

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2025/0472
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Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot 406 DP 14137, 29 Condoover Street NORTH BALGOWLAH NSW 2093
Proposed Development:	Modification of Development Consent DA2023/1756 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
Applicant:	Chris Orlando Huggett

Application Lodged:	19/08/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	Not Notified
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The application seeks to modify development application DA2023/1756 by changing window W02 to a highlight window. Condition 14 - Amendments to approved plans will also need to be amended to remove the requirement for the window W02 to be non-operable and have frosted glazing. The condition currently reads:

14. Amendments to the approved plans

The following amendments are to be made to the approved plans:

- *The overall height of the carport shall not exceed RL 25.146.*
- *The ceiling height of the carport shall not exceed RL 24.824.*

- *The front fence gate adjacent to the southern boundary shall be deleted and replaced with fixed palings.*
- *The front fence shall not exceed 1.5m above the existing ground level.*
- *W02 on the south elevation shall be non-operable and utilise frosted glazing.*

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

The proposal seeks the deletion of the last dot point.

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 - D8 Privacy

SITE DESCRIPTION

Property Description:	Lot 406 DP 14137 , 29 Condoover Street NORTH BALGOWLAH NSW 2093
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Detailed Site Description:	The subject site consists of one (1) allotment located on the eastern side of Condoover Street. The site is regular in shape with a frontage of 12.19m along Condoover Street and a depth of 45.72m. The site has a surveyed area of 557m². The site is located within the R2 Low Density Residential zone and accommodates three-storey residential dwelling house and a swimming pool currently under construction. The site falls approx. 4m from the west towards the east. The site contains a grassed front setback area with a Jacaranda tree in the street verge and a grassed rear yard with a canopy tree and garden areas. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by low density residential dwellings, many with ancillary structures and/or outbuildings. A bushland reserve adjoins the site to the east. Site Inspection A site inspection was undertaken 12 September 2025.
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Map:



SITE HISTORY

Development Application DA2023/1756 was activated 4 July 2024. Modifications Mod2024/0399

was approved 06 August 2024, Mod2024/0510 approved 5 November 2024 and Mod2025/0120 approved 4 June 2025.

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 DA2023/1756, 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: • Compliance with major applicable development standards and controls (e.g. height, setbacks, etc.) will remain consistent with the original and modified consents. • The proposal will not affect the findings and recommendations of previously approved consultant reports. • The external appearance of the development will be largely unchanged by the proposed modifications.
(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 DA2023/1756 for the following reasons: • 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 DA2023/1756.

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 2021, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining a 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 consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Section 4.15(1) is addressed in the table below.

The reasons given by the consent authority for the grant of the consent that is sought to be modified is discussed as follows:

Comment on reasons for determination of DA2023/1756

The reasons for the granting of the original consent have been considered in the assessment of this modification application. The proposed changes will result in a modified development that will not conflict with the original reasons for the granting of consent.

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)(iia) – 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>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>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 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 'Matters for Consideration'	Comments
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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the original and modified applications that included a certificate (prepared by Bushfire Planning Services, dated 17/10/2023) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report are still consistent with this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application was not notified.

REFERRALS

No referrals were sent in relation to this application

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 (Sustainable Buildings) 2022

A BASIX certificate was been submitted with the previous modification Mod2025/0120 (see Certificate No. A484128_04 dated 24 January 2025).

A condition was included in the recommendation of the previous approvals requiring compliance with the commitments indicated in the BASIX Certificate.

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

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	Complies
Height of Buildings:	8.5m	8.1m	No change	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Mod Approved	Proposed	Complies
B1 Wall height	7.2m	South - 4.9m	5.5m	No change	Yes

B3 Side Boundary Envelope	N - 4m	Within envelope	No change	No change	Yes
	S - 5m	Within envelope	Outside envelope Length - 5.5m Height - 0.2 - 0.4m	No change	Yes
B5 Side Boundary Setbacks	N- 0.9m	GF - 1.2m FF - 1.2m Carport - 0.6m	No change	No change	Yes
	S- 0.9m	GF - 1.2m FF - 3m	Rumpus - 1.1m	Window W02 - 1.1m	Yes
B7 Front Boundary Setbacks	6.5m	Dwelling - 7.6m Carport - Nil	No change	no change	Yes
B9 Rear Boundary Setbacks	6m	Unaltered	Deck - 12.6m	No change	Yes
D1 Landscaped Open Space and Bushland Setting	40%	30.6% (170.4m ²)	28.7% (166.07m ²)	No change	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	No	Yes
D9 Building Bulk	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

D8 Privacy

Description of non-compliance

Window W02 is located within 9m of the north facing windows of no. 27 Condover Street. While the proposed window has a minimum sill height of 1.7m, the height of the floor levels of the dwellings will result in views to and from the windows into the dwellings.

Merit consideration

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

- To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

A privacy screen is recommended on window W02 to maintain privacy between the dwellings.

The recommended condition along with the high window sill will ensure a high level of visual and acoustic privacy for the occupants and neighbours.

- To encourage innovative design solutions to improve the urban environment.*

Comment:

The proposed development along with the recommended conditions will result in an overall contemporary design that will successfully improve the existing urban environment.

- To provide personal and property security for occupants and visitors.*

Comment:

The proposed use ensures that an appropriate level of person and property security is maintained for the occupants of the subject site and any visitors to the site

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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 2024

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. Mod2025/0472 for Modification of Development Consent DA2023/1756 granted for Alterations and additions to a dwelling house on land at Lot 406 DP 14137,29 Condoover Street, NORTH BALGOWLAH, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-563825 - Mod2025/0472	The date of this notice of determination	Section 4.55 (1a) Minor Environmental Impact - Modification of Development Consent DA2023/1756 granted for Alterations and additions to a dwelling house - Add Condition No.1B - Modification of Consent - Approved Plans and supporting documentation. - Amend Condition No. 14 - Amendments to the approved plans - Add Condition No. 19A - Privacy Screen to window W02
PAN-520425 - Mod2025/0120	04/06/2025	Section 4.55 (2) Environmental Impact - Modification of Development Consent DA2023/1756 granted for Alterations and additions to a dwelling house Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation.
PAN-454770 MOD2024/0510	05/11/2024	Modification of Development Consent DA2023/1756 granted for Alterations and additions to a dwelling house - Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation. - Modify Condition 14. Amendments to the approved plans - Add Condition 20A Geotechnical Report and Bushfire Risk Assessment - Add Condition 20B. Privacy Screen - Add Condition 37. No additional pathways

PAN-454770 MOD2024/0399	06/08/2024	Modification S4.55(1) to correct error / misdescription in consent DA2023/1736 granted for alterations and additions to a dwelling house. Add Condition no. 14 Amendments to the approved plans
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Modified conditions

A. Add Condition No.1B - 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
CC13	B	South Elevation	Action Plans	30 June 2025

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. Amend Condition 14. Amendments to the approved plans to read as follows:

The following amendments are to be made to the approved plans:

- The overall height of the carport shall not exceed RL 25.146.
- The ceiling height of the carport shall not exceed RL 24.824.
- The front fence gate adjacent to the southern boundary shall be deleted and replaced with fixed palings.
- The front fence shall not exceed 1.5m above the existing ground level

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

C. Add Condition No. 19A Privacy Screen to window W02 to read as follows:

A privacy screen is to be erected for the entire length and height of Window W02 located off the ground floor office as shown on the approved plans. The privacy screen shall be of fixed louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development. The louvers are to be angled down to prevent views into the adjacent window on the neighbouring dwelling.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: In order to maintain privacy to the adjoining / nearby property.

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

Signed



Julie Edwards, Planner

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



Daniel Milliken, Manager Development Assessments