

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0684
Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 315 DP 238382, 48 Tatiara Crescent NORTH NARRABEEN NSW 2101
Proposed Development:	Modification of Development Consent N0237/16 granted for alterations and additions to existing residence and secondary dwelling
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Muriel Altink
Applicant:	Philip George
Application Lodged:	02/09/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	13/09/2021 to 27/09/2021
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

"The amendment proposal is essentially to the roof form only over the approved deck at the frontage and associated amendment of support columns. The plan footprint is to remain the same as the existing DA Approval.

Supporting columns have been proposed to be angled back to the existing structural elements below so as to minimize any disturbance to the front yard.

Supporting columns have been proposed to be spaced further apart centrally so as to create a more open visual outlook from the deck over the street and distant landscape beyond. This will also afford better corner bracing for the structure.

The proposed roof form over the deck is raised marginally but kept "flat" in approach to allow it to

function without the need for a box gutter while maintaining good air flow through the deck area.

The proposed alterations also include minor modification of the current 3 french doors and minor wall zones that address the space and outflow between the current living areas and the deck beyond. This will ensure better use of the deck and better linkage to the current living areas of the house. A glass sliding door suite is proposed in lieu of the 3 french doors sets.

The roof form is modelled to remain under 8.5m height and is pitched at a minimum of 3 degrees suitable for colorbond roofing."

Original Consent

N0237/16 - Alterations and additions to existing residence and secondary dwelling approved 10 August 2016

Lapsing of development consents

"Lapsing dates of development consents and deferred commencement consents have been changed so that:

- *all consents and deferred commencement consents granted in the 2 year period from 25 March 2020 will have a five-year lapsing period that cannot be reduced by the consent authority,*
- *for consents and deferred commencement consents granted prior to 25 March 2020 that had not already lapsed, the lapsing date has been extended by 2 years and;*
- *consents and deferred commencement consents that have lapsed since 25 March 2020 are revived and extended by 2 years from the date they lapsed."*

<https://www.planning.nsw.gov.au/Policy-and-Legislation/COVID19-response/COVID19-changes-explained/Changes-to-support-businesses-and-landowners>

Therefore as the original consent has lapsed on 10 August 2021 and given the above (Point 3) the consent will now lapse on 10 August 2023.

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 - B6.3 Off-Street Vehicle Parking Requirements

SITE DESCRIPTION

Property Description:	Lot 315 DP 238382 , 48 Tatiara Crescent NORTH NARRABEEN NSW 2101
Detailed Site Description:	The site is known as 48 Tatiara Crescent, North Narrabeen and legally referred to as Lot 315 DP 238382. The site is rectangular in shape and the total area of the site is 739.2m². The site is located within the E4 Environmental Living zone and accommodates a single two storey dwelling that is located centrally on the site. There is a right of carriageway at the rear of the property which is accessed from Powder Works Road. The site is steep running from down from rear boundary to the front boundary with a sloping grade of 50%. The site has a mix of native and exotic species of plants, shrubs and trees and is heavily vegetated from the rear of the dwelling to the rear boundary. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by low density residential dwellings.

Map:



SITE HISTORY

N0237/16 - Alterations and additions to existing residence and secondary dwelling approved 10 August 2016

Note: The secondary dwelling was not approved as part of this original approval.

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 N0237/16, 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	

Section 4.55(1A) - Other Modifications	Comments
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 proposal (as amended) will be consistent and is considered to be of minimal environmental impact with the original consent condition.
(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 N0237/16 for the following reasons: The proposal (as amended) will be consistent and is considered to be of minimal environmental impact with the original consent condition.
(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, Pittwater Local Environment Plan 2014 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.	See discussion on "Notification & Submissions Received" in this report.

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	See discussion on "Environmental Planning Instruments" in this report.

Section 4.15 'Matters for Consideration'	Comments
instrument	
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)(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)	<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. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested. <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 Pittwater 21 Development Control Plan 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

Section 4.15 'Matters for Consideration'	Comments
	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	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 not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 13/09/2021 to 27/09/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Withheld	NORTH NARRABEEN NSW 2101

The following issues were raised in the submissions and each have been addressed below:

- Secondary dwelling
- Access via right of carriageway

The matters raised within the submissions are addressed as follows:

- Secondary dwelling

Comment: Concerns were raised about the secondary dwelling in the rear yard of the subject site.

A secondary dwelling was proposed within the original application (N0237/16 - Alterations and additions to existing residence and secondary dwelling) however there were a number of issues raised and the secondary dwelling was not approved as part of this consent. The following condition was included within the consent:-

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

development:

1. The secondary dwelling is refused and does not form part of this consent."

Given the above it is considered that this matter has been addressed and does not warrant refusal and/or further amendment via condition(s).

- Access via right of carriageway

Comment: Concerns were raised about parking and access within the right of carriageway at the rear of the subject site which allows access to adjoining and surrounding properties.

As stated above the secondary dwelling was not approved and this modification only seeks to alter the front approved balcony to the dwelling house.

Given the above it is considered that this matter has been addressed and does not warrant refusal and/or further amendment via condition(s).

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The application is to modify development consent N0237/16. The proposed modification works relate to amendment to the roof form and support columns over the approved deck. Landscape Referral raise no objections to the modification proposal.
NECC (Bushland and Biodiversity)	Council's Natural Environment Unit - Biodiversity referral team has no objections to the proposed modification subject to the conditions provided for the previous DA consent (N0237/16).

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

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.

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	7.7m	8.2m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
1.9A Suspension of covenants, agreements and instruments	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
Part 5 Miscellaneous provisions	Yes
5.10 Heritage conservation	Yes
Part 7 Additional local provisions	Yes
7.1 Acid sulfate soils	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	7.4m	7.4m	Yes
Rear building line	6.5m	29.3m	29.3m	Yes
Side building line	2.5m (west)	7.5m	7.5m	Yes
	1m (east)	3.4m	3.4m	Yes
Building envelope	3.5m (west)	Within envelope	Within envelope	Yes
	3.5m (east)	Outside envelope	Unaltered	Unchanged

Landscaped area	60% (443.5sqm)	57.83% (427.48sqm)	57.83% (427.48sqm)	Unchanged
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Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Section A Shaping Development in Pittwater	Yes	Yes
A1 Introduction	Yes	Yes
A1.7 Considerations before consent is granted	Yes	Yes
A4 Localities	Yes	Yes
A4.11 North Narrabeen Locality	Yes	Yes
Section B General Controls	Yes	Yes
B1 Heritage Controls	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3 Hazard Controls	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4 Controls Relating to the Natural Environment	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B5 Water Management	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6 Access and Parking	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B8 Site Works Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
Section C Development Type Controls	Yes	Yes
C1 Design Criteria for Residential Development	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.23 Eaves	Yes	Yes
Section D Locality Specific Development Controls	Yes	Yes
D11 North Narrabeen Locality	Yes	Yes
D11.1 Character as viewed from a public place	Yes	Yes
D11.2 Scenic protection - General	Yes	Yes
D11.3 Building colours and materials	Yes	Yes
D11.6 Front building line	Yes	Yes
D11.7 Side and rear building line	Yes	Yes
D11.9 Building envelope	Yes	Yes
D11.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D11.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

The proposed modification does not alter the existing and approved parking arrangement which allows for one (1) parking space off Tatiara Crescent.

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 2021

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. Mod2021/0684 for Modification of Development Consent N0237/16 granted for alterations and additions to existing residence and secondary dwelling on land at Lot 315 DP 238382,48 Tatiara Crescent, NORTH NARRABEEN, 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
4188 - 01	July 2021	The George Group
4188 - 02	July 2021	The George Group
4188 - 03	July 2021	The George Group
4188 - 04	July 2021	The George Group
4188 - 05	July 2021	The George Group

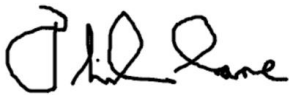
Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Comments for Section 96	18 October 2017	White Geotechnical Group

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



Phil Lane, Principal Planner

The application is determined on 11/10/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments