

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2022/0151
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Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 25 DP 14040, 38 Carrington Parade CURL CURL NSW 2096
Proposed Development:	Modification of Development Consent DA2020/1376 granted for *Alterations and additions to a dwelling house*
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:	David William Jones Katherine Mary Jones
Applicant:	Luke Trovato

Application Lodged:	05/04/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	15/04/2022 to 29/04/2022
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposed modification seeks consent for changes as follows:

Ground floor

- Relocate stair to first floor
- Retain existing laundry, storage and shelving

First floor

- Relocate bathroom to accommodate stair, requiring a 0.8m x 2.7m (2.16m²) addition at the west of the approved first floor
- Reconfigure Bedroom 5 and 6 layouts
- Extend approved first floor western eave 0.4m
- Changes to windows

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 - B1 Wall Heights

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

Warringah Development Control Plan - D7 Views

Warringah Development Control Plan - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 25 DP 14040 , 38 Carrington Parade CURL CURL NSW 2096
Detailed Site Description:	The subject site consists of one allotment located on the south-western side of Carrington Parade. The site is regular in shape with a frontage of 13.41m along Beach Street, a depth of 34.745m and a frontage of 3.315m to Carrington Parade. The site has a surveyed area of 461.7m². The site is located within the R2 Low Density Residential

zone and accommodates an existing dwelling house.

The site slopes 5.87m from south to north.

The site consists of lawn areas and smaller planting, and contains no significant vegetation.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by a range of residential development including dwelling houses, dual occupancies, residential flat buildings and multi-dwelling housing.

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:

DA2011/0979 - Demolition works and construction of a dwelling house - Approved 28 September 2011.

Mod2012/0168 - Modification of Development Consent DA2011/0979 granted for Demolition Works and Construction of a Dwelling House - Approved 18 September 2012.

Mod2013/0031 - Modification of Development Consent DA2011/0979 granted for Demolition of an existing house and construction of a new dwelling - Approved 20 March 2013.

DA2020/1376 - Alterations and additions to a dwelling house - Approved 21 April 2021.

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 DA2020/1376, 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 proposed modification is minor in extent, being limited to internal reconfigurations, a 2.2m² addition at the first floor level and an eave extension of 400mm. There is no significant change to the approved dwelling form and minimal impact to surrounding 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 DA2020/1376 for the following reasons: The consent as proposed to be modified is substantially the same development as that for which the consent was originally granted. The proposed development retains the single residential use and does not alter the intent of the lot to be developed. The proposed modification involves internal reconfigurations and minor built form additions at the first floor level. As such, the development remains materially the same as originally approved. As such, the modified application is “substantially the same development” as the originally approved development and therefore may be considered under Section 4.55(1A).

Section 4.55(1A) - Other Modifications	Comments
(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.	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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 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)	<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 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>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 clause is not relevant to this application. <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 Warringah 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 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 'Matters for Consideration'	Comments
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 15/04/2022 to 29/04/2022 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:
Peter John Clyne	18 / 4 Beach Street CURL CURL NSW 2096

The issues raised in the submission are addressed as follows:

- **View loss**

The submission raised concerns that the proposal would adversely impact views from dwellings at 2-4 Beach Street and other properties on Beach Street. Concern was also raised that the proposed modification to the approved development results in 'view/scope creep'.

Comment:

The proposed extension of the approved first floor is limited to an area of 2.16m² and is located centrally within the site at the western elevation. The proposal will not cause any substantial loss of water views or land-water interface and given the minimal level of impact, is not considered to result in accumulated view loss or view creep.

- **Building height and visual impact**

The submission raised concerns that the proposal is excessive in height and will adversely impact the character of the streetscape.

Comment:

The proposed modification complies with the building height control and maintains a two-storey presentation to Beach Street, consistent with the surrounding primarily two-storey dwellings on the northern side of the street. The first floor is limited to the eastern side of the dwelling, provides a consistent architectural form with the existing/approved dwelling and will not result in

adverse visual impact.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	The modification does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values. Council's Natural Environment Unit - Biodiversity referral team has no objections to the proposed modification.
NECC (Development Engineering)	Applicant seeks approval for minor internal modification to an approved DA. No Development Engineering objection with no conditions.

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A391828_03 dated 21 March 2022).

A condition has been included in the recommendation of this report requiring compliance with the

commitments indicated in the BASIX Certificate.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018) and is located within the coastal use area. The proposed changes are located within the existing building footprint and do not alter the previous assessment against the provisions of the SEPP.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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	8.5m	8.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.2 Earthworks	Yes

Clause	Compliance with Requirements
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	8.1m	Unchanged	No (as approved)
B3 Side Boundary Envelope	East: 5m	Two encroachments on the second floor addition: - Length 2.4m varying between nil and 0.5m - Length 5.7m varying between nil and 1.2m	Unchanged	No (as approved)
	West: 5m	No encroachment	Unchanged	Yes
B5 Side Boundary Setbacks	East: 0.9m	1m	Unchanged	Yes
	West: 0.9m	7.2m	6.4m	Yes
B7 Front Boundary Setbacks	6.5m (Carrington Parade)	5m	Unchanged	No (existing)
B7 Secondary Front Boundary Setbacks	3.5m (Beach Street)	4.1m	Unchanged	Yes
D1 Landscaped Open Space and Bushland Setting	40%	No additional hard surfaces proposed	Unchanged	No (existing)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

The approved non-compliant wall height is unchanged as a result of the proposed modification.

B3 Side Boundary Envelope

The approved envelope breach at the eastern elevation is unchanged as a result of the proposed modification.

B7 Front Boundary Setbacks

The existing front setback breach to Carrington Parade is unchanged as a result of the proposed modification.

D1 Landscaped Open Space and Bushland Setting

The proposed works are contained within the existing building footprint and do not alter the existing/approved landscaped area.

D7 Views

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To allow for the reasonable sharing of views.*
- *To encourage innovative design solutions to improve the urban environment.*
- *To ensure existing canopy trees have priority over views.*

Comment:

The below discussion takes into account the view assessment of the previously approved application, DA2020/1376, which included consideration of potential view loss from the following properties:

- Units 35 & 37 / 2-4 Beach Street
- 8 Beach Street
- Units 1, 11, 12, 13, 15, 22, 23, 31, 32, 34 & 41 / 16-18 Beach Street

In response to the notification of the subject modification, one submission was received from Unit 18/2-4 Beach Street raising view loss concerns from townhouses within 2-4 Beach Street.

The proposed modification includes a small 0.8m x 2.7m (2.16m²) addition at the western side of the approved first floor and a 0.4m extension to the approved western roof eave. Based on the limited size of the proposed addition and its location in relation to the available views from the above mentioned properties, the proposal is not considered to result in any notable additional view impacts beyond those of the approved development.

Given the minimal impact of the proposed modification and the compliance of the additional built form with the relevant WLEP and WDCP controls, the proposal is found to achieve the objectives of the control and is supportable.

D8 Privacy

The proposed modifications to windows at the first floor level will not give rise to any unreasonable view impacts.

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 2022

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. Mod2022/0151 for Modification of Development Consent DA2020/1376 granted for *Alterations and additions to a dwelling house* on land at Lot 25 DP 14040,38 Carrington Parade, CURL CURL, 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
DA.01 Site Plan	Rev. B, 10 March 2022	Gartner Trovato Architects
DA.03 First Floor Plan	Rev. B, 10 March 2022	Gartner Trovato Architects
DA.04 Second Floor Plan	Rev. B, 10 March 2022	Gartner Trovato Architects
DA.05 North Elevation	Rev. B, 10 March 2022	Gartner Trovato Architects
DA.06 South Elevation	Rev. B, 10 March 2022	Gartner Trovato Architects
DA.07 East Elevation	Rev. B, 10 March 2022	Gartner Trovato Architects
DA.08 West Elevation	Rev. B, 10 March 2022	Gartner Trovato Architects
DA.09 Section A	Rev. B, 10 March 2022	Gartner Trovato Architects

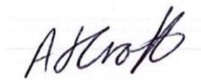
Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A391828_03	21 March 2022	Gartner Trovato Architects

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

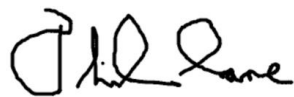
In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Adam Croft, Planner

The application is determined on 24/06/2022, under the delegated authority of:



Phil Lane, Acting Development Assessment Manager