

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

|                                           |                                                                                                                   |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| <b>Application Number:</b>                | Mod2023/0637                                                                                                      |
| <b>Responsible Officer:</b>               | Thomas Prosser                                                                                                    |
| <b>Land to be developed (Address):</b>    | Lot 1 DP 407432, 49 Waratah Parade NARRAWEENA NSW 2099                                                            |
| <b>Proposed Development:</b>              | Modification of Development Consent DA2021/0945 granted for Demolition works and construction of a dwelling house |
| <b>Zoning:</b>                            | Warringah LEP2011 - Land zoned R2 Low Density Residential                                                         |
| <b>Development Permissible:</b>           | Yes                                                                                                               |
| <b>Existing Use Rights:</b>               | No                                                                                                                |
| <b>Consent Authority:</b>                 | Northern Beaches Council                                                                                          |
| <b>Land and Environment Court Action:</b> | No                                                                                                                |
| <b>Owner:</b>                             | David Barrett Colwell<br>Tanya Valentina Colwell                                                                  |
| <b>Applicant:</b>                         | David Barrett Colwell                                                                                             |

|                                  |                                  |
|----------------------------------|----------------------------------|
| <b>Application Lodged:</b>       | 21/11/2023                       |
| <b>Integrated Development:</b>   | No                               |
| <b>Designated Development:</b>   | No                               |
| <b>State Reporting Category:</b> | Refer to Development Application |
| <b>Notified:</b>                 | 28/11/2023 to 12/12/2023         |
| <b>Advertised:</b>               | Not Advertised                   |
| <b>Submissions Received:</b>     | 0                                |
| <b>Clause 4.6 Variation:</b>     | Nil                              |
| <b>Recommendation:</b>           | Approval                         |

### PROPOSED DEVELOPMENT IN DETAIL

The proposal is to modify the development consent (DA2021/0945), granted for demolition works and construction of a dwelling house.

In detail, this involves:

- Deletion of above-ground OSD
- New OSD Design with collection off roof in to combined OSD and RWT systems (with dispersion system)

## 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

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Property Description:</b>      | Lot 1 DP 407432 , 49 Waratah Parade NARRAWEENA NSW 2099                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Detailed Site Description:</b> | <p>The subject site consists of an allotment located on the eastern side of Waratah Parade.</p> <p>The site is regular in shape with a frontage of 18.29m along Waratah Parade and a depth of 30.48m.</p> <p>The site is located within the R2 Low Density residential zone and accommodates a dwelling and a detached workshop.</p> <p>The site is relatively flat and contains landscaping to the front and rear.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by residential development.</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:

- DA2016/0650 - Alterations and additions including a carport approved on 15 August 2016.
- DA2017/0852 - Alterations and additions approved on 17 November 2017.
- DA2021/0945 - Demolition works and construction of a dwelling house approved on 23 August 2021. This is the application subject to this modification.

## 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 DA2021/0945, 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                                                                                                                                                                                                                                | <p><b>Yes</b></p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p>The proposal provides changes to the OSD design which involve the removal of OSD from the front setback, providing an improvement to visual streetscape outcome.</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>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 DA2021/0945 for the following reasons:</p> <p>The proposal involves changes to the stormwater design, the dwelling envelope and footprint remains. As such, the the consent as modified relates is substantially the same as the development for which the consent was originally granted.</p> |
| (c) it has notified the application in accordance with:                                                                                                                                                                                                                                                                   | 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.                                                                                                                                                                                                                                                                       |
| <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> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| (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 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)                                                          | <p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62</u> and/or 64 of the EP&amp;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.</p> <p><u>Clause 69</u> of the EP&amp;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.</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>(i) <b>Environmental Impact</b><br/>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.</p> <p>(ii) <b>Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>                                                                                                                                                                                                                                                                                                       |

| Section 4.15 'Matters for Consideration'                                               | Comments                                                                                                            |
|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| 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 application has been publicly exhibited from 28/11/2023 to 12/12/2023 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              | No objections are raised to the Modification with regard to landscape issues.<br><br>Existing conditions are considered still relevant and adequate.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| NECC (Development Engineering) | <b>01/12/2023:</b><br>No objections are raised to the proposed modifications. .<br>Existing Development Engineering condition No 7 for DA2021/0945 to be amended and read as;<br><br><b>7. On-site Stormwater Detention Details</b><br>The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Nasser Associates, Job No. D4043, drawing number 1 to 5, Dated 9th Nov 2023. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering. |

| Internal Referral Body | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                        | <p>The drainage plans must address the following:</p> <ul style="list-style-type: none"> <li>i) Level Spreader to be designed in accordance with Appendix 4 of Council's Water Management for Development Policy.</li> <li>ii) Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.</li> </ul> <p>Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development</p> <p>Rest of the existing Development Engineering conditions for DA2021/0945 are considered to still be relevant and adequate.</p> |

### 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)

Nil

### 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 |

### Compliance Assessment

| Clause                               | Compliance with Requirements |
|--------------------------------------|------------------------------|
| 5.3 Development near zone boundaries | Yes                          |
| 6.2 Earthworks                       | Yes                          |
| 6.4 Development on sloping land      | Yes                          |

### Warringah Development Control Plan

### 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                         |
| D11 Roofs                                       | Yes                          | Yes                         |
| D12 Glare and Reflection                        | Yes                          | Yes                         |
| D20 Safety and Security                         | Yes                          | Yes                         |
| D22 Conservation of Energy and Water            | Yes                          | Yes                         |
| E1 Preservation of Trees or Bushland Vegetation | Yes                          | Yes                         |
| E2 Prescribed Vegetation                        | Yes                          | Yes                         |
| E6 Retaining unique environmental features      | 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. Mod2023/0637 for Modification of Development Consent DA2021/0945 granted for Demolition works and construction of a dwelling house on land at Lot 1 DP 407432,49 Waratah Parade, NARRAWEENA, 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-390586 - MOD2023/0637 | The date of this notice of determination | Modification of Development Consent DA2021/0945 granted for Demolition works and construction of a dwelling house |

|  |  |                                       |
|--|--|---------------------------------------|
|  |  | Add Condition 1A<br>Amend Condition 7 |
|--|--|---------------------------------------|

### **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 Reports and Documentation                                                                                                                                                                                |                   |                    |                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|--------------------|------------------|
| Document Title                                                                                                                                                                                                    | Version Number    | Prepared By        | Date of Document |
| Hydraulic Design Including OSD Calculations, Overland Flow Path Details, Existing Pit Details, Aboveground OSD/RWT Tanks Details, Dispersion System Details, Elevation Details, Roof Plan, and Stormwater Systems | Job Number: D4043 | Nasseri Associates | 9 November 2023  |

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. Modify Condition 7- On-site Stormwater Detention Details to read as follows:**

##### **7. On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Nasseri Associates, Job No. D4043, drawing number 1 to 5, Dated 9th Nov 2023. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i) Level Spreader to be designed in accordance with Appendix 4 of Council's Water Management for Development Policy.
- ii) Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development

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

**Signed**



**Thomas Prosser, Principal Planner**

The application is determined on 23/01/2024, under the delegated authority of:



**Steven Findlay, Manager Development Assessments**