in unacceptable privacy impacts and conditions implemented under DA2020/0059 will ensure the privacy impacts associated with the entire development are acceptable within a low-density residential environment.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The deck increases the usable private open space directly accessible from the living areas on the first floor. The site will still contain sufficient landscaped private open space, which coupled with the deck extension, will adequately meet the needs of the occupants.

- *To provide space for service functions, including clothes drying.*

Comment:

The site will contain adequate outdoor open space to service functions, including clothes drying.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

When including landscaped areas less than 2m x 2m in dimension, the landscaping on the site is 202.83sqm, which will assist in water infiltration. Conditions imposed under DA2020/0059 will further facilitate adequate stormwater management on the site.

### Concluding Remarks

Having regard to the above assessment, it is concluded that the applicable objectives of the control have been achieved. Therefore, the application is supported on merit.

### **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;
- 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. Mod2020/0542 for Modification of Development Consent DA2020/0059 for alterations and additions to a dwelling house including a secondary dwelling on land at Lot 1 DP 234584, 32 A Oxford Falls Road, BEACON HILL, 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**

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
MOD1 (Revision B) - Site/Roof/Sediment Erosion/Waste Management/Stormwater Concept Plan	6 November 2020	Action Plans
MOD2 (Revision B) - Proposed Ground Floor Plan	6 November 2020	Action Plans
MOD3 (Revision B) - Proposed First Floor Plan	6 November 2020	Action Plans
MOD4 (Revision B) - North/East Elevation	6 November 2020	Action Plans
MOD5 (Revision B) - South/West Elevation	6 November 2020	Action Plans
MOD6 (Revision B) - Long/Cross Section	6 November 2020	Action Plans

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate No. 1066565S_02	25 September 2020	Action Plans

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.

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

**Signed**



**Thomas Burns, Planner**

The application is determined on 23/11/2020, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**