

# CENTRAL COAST COUNCIL

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number	DA59539/2020
Delegation level	Delegated
Property Lot & DP	LOT: 23 DP: 1178742
Property Address	4 / 394 Terrigal Drive TERRIGAL NSW 2260
Site Area	942 m <sup>2</sup>
Zoning	R2 LOW DENSITY RESIDENTIAL
Proposal	Additions to Existing Dwelling House
Application Type	Development Application - Local
Application Lodged	01/10/2020
Applicant	B McCallum
Estimated Cost of Works	\$ 321,345
Notified Only	08 October 2020 to 23 October 2020
Submissions	One(1)
Disclosure of Political Donations & Gifts	No
Recommendation	Approval, subject to conditions

### Assessment

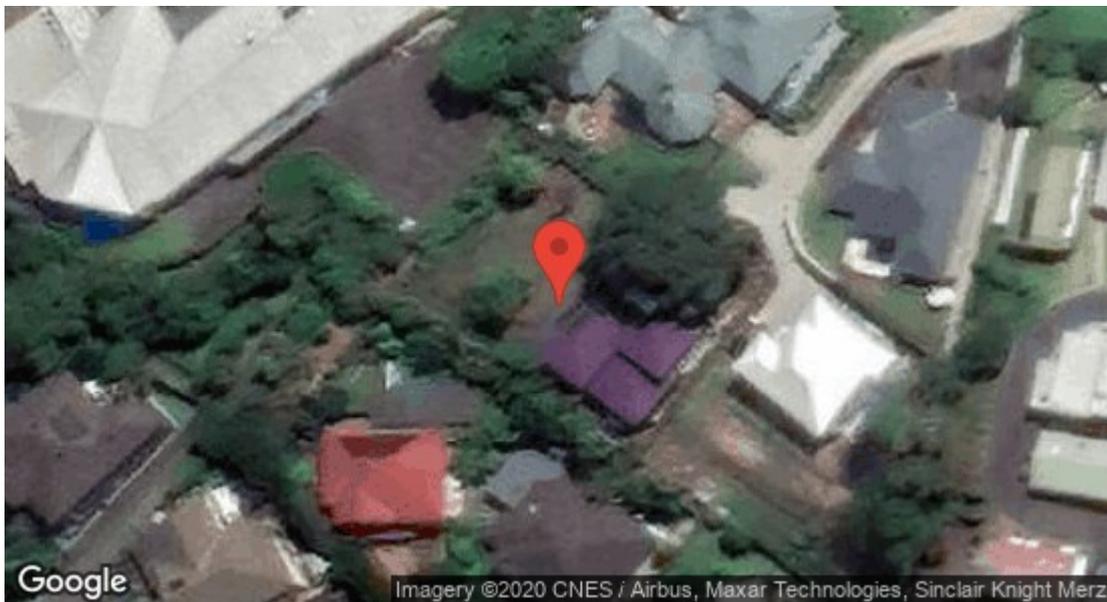
This application has been assessed using the heads of consideration specified under Section 4.15 of the Environmental Planning & Assessment Act 1979, Council policies and adopted Management Plans.

### Summary of Non Compliance

Policy	Clause / Description	% Variance
Gosford DCP 2013	3.1.3.1b / rear setback	25%

### Site & Surrounds

The site is located in a residential area and mapped as bush fire prone land on Council's maps. The proposal has been considered against the provisions of Planning for Bush Fire Protection with the appropriate BAL level being 12.5



## The Proposal

Proposed alterations and additions to a dwelling

## 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 and Assessment Act 1979 - Section 4.15

Local Government Act 1993 - Section 89

State Environmental Planning Policy (Coastal Protection) 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 following draft Environmental Planning Instruments apply to this application:

- Draft Central Coast Local Environment Plan

## Permissibility

The subject site is zoned R2 LOW DENSITY RESIDENTIAL

The proposed development is permissible in the zone with consent of Council.

## 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

Development Standard	Required	Proposed	Compliance with Controls	Variation %	Compliance with Objectives
4.3 - Height of buildings	8.5m	7.8m	Yes	Nil	Yes
4.4 - Floor space ratio	0.5:1	0.37:1	Yes	Nil	Yes

### **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.

### **Gosford Development Control Plan 2013**

Development Standard	Description	Required	Proposed	Compliance with Controls	Compliance with Objectives
3.1.2.1 - Building Height	Maximum building height required	8.5m	7.8m	Yes	Yes
	Number of storeys required	2	2	Yes	Yes
	Building height Outbuildings and Detached Ancillary Development required				
3.1.2.2 - Site Coverage	Site coverage required	40%	26%	Yes	Yes
3.1.2.3 - Floor Space Ratio	FSR required	0.5:1	0.37:1	Yes	Yes
3.1.3.1b - Rear Setback	Rear setback to private allotment required	6m	4.5m	No - see comments below	Yes - see comments below
	Rear setback to parallel road or public reserve required				
	Rear setback within coastal hazard area required				
3.1.3.1c - Side Setback	Side setback for lots greater than 12.5m wide required	1.2m	7.5m	Yes	Yes
	Side setback for lots up to 12.5m wide required				
	Side setback for lots less than 8m wide required				
	Side setback for carports required				
3.1.4.1 - Views				Yes	Yes
3.1.4.2 - Visual Privacy				Yes	Yes

Development Standard	Description	Required	Proposed	Compliance with Controls	Compliance with Objectives
3.1.6.3 - Drainage				Yes	Yes

### **3.1.3.1b Rear Setback**

The proposed additions are to replicate the current rear setback of 4.5m. The land was part of a recent subdivision and the area of the land to undertake building additions is limited when factoring the vehicle access and provision of a usable open space. The maximum height of the additions are 7.8m and therefore requires a 6m setback, however when balancing the impacts on neighbours and the rights of the owner to reasonably develop their land the setback from the rear boundary is reasonable under the circumstances and the variation is supported.

The rear neighbour has provided written concerns to the setback of the additions and its height, these concerns are outlined and considered with the 'Public Submissions' section of this report.

### **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.

### **6.3 Erosion Sedimentation Control**

Appropriate siltation control to be conditioned.

### **6.7 Water Cycle Management**

The proposed additions will require the provision of a 4000 litre water tank in connected to the laundry, new WC's and outside tap.

### **7.2 Waste Management**

Waste Management Plan has been 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 section 7.11 or 7.12 development contributions under the Contribution Plan. Therefore, no contributions are applicable.

## **Referrals**

Internal Referral Body	Comments
Trees	Supported, subject to conditions

## **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**

One (1) public submission was received in relation to the application. Those issues associated with the key issues have been addressed in the above report. The remaining issues pertaining to various concerns were addressed in the assessment of the application pursuant to the heads of consideration contained within Section 4.15 of the Environmental Planning and Assessment Act 1979.

A summary of the submission is detailed below.

#### 1. Loss of privacy

Comment - The adjoining neighbour has concerns relating to overlooking and has cited a NSWLEC planning principle in relation to the effective of landscaping as a privacy screen. Whilst it is valid that landscaping alone should not be complete weight as to address privacy issues, in this instance the windows in the southern rear wall of the additions contain two small windows at ground level servicing a laundry and toilet and two windows at the upper level serving a toilet and above a stairs.

I have conducted a site analysis, as well as viewed the proposal from the neighbours rear yard area. The vegetation currently along the common boundary is mature and does provide an extensive screen to the development site. The proposal is considered reasonable in this instance given the 4.5m setback of the additions from the boundary, the strategic use of windows in the development to reduce overlooking and the current mature screen vegetation that current exists along the boundary.

#### 2. Overshadowing

Comment - Concerns are raised regarding the lack of shadow diagrams and the potential for overshadowing of the private open space of the southern neighbour. Whilst no shadow diagrams have been provided the proposal will shadow on across a portion of the pool area during the morning winter period. However having regard to the mature vegetation along the rear boundary the additional shadowing when factoring the shadowing of the vegetation would be minimal. It is reasonable to assume that the pool would not be in prime use during the winter morning period to greatly impact on the neighbour.

The distances between the neighbours dwelling and the location of the proposed additions will not result in shadowing of the neighbours dwelling. Furthermore the rear of the neighbours dwelling is currently shadowed by a metal awning structure attached to the rear of the dwelling.

The photo below was taken from the rear yard of 15 Canterbury Close across their pool towards the rear boundary.



### 3. Setback from rear boundary

Comment - The applicant was instructed to provide a site plan to include the proposed setback of the additions from the rear boundary. The plans specify a setback of 4.5m. As outlined within the section of the report of 'rear setback', the proposed setback in is considered reasonable.

### 4. Bulk and scale

Comment - The proposed development in terms of its height and scale complies with the numerical requirements of the DCP. The proposal is presented as a two storey dwelling which is consistent to those within the locality.

## Conclusion

This application has been assessed against the heads of consideration of Section 4.15 of the Environmental Planning & Assessment Act 1979 and all relevant instruments and policies. The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development. Subject to the imposition of appropriate conditions, the proposed development is not expected to have an adverse social or economic impact. It is considered that the proposed development will complement the locality and meet the desired future character of the area.

Accordingly, the application is recommended for **approval** pursuant to Section 4.16 of the Environmental Planning and Assessment Act.

### Plans for Stamping

Amended Plans, CM9 Doc No. D14397247

### Supporting Documents for Binding with consent

Geotechnical Report, CM9 Doc No. D14201175

## Recommendation

- A. Council as consent authority grant consent to the development application as detailed in the body of this report, subject to the conditions attached.
- B. In accordance with Section 4.53(1) of the Environmental Planning & Assessment Act 1979, this consent shall be valid for a period of five (5) years.
- C. The objector(s) be notified of Council's decision.

<b>Recommendation:</b>	Approval, subject to conditions
<b>Assessing Officer:</b>	Stephen Goodworth Building Surveyor
<b>Recommendation Reviewed by:</b>	Wayne Herd Peer Review Complete - Section Manager

# 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: Untitled

Drawing	Description	Sheets	Issue	Date
1 to 7 of 7	Architectural details	7	-	10/12/2020

#### Supporting Documentation:

Title	Prepared by	Date
Geotechnical Report referenced 46-18	CSG Engineers P/L	31 January 2018

- 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 (2019) (NSW) has determined a Bush Fire Attack level (BAL) of 12.5.  
Submit to the Registered Certifier for approval construction details showing that the development complies with this Bush Fire Attack Level (BAL) as prescribed by Australian Standard AS 3959-2018: Construction of buildings in bush fire prone areas and (where applicable) the additional measures contained within section 7.5.2 – 'NSW State variations to AS3959' of Planning for Bush Fire Protection (2019) (NSW).

## 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 Certifier for the building work:
- a. The Principal Certifier (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.
  - b. Submit to Council a Notice of Commencement of Building Work form giving at least two (2) days' notice of the intention to commence building work. The forms can be found on Council's website:  
[www.centralcoast.nsw.gov.au](http://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:
- a. The name, address and telephone number of the Principal Certifier for the work; and
  - b. The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
  - c. That unauthorised entry to the work site is prohibited
  - d. 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](http://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** Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:
- a. 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
  - b. diverting uncontaminated run-off around cleared or disturbed areas, and
  - c. preventing the tracking of sediment by vehicles onto roads, and
  - d. stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot
- 3.6** Disconnect, seal and make safe all existing site services prior to the commencement of any demolition on the site. Sewer and water services must be disconnected by a licensed plumber and drainer with a Start Work Docket submitted to Council's Plumbing and Drainage Inspector as the Water and Sewer Authority.
- 3.7** Provide certification to the Principal Certifier that the structural engineer's details have been prepared in accordance with the recommendations of the geotechnical report(s) listed as supporting documentation in this development consent.

## 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:

- a. All excavation or disturbance of the area must stop immediately in that area, and
- b. 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 Certifier 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** Re-use, recycle or dispose of all building materials in accordance with the Waste Management Plan submitted with the subject application.

**4.9** No fill other than that as indicated within the approved plans is permitted to be placed upon the site.

**4.10** Implement all recommendations of the geotechnical report(s) listed as supporting documentation in this development consent. Furthermore, the geotechnical engineer must provide written certification to the Principal Certifier that all works have been carried out in accordance with the recommendations contained within the geotechnical report(s).

## 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 Install a rainwater tank with a minimum capacity of 4000 litres. The tank should be fitted with suitable plumbing connections to collect rainwater from 80m<sup>2</sup> of roof area as detailed within the approved development plans with suitable plumbing connections provided to collect rainwater from the roof area. The required rainwater tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code Australian Standard AS 3500 and must be provided with first flow diversion devices fixed to all inflows and a functioning pressure pump plumbed to service all new wc's, cold tap in laundry and outside tap to the development. The required tank must be controlled in order that supplemental flow from domestic mains does not take place until the capacity of the tank has been reduced to 20%. All overflow must be connected via piped drainage line to the allotment drainage line.
- 5.4 Install a material or device to prevent the build-up of flammable material (such as leaf matter) within the roof gutters. The material or device must have a flammability index of not greater than 5 when tested in accordance with Australian Standard AS 1530.2-1993: *Methods for fire tests on building materials, components and structures - Test for flammability of materials*.
- 5.5 Drain all roof water by a piped drainage line to the interallotment drainage line.
- 5.6 Complete the building in accordance with the provisions of *Planning for Bush Fire Protection 2019 (NSW)* and the requirements of Australian Standard AS 3959-2018 - *Construction of Buildings in Bush Fire Prone Areas* and additional measures contained within section 7.5.2 – 'NSW State variations to AS3959' of *Planning for Bush Fire Protection (2019) (NSW)* for a Bush Fire Attack Level of BAL 12.5.
- 5.7 The existing kitchen and laundry area within garage is to be fully removed, walls made good suitable for new use and with plumbing suitably capped prior to occupation of the development.
- 5.8 Plant a replacement tree within the property. The replacement tree must be a native species capable of achieving a minimum height of 8m. New trees are not to be located within an authority's service easement, or within 3m of an approved building. Where the replacement tree dies or is substantially damaged within five (5) years of planting, it must be replaced and maintained to maturity.

## 6. ONGOING OPERATION

- 6.1 Do not let, adapt or use the dwelling for separate occupation in two or more parts.

## 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](http://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](http://www.centralcoast.nsw.gov.au)

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