

CENTRAL COAST COUNCIL

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number	DA56537/2019.3
Delegation level	Delegated
Property Lot & DP	LOT: 296 DP: 714926
Property Address	41 The Palisade UMINA BEACH NSW 2257
Site Area	757 m ²
Zoning	R2 LOW DENSITY RESIDENTIAL
Proposal	Section 4.55(2) Amendment Retaining Wall & Sliding Gate
Application Type	Amendment under Section 4.55 (2) - Local
Application Lodged	31/08/2020
Applicant	M Boric
Estimated Cost of Works	\$ 0
Notified Only	03 September 2020 to 24 September 2020
Submissions	Nil
Disclosure of Political Donations & Gifts	No
Site Inspection	16 October 2020
Recommendation	Approval, subject to conditions

Assessment

This application has been assessed using the heads of consideration specified under Section 4.15 of the Environmental Planning & Assessment Act 1979, Council policies and adopted Management Plans.

Background

Council's records show the following applications have been lodged on this site:

[DA9919/1988](#) (003.1988.00009919.001)
Development Application - DWELLING-HOUSE
Lodged: 20/06/1988 (**Withdrawn** : 08/07/1988)

[BA48612/1988](#) (004.1988.00048612.001)
Building Application - DWELLING-HOUSE
Lodged: 13/05/1988 (**Finished** : 17/06/1991)

[BA51520/1988](#) (004.1988.00051520.001)
Building Application - SWIMMING POOL (OTHER)
Lodged: 18/10/1988 (**Finished** : 31/05/1990)

[CDC50386/2016](#) (010.2016.00050386.001)
Complying Development Cert. - Demolition of In-Ground Pool
Lodged: 04/08/2016 (**Approved by Private Certifier** : 25/07/2016)

[DA56537/2019](#) (011.2019.00056537.001)
Development Application - Alterations & Additions to an Existing Dwelling

Lodged: 21/05/2019 (**Approved under Delegation** : 25/07/2019)

[DA56537/2019.2](#) (011.2019.00056537.002)

Development Application - Section 4.55 Amendment - Reduce Lower Floor Deck & Changes to Lower Floor Layout

Lodged: 24/09/2019 (**Approved under Delegation** : 11/11/2019)

[CC56537/2019](#) (012.2019.00056537.001)

Construction Certificate - Alterations & Additions to an Existing Dwelling

Lodged: 06/04/2020 (**Approved under Delegation** : 29/04/2020)

Site & Surrounds

The site is located on the Southern side of The Palisade Adjoining development comprises Residential dwellings. The topography of the site the land falls from the front of the site to the south east with effective slope of >22 degrees

The site contains 2 storey residential dwelling .

The site is identified as "bushfire prone land" on Council's bushfire maps. A Bushfire Assessment Report prepared by Bushfire Planning & Design Reference: BR-161119-A dated 25/06/19 was submitted with the application recommending the proposal comply with BAL-FZ.



The Proposal

The proposal comprises:

- Proposed alterations and additions to existing two dwelling.
Including minor living additions to the lower floor area, replacement of existing decks and additional lower and upper level deck areas.

Applicable Planning Controls

The following planning policies and control documents are relevant to the development and were considered as part of the assessment.

Environmental Planning & Assessment Act 1979 - Section 4.15

Local Government Act 1993 - Section 89

State Environmental Planning Policy (Coastal Management) 2018
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
Gosford Local Environmental Plan 2014
Gosford Development Control Plan 2013

Draft Environmental Planning Instruments

The application has been assessed under the provisions of the Draft Central Coast Local Environment Plan 2018 currently on exhibition. The assessment concluded the proposal is consistent with the Draft Plan.

Permissibility

The subject site is zoned R2 LOW DENSITY RESIDENTIAL. The proposed development is defined as Dwelling House (alterations and additions) which is permissible in the zone with consent of Council.

dwelling house means a building containing only one dwelling.

State Environmental Planning Policies

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application is supported by a BASIX certificate which confirms the proposal will meet the NSW government's requirements for sustainability, if built in accordance with the commitments in the certificate.

The proposal is considered to be consistent with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

Gosford Local Environmental Plan 2014

The Gosford LEP 2014 was considered during assessment of this application. There are no variations in relation to the proposed development.

Zone R2 Low Density Residential

The objectives of the R2 zone are:

- To provide for the housing needs of the community within a low density residential environment
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that development is compatible with the desired future character of the zone.
- To encourage best practice in the design of low-density residential development.
- To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.
- To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for low-density housing.

In this instance, it is considered that the proposal is consistent with the stated objectives of the zone and consistent with the principles of Ecologically Sustainable Development as specified within the Local Government Act 1993.

7.1 Acid sulfate soils

This land has been identified as being affected by the Acid Sulfate Soils Map and the matters contained in Clause 7.1 of Gosford Local Environmental Plan 2014 have been considered. The site contains Class 5 Acid Sulfate Soils. In this instance, the proposed works are not considered to impact on Acid Sulfate Soils.

Gosford Development Control Plan 2013

Development Standard	Description	Required	Proposed	Compliance with Controls	Compliance with Objectives
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3.1.4.1 - Views				Yes - see comments below	Yes - see comments below
3.1.4.2 - Visual Privacy				Yes - see comments below	Yes - see comments below
3.1.6.2 - Retaining Walls and Structural Support				Yes	Yes
3.1.7.5 - Fencing	Height of fencing to primary road required			n/a	n/a
	Height of side and rear fencing required	replace existing	remains the same	Yes	Yes
	Setback and openings of front fencing required			n/a	n/a
	Minimum opening of fencing on flood control lot required			n/a	n/a

Umina

The proposed development is consistent with the desired character of Umina.

Chapter 2.2 Scenic Quality

The visual and scenic impact has been assessed and the development is considered to be consistent with the objectives of scenic quality. The proposed development does not unreasonably contribute to the loss of characteristics of the natural or built environment, nor does it unreasonably dominate the local area.

3.1.4.1 Views

The proposal is consistent with the objectives of Consideration of Views. The primary views and outlook from the existing neighbouring dwellings will not be substantially affected.

3.1.4.2 Visual Privacy

Minimal to nil impact on privacy considering the location, size and setbacks of the proposed habitable spaces and windows from allotment boundaries.

3.1.6.2 Retaining Walls and Structural Support

replacing existing proposed wall has been designed by a structure engineer

6.3 Erosion Sedimentation Control

Appropriate siltation control to be conditioned.

7.2 Waste Management

Waste Management Plan submitted. A condition has been included in the development consent.

Planning Agreements

The proposed development is not subject to a planning agreement or draft planning agreement.

Development Contribution Plan

The proposed development is a development type that is not subject to S94 development contributions under the Contribution Plan. Therefore, no contributions are applicable.

Referrals

The assessment of this application did not require the referral to internal officers or external authorities.

Political Donations

During assessment of the application there were no political donations declared by the applicant, applicant's consultant, owner, objectors and/or residents.

Public Submissions

The development has been notified in accordance with the provisions of Gosford Development Control Plan 2013. There were no submissions received in relation to this proposal.

Conclusion

The proposed development has been considered under Sections 4.55 and 4.15 of the Environmental Planning and Assessment Act 1979. The proposal involves modifications to Alterations & Additions to an Existing Dwelling at 41 The Palisade Umina Beach . The proposed modifications will not result in adverse amenity impacts on the adjoining properties and the streetscape. The proposed development is substantially the same as the development that was originally granted consent.

As such, in accordance with Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979, the Section 4.55(2) for modification is recommended for **approval**.

Plans for Stamping

Amended Plans, CM9 Doc No D14250228

Supporting Documents for Binding with consent

Bushfire Assessment Report, ECM Doc No 26970429

NSW Rural Fire Service letter ECM Doc No 27024483

Bush fire requirements D14247280

Recommendation

- A. Council as consent authority approve the Section 4.55 (2) Part 3 application to modify Development Consent No 56537/2019.2 to the approved residential dwelling on Lot: 296 DP: 714926, 41 The Palisade UMINA BEACH NSW 2257. The Development Consent No 56537/2019.2 be modified as follows:
 - i. amendment to condition 1.1 (Amendment Retaining Wall & Sliding Gate)
- C. The applicant be advised that the approved amendment does not extend the terms of the approved original consent.

Recommendation:	Approval, subject to conditions
Assessing Officer:	Robert Williams Building Surveyor
Recommendation Reviewed by:	Robert Williams Peer Review Not Required, 100% Compliant

Conditions

1. PARAMETERS OF THIS CONSENT

1.1 Approved Plans and Supporting Documents

Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "*Development Consent*" unless modified by any following condition.

~~Architectural Plans by: CKT developments~~

Drawing	Description	Sheets	Issue	Date
-	Architectural plan set	1 to 11	-	13 September 2019

~~Supporting Documentation:~~

Title	Prepared by	Date
Bushfire Assessment Report	Bushfire Planning & Design	25-6-2019
Concurrence letter	NSW Rural Fire Service	23 July 2019

Architectural Plans by: CKT developments

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Supporting Documentation:

Title	Prepared by	Date
Bushfire Assessment Report	Bushfire Planning & Design	25-6-2019
Concurrence letter	NSW Rural Fire Service	23 July 2019
Bush fire requirement's Ref COC-265320-B	Bushfire Planning & Design	15/10/2020

- 1.2** Carry out all building works in accordance with the National Construction Code Series, Building Code of Australia, Volume 1 and 2 as appropriate.
- 1.3** Comply with all commitments listed in the BASIX Certificate for the development as required under clause 97A of the Environmental Planning and Assessment Regulation 2000.

2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1** All conditions under this section must be met prior to the issue of any Construction Certificate.

- 2.2** No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
- Site investigation for the preparation of the construction, and / or
 - Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
 - Demolition
- 2.3** Assessment of the development against the provisions of Planning for Bush Fire Protection (2006) (NSW) has determined a Bush Fire Attack level (BAL) of FZ . In accordance with NSW Rural Fire Service letter dated 23 July 2019, For all new construction works.

Submit to the Accredited Certifier for approval construction details showing that the development complies with this Bush Fire Attack Level (BAL) as prescribed by Australian Standard AS 3959-2009: *Construction of buildings in bush fire prone areas and additional measures as contained within Appendix 3 of the PBP Guidelines 2010* produced by the NSW Rural Fire Service.

3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1** All conditions under this section must be met prior to the commencement of any works.
- 3.2** Appoint a Principal Certifying Authority for the building work:
- The Principal Certifying Authority (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.
 - Submit to Council a Notice of Commencement of Building Works or Notice of Commencement of Subdivision Works form giving at least two (2) days' notice of the intention to commence building or subdivision work. The forms can be found on Council's website: www.centralcoast.nsw.gov.au
- 3.3** Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:
- The name, address and telephone number of the Principal Certifying Authority for the work; and
 - The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
 - That unauthorised entry to the work site is prohibited
 - Remove the sign when the work has been completed.
- 3.4** Submit both a Plumbing and Drainage Inspection Application, with the relevant fee, and a Plumbing and Drainage Notice of Work in accordance with the Plumbing and Drainage Act 2011 (to be provided by licensed plumber). These documents can be found on Council's website at: www.centralcoast.nsw.gov.au
- Contact Council prior to submitting these forms to confirm the relevant fees.
- This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage). This condition does not apply to swimming pool plumbing that does not physically connect / break into the sewer system.
- 3.5** Provide and maintain a garbage receptacle at the work site until the works are completed. The garbage receptacle must have a tight fitting lid and be suitable for food scraps and papers.

- 3.6** Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:
- erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
 - diverting uncontaminated run-off around cleared or disturbed areas, and
 - preventing the tracking of sediment by vehicles onto roads, and
 - stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot

- 3.7** Erect a temporary hoarding or temporary construction site fence between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works, if the works:
- could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
 - could cause damage to adjoining lands by falling objects, or
 - involve the enclosure of a public place or part of a public place

Note 1: A structure on public land or on or over a public road requires the prior approval of the relevant authority under the [Local Government Act 1993](#) or the [Roads Act 1993](#), respectively.

Note 2: The [Work Health and Safety Act 2011](#) and [Work Health and Safety Regulation 2011](#) contain provisions relating to scaffolds, hoardings and other temporary structures.

- 3.8** Provide or make available toilet facilities at the work site before works begin and maintain the facilities until the works are completed at a ratio of one toilet plus one additional toilet for every twenty (20) persons employed at the site.

Each toilet must:

- be a standard flushing toilet connected to a public sewer, or
- have an on-site effluent disposal system approved under the [Local Government Act 1993](#), or
- be a temporary chemical closet approved under the [Local Government Act 1993](#)

4. DURING WORKS

- 4.1** All conditions under this section must be met during works.
- 4.2** Carry out construction or demolition works during the construction phase of the development only between the hours as follows:
- 7.00am and 5.00pm Monday to Saturday

No construction or demolition works associated with the development are permitted to be carried out at any time on a Sunday or a public holiday.

- 4.3** During the construction phase of the development, if any Aboriginal object (including evidence of habitation or remains), is discovered during the course of the work:
- All excavation or disturbance of the area must stop immediately in that area, and
 - The Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the National Parks and Wildlife Act 1974.

Note: If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the National Parks and Wildlife Act 1974.

- 4.4 Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- 4.5 Keep a copy of the stamped approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifying Authority or an officer of Council.
- 4.6 Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the Plumbing and Drainage Act 2011.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).

- 4.7 Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.
- 4.8 Do not access the development site through a public reserve unless approval for temporary access over the public reserve is obtained from Council as the Land Manager. A copy of the approval must be available for viewing on-site at all times during work.
- 4.9 Re-use, recycle or dispose of all building materials in accordance with the Waste Management Plan submitted with the subject application.
- 4.10 Demolish all buildings and / or building components in a safe and systematic manner in accordance with Australian Standard AS 2601-2001: *The demolition of structures*. Waste materials must be disposed of at a waste management facility.
- 4.11 No fill other than that as indicated within the approved plans is permitted to be placed upon the site.

5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 5.1 All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 5.2 Submit a Certificate of Compliance for all plumbing and drainage work and a Sewer Service Diagram showing sanitary drainage work (to be provided by licensed plumber) in accordance with the Plumbing and Drainage Act 2011.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).
- 5.3 Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifying Authority. The Occupation Certificate application is to satisfy all of the requirements of the *Environmental Planning and Assessment Regulation 2000*.
- 5.4 Complete the building in accordance with the relevant provisions and requirements of the National Construction Code Series.
- 5.5 Complete the building in accordance with the provisions of *Planning for Bush Fire Protection 2006 (NSW)* and the requirements of Australian Standard AS 3959-2009 - *Construction of Buildings in Bush Fire Prone Areas* and additional measures as contained within Appendix 3 of the *Planning for Bush Fire Protection Guidelines 2010*, for a Bush Fire Attack Level of BAL FZ.

- 5.6 Drain all roof water by a piped drainage line to the street kerb outlet / an interallotment drainage line or an infiltration trench.

Note: Infiltration trench details are to be designed by a practicing engineer experienced in hydraulics. The design details are to cater for a 1 in 20 year Annual Exceedance Probability (AEP) storm event and are to allow for a minimum setback of three (3) metres from any sewer main and lot boundaries.

6. ONGOING OPERATION

- 6.1 Do not let, adapt or use the dwelling for separate occupation in two or more parts.
- 6.2 Insulate and / or isolate the motor, filter, pump and all sound producing equipment or fitting associated with or forming part of the pool filtering system so as not to create an offensive noise to the occupants of the adjoining premises as defined in the *Protection of the Environment Operations Act 1997*.

7. PENALTIES

- 7.1 Failure to comply with this development consent and any condition of this consent may be a criminal offence. Failure to comply with other environmental laws may also be a criminal offence.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

Warnings as to Potential Maximum Penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and / or custodial sentences for serious offences.

ADVISORY NOTES

- Discharge of sediment from a site may be determined to be a pollution event under provisions of the *Protection of the Environment Operations Act 1997*. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities may have separate requirements in the following aspects:
 - a. Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments
 - b. Jemena Asset Management for any change or alteration to the gas line infrastructure
 - c. Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
 - d. Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
 - e. Central Coast Council in respect to the location of water, sewerage and drainage services
- Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
- Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

- Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.

- Install and maintain backflow prevention device(s) in accordance with Council's WS4.0 Backflow Prevention Containment Policy. This policy can be found on Council's website: www.centralcoast.nsw.gov.au

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).