

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0159
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Responsible Officer:	Nick Keeler
Land to be developed (Address):	Lot 7 DP 229542, 64 Elimatta Road MONA VALE NSW 2103
Proposed Development:	Modification of Development Consent DA2020/0134 granted for the construction of a covered entry structure
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Andrene Louise Bullough James Edward Bullough
Applicant:	Rapid Plans Pty Ltd

Application Lodged:	12/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	22/04/2021 to 06/05/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify development consent DA2020/0134 granted for construction of a covered entry structure. The modification involves the minor enlargement of the structure by repositioning the outer support posts closer to the northern side and front boundaries.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - D9.7 Side and rear building line

SITE DESCRIPTION

Property Description:	Lot 7 DP 229542 , 64 Elimatta Road MONA VALE NSW 2103
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southwestern side of Elimatta Road.</p> <p>The site is irregular in shape with a frontage of 20.335m along Elimatta Road and a depth of 42.545m. The site has a surveyed area of 696.73m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a two-storey residential dwelling with an in-ground swimming pool at the front.</p> <p>The site falls approx. 4m from the southwest towards the northeast.</p> <p>The site contains areas of grass at the front and rear of the dwelling, hedging vegetation along part of the front boundary and canopy trees at the rear.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by low density residential dwellings, many with ancillary structures and/or outbuildings.</p>

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 **N0772/99** for Additions to the dwelling and inground swimming pool was approved on 21/10/1999 by Council staff.

Application **N0083/01** for construction of a retaining wall was approved on 16/03/2001 by Council staff.

Application **N0420/07** for Alterations and additions to the existing dwelling including new carport was approved on 21/09/2007 by Council staff.

Application **DA2020/0134** for Construction of a covered entry structure was approved on 09/04/2020 by Council staff.

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 DA2020/0134, 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
<p>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:</p>	
<p>(a) it is satisfied that the proposed modification is of minimal environmental impact, and</p>	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> • no additional amenity impact to adjacent properties or the public domain is expected • the built form of the dwelling will remain generally consistent with the approved development
<p>(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</p>	<p>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 DA2020/0134 for the following reasons:</p> <ul style="list-style-type: none"> • the modification is consistent with the approved alterations and additions to the existing dwelling • the modification does not alter the low density residential land use of the site • all expected outcomes of the original assessment are maintained under the modification
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(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</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control Plan.</p>
<p>(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</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>

Section 4.55(1A) - Other Modifications	Comments
the case may be.	

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(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)	<p><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.</p> <p><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.</p> <p><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.</p> <p><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.</p> <p><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</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>relevant to this application.</p> <p><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.</p> <p><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.</p> <p><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.</p>
<p>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</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(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.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

EXISTING USE RIGHTS

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 22/04/2021 to 06/05/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and

Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments																																				
NECC (Development Engineering)	No objection to proposed modification with no additional or modified conditions of consent recommended.																																				
Strategic and Place Planning (Heritage Officer)	<table border="1" style="width: 100%;"> <tr> <th colspan="3" style="text-align: left;">HERITAGE COMMENTS</th> </tr> <tr> <td colspan="3">Discussion of reason for referral</td> </tr> <tr> <td colspan="3">The proposal has been referred to Heritage as the subject property adjoins a heritage item</td> </tr> <tr> <td colspan="3">House - 66 Elimatta Road, Mona Vale</td> </tr> <tr> <th colspan="3" style="text-align: left;">Details of heritage items affected</th> </tr> <tr> <td colspan="3">Details of the item as contained within the Pittwater inventory is as follows:</td> </tr> <tr> <td colspan="3"> <p><u>Statement of significance:</u> The house at 66 Elimatta Road, Mona Vale, built c.1910s, has historic and aesthetic significance as a good example of a Federation House typical of the early 1906 Warriewood Estate/Narrabeen subdivision.</p> <p>It features characteristic elements of the Federation House style including the use of brickwork, ornamental timber frieze or valance, large simple roof planes extending on the veranda supported by decorated timber posts, timber awning with shaped timber stays and the use of bay windows.</p> <p><u>Physical Description</u> The house sits on a large recessed lot on Elimatta Road in Mona Vale. It is a one-storey brick Federation house. Typical features of the style are the use of brickwork, ornamental timber frieze or valance, large simple roof planes extending on the veranda supported by decorated timber posts, timber awning with shaped timber stays and the use of bay windows.</p> </td> </tr> <tr> <th colspan="3" style="text-align: left;">Other relevant heritage listings</th> </tr> <tr> <td style="width: 40%;">Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td> <td style="width: 10%;">No</td> <td style="width: 50%;"></td> </tr> <tr> <td>Australian Heritage Register</td> <td>No</td> <td></td> </tr> <tr> <td>NSW State Heritage Register</td> <td>No</td> <td></td> </tr> <tr> <td>National Trust of Aust (NSW) Register</td> <td>No</td> <td></td> </tr> </table>	HERITAGE COMMENTS			Discussion of reason for referral			The proposal has been referred to Heritage as the subject property adjoins a heritage item			House - 66 Elimatta Road, Mona Vale			Details of heritage items affected			Details of the item as contained within the Pittwater inventory is as follows:			<p><u>Statement of significance:</u> The house at 66 Elimatta Road, Mona Vale, built c.1910s, has historic and aesthetic significance as a good example of a Federation House typical of the early 1906 Warriewood Estate/Narrabeen subdivision.</p> <p>It features characteristic elements of the Federation House style including the use of brickwork, ornamental timber frieze or valance, large simple roof planes extending on the veranda supported by decorated timber posts, timber awning with shaped timber stays and the use of bay windows.</p> <p><u>Physical Description</u> The house sits on a large recessed lot on Elimatta Road in Mona Vale. It is a one-storey brick Federation house. Typical features of the style are the use of brickwork, ornamental timber frieze or valance, large simple roof planes extending on the veranda supported by decorated timber posts, timber awning with shaped timber stays and the use of bay windows.</p>			Other relevant heritage listings			Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register	No	
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Internal Referral Body	Comments		
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	Consideration of Application		
	<p>The proposal seeks consent to modify an approved carport at the subject site. The proposal seeks to make the carport bigger by extending it to the boundary between 66 and 64 Elimatta Road as well extending further towards the road. The dwelling at 66 Elimatta Road is a heritage item however it is located at some distance away from the subject site. Only its driveway and access handle adjoin 64. Given the separation, the proposal is considered to not impact upon the heritage item or its significance.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? no Has a Heritage Impact Statement been provided? No</p>		
	Further Comments		
	<p>COMPLETED BY: Brendan Gavin, Principal Planner</p> <p>DATE: 14 April 2021</p>		

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

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 (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 who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	3.4m	Unaltered	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	7.7m	7.2m	Yes
Rear building line	6.5m	18.1m	Unaltered	Yes
Side building line	S - 2.5m	10.9m	Unaltered	Yes
	N - 1m	0.6m	0.2m	No
Building envelope	S - 3.5m	Within envelope	Within envelope	Yes
	N - 3.5m	Within envelope	Within envelope	Yes
Landscaped area	60%	36.9%	Unaltered	As approved

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A4.9 Mona Vale Locality	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	Yes	Yes
D9.7 Side and rear building line	No	Yes
D9.9 Building envelope	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D9.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes

Detailed Assessment

D9.7 Side and rear building line

The Control requires built structures to be setback 2.5m from one side boundary and 1.0m from the other side boundary.

The approved structure has a setback of 0.6m to the northern side boundary. The modification proposes to reduce this setback to 0.2m with a nil setback for the eave.

The northern adjacent property has a battle-axe configuration with only the driveway passing beside where the approved structure is sited. While the side setback is proposed to be reduced, it is considered that the modified development will have no additional amenity impact to adjacent dwellings and the public domain.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21DCP 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 2019

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2021/0159 for Modification of Development Consent DA2020/0134 granted for the construction of a covered entry structure on land at Lot 7 DP 229542,64 Elimatta Road, MONA VALE, 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
DA1003	12/03/2021	Rapid Plans
DA2001	12/03/2021	Rapid Plans
DA2002	12/03/2021	Rapid Plans
DA2003	12/03/2021	Rapid Plans
DA3000	12/03/2021	Rapid Plans
DA4000	12/03/2021	Rapid Plans
DA4001	12/03/2021	Rapid Plans

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.

B. Add Condition No. 3A - Compliance with Other Department, Authority or Service Requirements to read as follows:

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	23/04/2021

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

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

Signed



Nick Keeler, Planner

The application is determined on 07/05/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments