

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0432
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Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 55 DP 36616, 12 Akora Street FRENCHS FOREST NSW 2086
Proposed Development:	Modification of Development Consent DA2019/0625 granted for alterations and additions to a dwelling house including swimming pool
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Darren Joseph Ryan Suzanne Louise Ryan
Applicant:	Angela Elliss Design

Application Lodged:	07/09/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	15/09/2020 to 29/09/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

Development Consent was granted on 23 October 2019 under DA2019/0625 for alterations and additions to a dwelling house including a swimming pool. This Section 4.55(1A) Modification has been submitted to Council seeking to make the following amendments to the approved development:

Front Facade

- Reduction in the parapet height.
- New timber clad entranceway at the top of the front stairs.
- Remove cladding and replace with rendered blueboard.
- New awning over the living room window.

- Widen entry stairs.

Rear Deck

- Solid wall on the western side of the deck replaced with timber slats that have a height of 2.4m above the finished floor level.
- A new roof over the 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

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 55 DP 36616 , 12 Akora Street FRENCHS FOREST NSW 2086
Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Akora Street. The site is regular in shape with a frontage of 15.85m along Akora Street and a depth of 35.96m. The site has a surveyed area of 569m². The site is identified within the R2 Low Density Residential zone pursuant to the WLEP 2011 and accommodates a single storey dwelling house.

The site is slopes slightly towards Akora Street.

The front yard contains a garden along the south and west boundaries, including a significant tree a couple of smaller trees. There are a number of trees along the western boundary of the site. The rear yard contains a hedge along the western boundary, vegetation including small trees along the northern boundary and western boundaries including the north-west corner, and a two palm trees alongside the existing deck.

Detailed Description of Adjoining and Surrounding Development

Adjoining development is characterised by one and two storey dwelling houses. Surrounding development includes a public reserve.

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 recent history:

- Development Application DA2019/0625 for alterations and additions to a dwelling house including a swimming pool approved by Council on 23 October 2020.
- Construction Certificate CC2020/0184 for alterations and additions to a dwelling house including a swimming pool approved by Chris Dan Certification on 26 February 2020.
- Notice of Intention to Commence Works NOC2020/0308 subsequent to the Construction Certificate.

Application History

The Assessment Officer undertook a site visit at the subject site on 28 October 2020.

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 DA2019/0625, 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 for the following reasons: • The modified development will not have an unacceptable impact on the natural and built environment. • The modified development will not compromise the amenity of adjoining properties.
(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 DA2019/0625 for the following reasons: • The height and density of the approved development will remain unaltered subsequent to the modified development. • The modified proposal will not intensify the use of the site.

Section 4.55(1A) - Other Modifications	Comments
	The approved land use will remain unaltered.
(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	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Northern Beaches Community Participation 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	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	<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

Section 4.15 'Matters for Consideration'	Comments
(EP&A Regulation 2000)	the original consent. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case. <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>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 Warringah Development Control Plan 2011 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. (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	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 from 15/09/2020 to 29/09/2020 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 (Building Sustainability Index: BASIX) 2004

A revised BASIX certificate has been submitted with the application (see Certificate No. A341913_04, dated 10 August 2020).

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

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject property is located within the Sydney Harbour Catchment therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(1) (aims of the SREP), Clause 13 (nominated planning principles) and Clause 21 (relating to biodiversity, ecology and environmental protection) has

been undertaken. The modified proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

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	4.45m	4.45m new works max. height: 4.28m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	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	4.57m*	3.48m	Yes
B3 Side Boundary Envelope	4m then projected at 45 degrees (NW)	Within envelope	Within envelope	Yes
	4m then projected at 45 degrees (SE)	Within envelope	Within envelope	Yes
B5 Side Boundary Setbacks	0.9m (NW)	2.25m	2.25m	Yes
	0.9m (SE)	0.9m	0.9m	Yes
B7 Front Boundary Setbacks	6.5m	8.45m (deck)	8.45m (deck) 7.27m (entry steps)	Yes
B9 Rear Boundary Setbacks	6m	1.02m (pool) - consistent with exemption 6.82.m (deck)	1.02m (pool) - consistent with exemption 6.82.m (deck)	Yes
D1 Landscaped Open Space and Bushland Setting	40%	40.12% (228.3m ²)	40.12% (228.3m ²)	Yes

*The assessment report for DA2019/0625 detailed that the maximum wall height was 4.57m, which exceeded the approved maximum building height of 4.55m. The Assessment Officer for this application has measured the maximum wall height from the existing ground level to the underside of the ceiling (as required by the WDCP 2011), which equates to 3.48m. Regardless, the maximum wall height still complies with Clause B1 of the WDCP 2011.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	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	Yes	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
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

C3 Parking Facilities

The modified proposal will maintain the non-compliant parking arrangement, as the development only accommodates for a single off-street parking space through an existing hardstand area, where the WDCP 2011 calls for two off-street parking spaces. Despite this, the assessment report under DA2019/0625 found the development to be consistent with the objectives of this control, notwithstanding the numerical non-compliance. It is noted that no alterations are proposed for the parking arrangement under this modification and as such, no objections are raised of the existing non-compliance.

D8 Privacy

The modified proposal at large pertains to alterations to the front facade and a new roof over the rear deck. The modified development will not result in any unacceptable privacy impacts and the assessment finds the application to be consistent with the requirements and objectives of this control.

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. Mod2020/0432 for Modification of Development Consent DA2019/0625 granted for alterations and additions to a dwelling house including swimming pool on land at Lot 55 DP 36616, 12 Akora Street, FRENCHS FOREST, 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
Drawing No. 1 (Revision D) - Site Analysis Plan	13 August 2020	Angela Elliss Design
Drawing No. 2 (Revision D) - Ground Floor Plan	13 August 2020	Angela Elliss Design
Drawing No. 3 (Revision D) - Section and Detail 1	13 August 2020	Angela Elliss Design
Drawing No. 4 (Revision D) - Section 2 - Pool	13 August 2020	Angela Elliss Design
Drawing No. 5 (Revision D) - South-West and South-East Elevations	13 August 2020	Angela Elliss Design
Drawing No. 6 (Revision D) - North-East and North-West Elevations	13 August 2020	Angela Elliss Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A341913_04	10 August 2020	Angela Elliss Design

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 29/10/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments