

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0505
Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot A DP 342163, 1 Fairlight Crescent FAIRLIGHT NSW 2094
Proposed Development:	Modification of Development Consent DA129/2016 granted for alterations and additions to an attached dual occupancy
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Silvana Vescio
Applicant:	Woodhouse & Danks Pty Ltd John Oppedisano
Application lodged:	19/09/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	25/09/2018 to 11/10/2018
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval

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

Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

SITE DESCRIPTION

Property Description:	Lot A DP 342163 , 1 Fairlight Crescent FAIRLIGHT NSW 2094
Detailed Site Description:	The subject site consists of one (1) allotment located on the eastern side of Fairlight Crescent, Fairlight. The site is irregular in shape with a frontage of 36.52m along Fairlight Crescent. The site has a surveyed area of 496.1m². The site is located within the R1 General Residential zone and accommodates a dual occupancy. The property slopes approximately 3.5m from north to south. The site contains some mature vegetation to the north. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by multi-storey residential flat buildings and a mix of one- and two-storey detached dwellings.

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 relevant history:

- Application DA95/2014 for Alterations and additions to an existing Residential Flat Building including demolition of the two (2) existing sets of access stairs, construction of new access stairs, addition of two (2) new terraces on the north and south of each unit and new pergola to Unit 2 was approved on 27 August 2014 by the former Development Assessment Unit.
- Application DA142/2014 for Alterations and additions to an existing dual occupancy including a front fence was approved on 14 January 2015 by the former Development Assessment Unit.
- Application DA95/2014 for Section 96 to modify approved Alterations and additions to an existing Dual Occupancy including demolition of the two (2) existing sets of access stairs, construction of new access stairs, addition of two (2) new terraces on the north and south of each unit and new pergola to Unit 2 – involving alterations to approved terraces, balustrades and barbeque area, and conversion of family room to a bedroom with additions of non-habitable rooms at Unit 1 – Part 2 was approved on 26 November 2014 by the former Development Assessment Unit.
- Application DA49/2015 for Alterations and additions to an existing dual occupancy including additions to the first floor with roof over the existing terraces, new lift, internal alterations, changes to windows and doors was approved on 29 July 2015 under staff delegation.
- Application DA129/2016 for Alteration and addition to existing dual occupancy (attached) including a new third level addition with front and rear terraces, second level extension, a new enclosed stairwell and lift, changes to windows and doors, internal alterations, demolition of existing carport, construction of a double garage with four car stacker and removal of trees was approved on 15 December 2016 by the former Northern Beaches Independent Assessment Panel.
- Application DA272/2016 for Two (2) lot Strata subdivision of an existing Dual Occupancy was approved on 12 December 2016 under staff delegation.
- Application DA129/2016 for Section 96 to modify approved alterations and addition to existing dual occupancy (attached) including a new third level addition with terrace, second level extension, a new enclosed stairwell and lift, changes to windows and doors, internal alterations,

demolition of existing carport, construction of a double garage with four car stacker and removal of trees. – Part 2 was approved on 13 September 2017 under staff delegation.

- Application DA129/2016 for Section 96 to modify approved alterations and additions to the dual occupancy – Part 3 was approved on 26 February 2018 under staff delegation.
- Application Mod2018/0379 for Modification of Development Consent DA0129/2016 granted for alterations and additions to an attached dual occupancy was approved on 17 October 2018 by the Northern Beaches Local Planning Panel.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the following modification to Development Consent No. DA129/2016:

- Extension of the approved front awning.

The awning has been constructed - this application seeks retrospective approval of the works.

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 DA129/2016, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.15(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15(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.
(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	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 DA129/2016.

Section 4.15(1A) - Other Modifications	Comments
granted was modified (if at all), and	
(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, Manly Local Environment Plan 2013 and Manly Development Control Plan 2013.
(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 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	Manly Development Control Plan 2013 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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.

Section 4.15 'Matters for Consideration'	Comments
	<u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. 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>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). 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. <u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
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 Manly Development Control Plan 2013 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	See discussion on “Public Exhibition” in this report.

Section 4.15 'Matters for Consideration'	Comments
EPA Regs	
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 process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Cameron Darrel James Wall	3 / 19 Lauderdale Avenue FAIRLIGHT NSW 2094

A submission was received against MOD2018/0505 that relates to MOD2018/0379 (a previous modification on the same site). While the objections do not relate to this modification application, the issues raised are addressed below:

- Use of the property as a dwelling
- Fence and footpath have not been maintained
- Solar access

The matters raised within the submissions are addressed as follows:

- Use of the Property
Comment:
The property is approved for use as a dual occupancy. The approved building may have the appearance from external view as a single dwelling, while still operating as a dual occupancy. Concerns in relation to compliance with a development consent in relation to use of the site may be reported to Council's Compliance Team for investigation.
- Fence and Footpath Maintenance
Comment:
The fence on the site does not form part of the approved or proposed development. Concerns in relation to unsafe structures or maintenance of footpaths may be reported to Council's

Compliance Team for investigation.

- Solar Access

Comment:

The proposed modification is acceptable in relation to solar access for the reasons detailed in the section of the MOD2018/0379 Assessment Report relating to Clause 3.4.1 Sunlight Access and Overshadowing of the Manly Development Control Plan 2013.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.

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 (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.

Manly Local Environmental Plan 2013

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

Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	3m	3m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.4 Stormwater management	Yes
6.9 Foreshore scenic protection area	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 496.1sqm	Requirement	Approved	Proposed	Complies
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	1.2m to awning	200mm to awning	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

4.1.4 Setbacks (front, side and rear) and Building Separation

The proposal includes the reduction of the front setback to 200mm to the awning (no change is proposed to the front setback to the building proper), where 6.5m is required and 1.2m was approved. The proposed development is acceptable in relation to the relevant objectives of this clause, as follows:

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

The proposed modification extends the awning, being an open structure. As such, the proposal does not present an unreasonable imposition to the street frontage, does not unreasonably alter the spatial proportions of the street, and is not inconsistent with the streetscape or landscape character of the area.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

The proposed modification does not impact upon privacy, solar access, view sharing, streetscape character, or traffic conditions, beyond the approved development.

Objective 3) To promote flexibility in the siting of buildings.

The proposed extended awning is in a logical location, spanning between the street frontage and the entrance to the dwelling. The proposal demonstrates adequate flexibility in the siting of the works, in relation to the approved building.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

The proposed modification does not impact upon the site's provision of deep soil zones or vegetation, and does not unduly detract from the landscaped context of the site, as landscaped area is not impacted by the proposal. SEPP 19 does not apply, as the site does not contain or adjoin bushland.

Objective 5) To assist in appropriate bush fire asset protection zones.

Not applicable. The subject site is not in a bush fire asset protection zone.

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

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this 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;
- Manly Local Environment Plan;
- Manly 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. Mod2018/0505 for Modification of Development Consent DA129/2016 granted for alterations and additions to an attached dual occupancy on land at Lot A DP 342163,1 Fairlight Crescent, FAIRLIGHT, 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
D01 Site Plan	11 September 2018	Woodhouse & Danks Architects
D11 First Floor Plan	11 September 2018	Woodhouse & Danks Architects
D20 North & South Elevations	11 September 2018	Woodhouse & Danks Architects
D21 West & East Elevations	11 September 2018	Woodhouse & Danks Architects

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. (DACPLB01)