

CENTRAL COAST COUNCIL

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number	DA/63169/2021/A
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Delegation Level	Delegated
Property Lot & DP	Lot 368 DP 7736
Property Address	386 Booker Bay Road, BOOKER BAY NSW 2257
Site Area	1416.00m ²
Zoning	R1 General Residential

Proposal	Demolition of Existing Structures & Erection of Multi Dwelling Housing x 6 Units (Amended Application)
Application Type	Amendment under section 4.55(1A) – Local
Application Lodged	19 January 2023
Applicant	Mr T Luedecke
Owner	Motian Group Pty Ltd
Estimated Cost of Works	N/A

Advertised and Notified / Notified Only	3 February 2023 to 17 February 2023
Submissions	Four (4)
Disclosure of Political Donations & Gifts	No
Site Inspection	19/05/2023

Recommendation	Approval, subject to conditions
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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 various consents for residential and ancillary development in the 1980's and 1990's.

DA/46094/2014 – a DA for a retaining wall along the common boundary of 386, 384 and 378 Booker Bay Road was approved on 8 October 2014.



CDC/840/2022 and CDC/943/2022 - Two Complying Development Certificates for the demolition of all dwellings and ancillary structures were lodged in June 2022.

DA/63169/2021 granted consent on 12 July 2022 for Demolition of Existing Structures & Erection of Multi Dwelling Housing x 6 Units, subject to conditions.

Site & Surrounds

The site is located on the southern side of Booker Bay Road just east of Ferry Road.

The site has an area of 1416m², is generally flat with a gentle fall to its southern boundary with the Brisbane Waters foreshore.

The site contains a two storey multi-dwelling housing with a mix of hardstand and soft landscaping areas. The surrounding residential development is typically medium density, 1-2 storey residential development.

The site is not identified as being "bushfire prone land" on Council's bushfire maps.



Figure 1 - Locality Plan

The Proposal

The applicant is seeking to modify the consent for Development Application No. DA/63169/2021 under section 4.55(1A) of the EP&A Act by:

- Amend condition 1.1 approved development plans.

The proposed amendments involve the following:

- *Adjust the roof angle of the North facing roof pitches to accommodate highlight windows above the south facing roofs.*
- *Add 2 North facing highlight windows to all 6 Units, as detailed above (12 windows in total)*
- *Add 1 East facing 1st floor window to Unit 3 and 1 West facing 1st floor window to Unit 4.*
- *Increase the Floor and Ceiling RL's on both levels by 300mm*

The additional height and change to roof pitch results in a minor increase in shadow impact on the eastern and western adjoining sites. The proposed amendments are minor and do not have a significant additional impact on adjoining sites.

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 – Sections 4.15 and 4.55
- Local Government Act 1993 – Section 89
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Resilience and Hazards) 2021
- Central Coast Local Environmental Plan 2022
- Central Coast Development Control Plan 2022
- Gosford Local Environmental Plan 2014
- Gosford Development Control Plan 2013
- Protection of the Environment Operations Act 1997
- Roads Act 1993
- Water Management Act 2000

Draft Environmental Planning Instruments

The following draft Environmental Instruments apply to this application:

- Draft Central Coast Local Environmental Plan
- Draft State Environmental Planning Policy (Environment) 2017
- Draft State Environmental Planning Policy (Short Term Rental Accommodation) 2019

The proposal is consistent with the draft plans.



Permissibility

The subject site is zoned R1 General Residential under *Central Coast Local Environmental Plan 2022*. The proposed development is defined as *multi dwelling housing* which is permissible in the zone with consent of Council.

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

State Environmental Planning Policies

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

The application is supported by an amended 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.

State Environmental Planning Policy (Resilience and Hazards) 2021

The relevant provisions of the SEPP are addressed as follows:

Chapter 2 Coastal Management

The aims of Chapter 2 are to be considered when determining an application within the Coastal Management Areas. The Coastal Management Areas are areas defined on maps issued by the NSW Department of Planning & Environment and the subject property falls within the mapped coastal management areas.

The relevant matters have been considered in the assessment of this application. The application is considered consistent with the stated aims and objectives.

Chapter 4 Remediation of Land

Clause 4.6 of Chapter 4 requires that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. The current use of the site is for domestic residential purposes, and there are no known previous uses that would lead to the site being contaminated or unsuitable for the proposed use.

Central Coast Local Environmental Plan 2022 (CCLEP 2022)

Zone R1 General Residential



The objectives of the R1 zone are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- 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 promote best practice in the design of multi dwelling housing and other similar types of development.
- To ensure that non-residential uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for multi dwelling housing or other similar types of development.

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.

5.21 Flood Planning

The land has been classified as being under a "flood planning level" and subject to the imposition of a minimum floor level. The development is considered satisfactory in respect to clause 5.21 of *Central Coast Local Environmental Plan 2022*.

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 *Central Coast Local Environmental Plan 2022* have been considered. The site contains Class 3 Acid Sulfate Soils. In this instance, the proposal works are not considered to impact on Acid Sulfate Soils.

Central Coast Development Control Plan 2022

There are no additional relevant matters of Central Coast Development Control Plan (CCDCP 2022).

Other Matters for Consideration

Section 4.55(1A) of the EPA Act states:

(1A) Modifications involving minimal environmental impact 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
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- (c) it has notified the application in accordance with:
- (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (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.

The proposed amendments are minor and do not have any significant environmental effects.

The proposal is considered to be substantially the same development.

Planning Agreements

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

Development Contribution Plan

The subject site is located within section 7.11 development contribution plan CP31Peninsula where multi- dwelling housing developments are subject to section 7.11 contributions. The applicable contribution amount was calculated and imposed as a condition of consent requiring the contribution to be paid prior to the issue of any Construction Certificate. **(Refer condition 2.4).** The proposed modifications do not alter the contributions required.

Referrals

Internal Referral Body	Comments
Development Engineer	Supported, subject to conditions. Refer comments below.

Engineering Comments.

The Statement of Environmental Effects indicates:

Pre-construction site analysis by consulting engineer (Halcrow & Associates) identified that the approved RL's were consistently lower than neighbouring properties existing RL's and would create a water run-off issue from neighbouring properties into the approved development site.



An increase of 300mm to the Floor and Ceiling RL's for both ground and 1st floor levels will significantly reduce the flow of surface water across the development site.

The engineering assessment associated with the of the existing development approval indicates:

...

Council's records indicate that the site is affected by flooding and flood planning controls as identified in the Brisbane Water Foreshore Flood Management Plan and Study for the 1%AEP flood event. In relation to this study the following is noted for the 1%AEP flood event:

- The 1%AEP flood level is RL 1.62m AHD.*
- The flood planning level is RL 2.32m AHD.*

The habitable floor levels proposed for the ground floor of the units are RL 3.6m AHD for Units 1 & 2, and RL 2.4m AHD for Units 3, 4, 5, & 6. These levels are all above the required flood planning level (RL 2.32m AHD).

The garage levels proposed are RL 3.5m AHD for Units 1 & 2, and RL 2.3m AHD for Units 3, 4, 5, & 6, which are all above the 1%AEP flood level.

It is recommended that building materials utilised below RL 2.38m AHD are of a type that can withstand the effects of immersion in flood waters.

The proposal to increase the floor heights by 300mm would result in the following levels at ground floor:

The habitable floor levels proposed for the ground floor of the units are RL 3.9m AHD for Units 1 & 2, and RL 2.7m AHD for Units 3, 4, 5, & 6. These levels are all above the required flood planning level (RL 2.32m AHD).

The garage levels proposed are RL 3.8m AHD for Units 1 & 2, and RL 2.6m AHD for Units 3, 4, 5, & 6, which are all above the 1%AEP flood level.

From a flooding perspective this is acceptable. It is agreed that the raising of the levels by 300mm would significantly reduce the flow of surface water across the development site from adjoining properties.

It is noted that the original stormwater management of the development included the discharge of stormwater from the site directly to Brisbane Water via a proposed discharge point in the existing seawall arrangement. The Stormwater Drainage Plan prepared by Halcrow & Associates (Drawing No 21.06.023, Sheet CC.1 of 4 dated 22.8.22) indicates that stormwater is to now discharge to a level spreader on the landward side of the seawall structure. This is acceptable. The change in the stormwater plans will require amendments to condition 2.9 Parts b), c), & d), to reflect the reference to the revised stormwater plan.

Political Donations

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

Public Submissions

Four (4) public submissions were received in relation to the application. Those issues associated with 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 submissions are detailed below.

1. Increase in floor levels and impact on drainage.

Comment – The increase in floor level is to mitigate drainage and would significantly reduce the flow of surface water across the development site from adjoining properties. The proposal is supported by Council's Development Engineer.

2. Additional windows will impact adjoining privacy.

Comment – The additional windows are mostly on the southern and northern elevations facing towards the street and water sides and are highlight windows. The additional windows on the eastern and western side of units 3 and 4 are narrow windows off the kitchens. The additional windows provide improved amenity for residents without having any significantly additional impact on adjoining sites.

3. Change from timber to glass balustrades will reduce adjoining privacy.

Comment – The change from timber to glass balustrades will improve the external appearance and reduce future maintenance. The balustrades are on balconies which do not primarily face towards the side adjoining properties.

4. Is there enough visitor parking?

Comment – No changes to parking are proposed with this application. Nine (9) spaces were approved and 9 spaces are proposed.

5. The proposal is too big and ugly. There is inadequate landscaping.

Comment – The proposed changes essentially add additional windows which improves the external facades. No changes are proposed to the landscaping previously approved.

6. The tin roof colour should be "Surf Mist" or "Evening Haze" to reflect heat. The driveway should not be painted black.

Comment- The applicant advises that the roof colour will be Surf Mist and the driveway will not be black concrete.

7. Are solar panels to be installed?

Comment- Solar panels are not proposed with this application but may be installed later by unit owners.

8. Is the development high enough for flooding/tides?



Comment- The proposed floor levels comply with the minimum required due to flooding.

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 Demolition of Existing Structures & Erection of Multi Dwelling Housing x 6 Units (Amended Application) at 386 Booker Bay Road, BOOKER BAY NSW 2257. 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(1A) for modification is recommended for **approval**.

Plans for Stamping

Amended Plans D15508005

Supporting Documents for Binding with consent

BASIX Certificate D15508006

Statement of Environmental Effects D15508003

NatHERS Certificate D15508008

Recommendation

A Council as consent authority approve the section 4.55 (1A) Part A application to modify Development Consent No DA/63169/2021/A to the approved Demolition of Existing Structures & Erection of Multi Dwelling Housing x 6 Units (Amended Application) on Lot 368 DP 7736, 386 Booker Bay Road, BOOKER BAY NSW 2257. The Development Consent No DA/63169/2021 be modified as follows;

- i Amendment of condition 1.1 and 2.9.

The original development consent is therefore replicated incorporating amendment/s and/or deletion/s.

B The applicant be advised that the approved amendment does not extend the terms of the original consent.

C The objector(s) be notified of Council's decision.

Recommendation:	Approval, subject to conditions
Assessing Officer:	R Eyre
Recommendation Reviewed by:	A Prendergast



