

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2023/0546
Responsible Officer:	Dean Pattalis
Land to be developed (Address):	Lot B DP 381480, 50 Aubreen Street COLLAROY PLATEAU NSW 2097
Proposed Development:	Modification of Development Consent DA2023/0982 granted for Alterations and additions to a dwelling house, comprising front fence, retaining walls and associated works
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:	Kristy Maree McNab
Applicant:	Serenescapes Landscape Designs Pty Ltd

Application Lodged:	10/10/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	16/10/2023 to 30/10/2023
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The application proposes to modify the consent under DA2023/0982 including the following:

- Delete Condition 7. Stormwater Disposal
- *A new stormwater management plan has been provided in order to negate the need for the condition.*
- Delete Condition 8. Vehicle Crossings Application

- Condition considered to be unnecessary as driveway and crossover on plans already had prior consent under CDC2022/0334

- Delete Condition 9. Amendments to the approved plans

- The proposed front and side boundary fencing have been deleted from the plans which negates the need for the condition.

- Delete Condition 5. Policy Controls

- The scope of works has been reduced and a new cost summary report provided which negates the need for the condition.

No change is proposed to the built form of the approved dwelling.

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

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot B DP 381480 , 50 Aubreen Street COLLAROY PLATEAU NSW 2097
Detailed Site Description:	The subject site consists of single allotment located on the western side of Aubreen Street. The site is regular in shape with a frontage of 16m along Aubreen Street and a depth of 39.625m. The site has a

surveyed area of 634m².

The site is located within the R2 Low Density Residential zone.

The site is relatively flat with little fall across the site.

The site has little established vegetation, other than a small tree to the rear corner and grassed area to the rear and front of the site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by similar, low-density residential dwellings set within a landscaped setting.

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 **DA2023/0982** for Alterations and additions to a dwelling house, comprising front fence, retaining walls and associated works (Approved 27/08/2023)

Application **CDC2022/0334** for Construction of a Two Storey Dwelling & Attached Secondary Dwelling - CDC2021-1190 (06/04/2022)

Application **CDC2022/0080** for Demolition of existing structures - CDC2021-745 (28/12/2021)

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 DA2023/0982, 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: There is no change to the existing approved plans with the exception of the deletion of the proposed front and side boundary fencing.
(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 consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2023/0982 for the following reasons: There is no change to the existing approved plans with the exception of the deletion of the proposed front and side boundary fencing. The consent authority is therefore satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2023/0982.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require,	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.

Section 4.55(1A) - Other Modifications	Comments
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	
(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	There are no current draft environmental planning instruments.
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 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement

Section 4.15 'Matters for Consideration'	Comments
	of the development application. This clause is not relevant to this application. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of 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	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 16/10/2023 to 30/10/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The modification plans indicate that no additional landscape features are impacted by the works. No objections are raised with regard to landscape issues. Existing conditions are considered still relevant and adequate.
NECC (Coast and Catchments)	This modification was assessed in consideration of: • Supplied plans and reports • Coastal Management Act 2016 • State Environmental Planning Policy (Resilience and Hazards) 2021 • Relevant LEP and DCP clauses No objection. The modifications are minor and do not impact the assessment of DA2023/0982.
NECC (Development Engineering)	I have reviewed the statement of modification and have no objections to the removal of conditions 7 & 8 of existing development consent.
Strategic and Place Planning (Development Contributions)	The subject site is located within the Northern Beaches Section 7.12 Contributions Plan 2022 area that levies contribution based on Cost of Works for the development. A contribution was levied for DA2023/0982 based on cost of works of \$137,500.00. This modification application proposes changes to works as approved under DA2023/0982 resulting in reduction in cost of works. The totals estimated cost of works as per the submitted Cost Summary Report is now \$93,500. Northern Beaches Section 7.12 Contribution Plan 2022 levies contribution to developments where the proposed cost of carrying out development is up to and including \$100,000. Since this modification application reduces the cost of works as approved under DA2023/0982, these works are exempt and no contribution is required.

Internal Referral Body	Comments
	If the application is being recommended for approval by the Assessing Officer, Condition 5 of the consent is to be removed.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs 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 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 (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

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

Warringah Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C4 Stormwater	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C9 Waste Management	Yes	Yes

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 2021;
- 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. Mod2023/0546 for Modification of Development Consent DA2023/0982 granted for Alterations and additions to a dwelling house, comprising front fence, retaining walls and associated works on land at Lot B DP 381480,50 Aubreen Street, COLLAROY PLATEAU, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

Application Number	Determination Date	Modification description
PAN# - 377060 MOD# - Mod2023/0546	The date of this notice of determination	Modification of Development Consent DA2023/0982 granted for Alterations and additions to a dwelling house, comprising front fence, retaining walls and associated works Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation Delete Condition 7. Stormwater Disposal Delete Condition 8. Vehicle Crossings Application Delete Condition 9. Amendments to the approved plans Delete Condition 5. Policy Controls

Modified conditions

A.

Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
L-01	J	Site Plan	Serenescapes	14 September 2023
L-02	J	Zone A - Landscape & Planting Plan	Serenescapes	14 September 2023
L-03	J	Zone B - Landscape & Planting Plan	Serenescapes	14 September 2023

L-04	J	Sectional Elevations	Serenescapes	14 September 2023
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Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
DR-100 - DR-103 (Stormwater Management Plan)	0	Stellen Civil Engineering	18 January 2022
Waste Management Plan	-	Serenescapes	Undated

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

B.

Delete Condition 7. Stormwater Disposal

Delete Condition 8. Vehicle Crossings Application

Delete Condition 9. Amendments to the approved plans

Delete Condition 5. Policy Controls

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

Signed



Dean Pattalis, Planner

The application is determined on 31/10/2023, under the delegated authority of:



Steven Findlay, Manager Development Assessments