

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2019/0474
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Responsible Officer:	Rebecca Englund
Land to be developed (Address):	Lot 24 DP 13457, 104 Prince Alfred Parade NEWPORT NSW 2106
Proposed Development:	Modification of Development Consent DA2018/1382 granted for alterations and additions to a 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:	Gary Malcolm Smith
Applicant:	Ellen Smith

Application Lodged:	30/09/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	16/10/2019 to 30/10/2019
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The modification application seeks consent for the following amendments to the approved development:

- deletion of the approved 2.5kL rainwater tank in the subfloor space at the rear of the dwelling and the associated access hatch,
- installation of two new water tanks at the front of the site, below the driveway,
- demolition of an existing retaining wall in the rear yard, to be replaced by a new retaining wall in a slightly different location,
- amendment to the levels of the driveway and carport roof to comply with Council's driveway profiles (Condition 8 and 21),
- amendments to the height of the Level 2 and 3 roof forms, to respond to a change in the material of the roof sheeting,
- construction of new concrete topping to a side access stairway, and

- minor lowering of the window sill of windows F2.04 and F2.05.

With the exception to reference to the amended plans presented to accompany the application, no changes are required to existing conditions of consent.

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 - D10.7 Front building line (excluding Newport Commercial Centre)

SITE DESCRIPTION

Property Description:	Lot 24 DP 13457 , 104 Prince Alfred Parade NEWPORT NSW 2106
Detailed Site Description:	The site has a 13.54m wide frontage to Prince Alfred Parade to the south, direct frontage to the Pittwater Waterway to the north, and a total area of 597.6m ² . The site currently contains an existing two storey dwelling, with an attached carport at the frontage of the site and a detached boat shed at the rear. A timber ramp and jetty are located on Crown Land, below MHW. Works pursuant to DA2018/1382 have commenced on site. The site contains existing significant vegetation, including mature Eucalyptus within the foreshore area and at the frontage of the site. The site is surrounded by dwellings of varying age, character and scale.

Map:



SITE HISTORY

On 21 August 2018, Development Application DA2018/1382 was lodged with Council.

On 4 December 2018, Development Application DA2018/1382 was approved by Council.

On 30 September 2019, the subject modification application was lodged with Council.

On 1 November 2019, the assessing officer undertook an inspection of the site.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1a) Modifications involving minimal environmental impact

Section 4.55(1a)	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 DA2018/1382.
(c) it has notified the application in accordance	The application has been publicly exhibited in

Section 4.55(1a)	Comments
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	accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and Pittwater 21 Development Control Plan.
(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	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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the</p>

Section 4.15 'Matters for Consideration'	Comments
	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	<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	No submissions were received in relation to this application.
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)	The proposed modification has been assessed and is considered satisfactory. As the applicant has not included a revised hydraulic plan it is considered that the Design Statement by the applicant's Engineer GZ Consulting Engineers Pty Ltd dated 27 September 2019 must be

Internal Referral Body	Comments
	included in condition 1 Approved Plans and Supporting Documentation. Provided that the above advice is undertaken, Development Engineers raise no objection to the proposal.

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)

Nil

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	7.5m	7.77m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	Nil	unaltered	No
Rear building line	FSBL	19m	unaltered	Yes
Side building line	2.5m	1.18m	unaltered	No
	1m	0.97m	unaltered	No
Building envelope	3.5m	Within envelope	Within envelope	Yes
	3.5m	Within envelope	Within envelope	Yes
Landscaped area	60%	41.9%	unaltered	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	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
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

D10.7 Front building line (excluding Newport Commercial Centre)

The modification application seeks to retain an existing subfloor area forward of the minimum front setback, below the existing driveway. The modification application also seeks to lower the level of space and provide additional (internal) retaining walls to provide for the installation of water tanks. The

installation of water management infrastructure below a driveway area is not uncommon, and the resultant tanks will not be visible from the public domain. As such, the proposed modifications do not detract from consistency with the outcomes of the front building line control.

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. Mod2019/0474

for Modification of Development Consent DA2018/1382 granted for alterations and additions to a dwelling house on land at Lot 24 DP 13457, 104 Prince Alfred Parade, NEWPORT, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Modification 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 Approved Plans and Supporting Documentation referenced in Condition 1, as modified by:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Level 0 Sub-Floor Plan TH 4.55-101, issue 1	26.09.2019	Peter Stutchbury Architecture
Level 2 Bedrooms TH 4.55-102, issue 1	26.09.2019	Peter Stutchbury Architecture
Level 3 Carport Plan TH 4.55-103, issue 1	26.09.2019	Peter Stutchbury Architecture
North, South + West Elevation TH 4.55-200, issue 1	27.09.2019	Peter Stutchbury Architecture
East Elevation + Section 1 TH 4.55-201, issue 1	26.09.2019	Peter Stutchbury Architecture

b) Modification Approved Supporting Documents

Supporting Documents - Recommendations contained within		
Report No.	Dated	Prepared By
Engineering Design Statement	27.09.2019	GZ Consulting Engineers Pty Ltd

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

Signed



Rebecca Englund, Principal Planner

The application is determined on 01/11/2019, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments