

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2022/0643
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<b>Responsible Officer:</b>	Adam Croft
<b>Land to be developed (Address):</b>	Lot 1 DP 827733, 316 Hudson Parade CLAREVILLE NSW 2107
<b>Proposed Development:</b>	Modification of Development Consent REV2021/0020 granted for Review of Determination of Application DA2020/1591 for alterations and additions to a dwelling house and garage
<b>Zoning:</b>	C4 Environmental Living
<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>	Northern Beaches Council Tony Brian Walls
<b>Applicant:</b>	Baxter & Jacobson Architects Pty Ltd

<b>Application Lodged:</b>	09/12/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	15/12/2022 to 20/01/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The proposed modification seeks consent for changes as follows:

#### Lower Ground Floor

- Extend eastern wall to enlarge games room and reconfigure stair, cellar, bathroom & lift
- New northern pool store, sauna, & electrical plant
- Demolish southern store room & garden shed to accommodate new store/plant & WC
- Replace office with new bar
- Changes to windows and doors

## Ground Floor

- Reconfigure internal stair, lift, kitchen, pantry, laundry & WC
- Reconfigure main dwelling entry
- Changes to windows and doors

## First Floor

- Reconfigure internal stair, lift, bedroom, robes & ensuite
- New outdoor shower off ensuite
- Changes to windows and doors

## Roof Plan

- Raise roof ridge over dwelling entry
- Reduce gable at southern roof edge
- Replace roof over bed 1
- Change roof eaves over pavilion
- Reconfigure roof over southern deck
- Extend studio roof over new eastern extension
- New skylight to master bedroom
- Non-trafficable roof garden over southern store/plant

## Garage & Studio

- Extend studio east and reconfigure entry stair

## External

- Changes to pond and roof over
- New retractable screen to western elevation of pavilion
- Reconfigure driveway retaining walls to accommodate widened driveway
- Relocate bin enclosure and stair to eastern garden

## **ASSESSMENT INTRODUCTION**

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant

Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings

Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area

Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.4 Solar Access

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy

Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures

Pittwater 21 Development Control Plan - D3.7 Side and rear building line

Pittwater 21 Development Control Plan - D3.11 Landscaped Area - Environmentally Sensitive Land

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 827733 , 316 Hudson Parade CLAREVILLE NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of a large, irregular shaped allotment located on the western side of Hudson Parade, adjoining the Pittwater Waterway to the west.</p> <p>The site has frontage of 20.6m along Hudson Parade with a depth of 49.68m. The site has a surveyed area of 1902m<sup>2</sup>.</p> <p>The site is located within the E4 Environmental Living zone under PLEP 2014 and accommodates a large split level, brick dwelling, detached double garage, and in-ground swimming pool. The site benefits from pedestrian access from the land to the waterway to the west.</p> <p>The site slopes steeply to the west away from Hudson Parade and towards the Pittwater Waterway with a fall of approximately 17m and slope of 34.2%.</p> <p>The site is characterised by a densely vegetated front setback to Hudson Parade with a mix of vegetation types, including native canopy trees, while the remaining site is characterised by predominantly established garden beds and lawn areas.</p>

### Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by large dwellings set within a low-density residential, landscaped setting.

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:

- DA2020/1591 - Alterations and additions to a dwelling house and garage - Approved 16 December 2020
- DA2020/1762 - Demolition works and construction of boatshed, ramp, slipway, jetty & steps - Approved 15 February 2021
- REV2021/0020 - Review of Determination of Application DA2020/1591 for alterations and additions to a dwelling house and garage - Approved 25 October 2021.

### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

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

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2020/1519 and REV2021/0020, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
<p>A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:</p>	
<p>(a) it is satisfied that the proposed modification is of minimal environmental impact, and</p>	<p><b>Yes</b> The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:  The proposal is limited to minor internal and external modifications to the approved dwelling. There is no significant change to the approved development and minimal impact to surrounding properties.</p>
<p>(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>The 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 DA2020/1519 for the following reasons:  The consent as proposed to be modified is substantially the same development as that for which the consent was originally granted and retains the residential use of the lot to be developed. The proposed modification involves minor internal and external changes, and remains materially the same as originally approved.  As such, the modified application is “substantially the same development” as the originally approved development and therefore may be considered under Section 4.55(1A).</p>
<p>(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,  or</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.</p>

Section 4.55(1A) - Other Modifications	Comments
(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	
(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.	See discussion on “Notification & Submissions Received” in this report.

### 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	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clause 93 and/or 94</u> of the EP&amp;A Regulation 2000 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 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah/Manly/Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> 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> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

## EXISTING USE RIGHTS

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 development application has been publicly exhibited from 15/12/2022 to 20/01/2023 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Samuel Nicholas Wallrock Ms Lucy Caroline Proffitt	318 Hudson Parade CLAREVILLE NSW 2107

The issues raised in the submissions are addressed as follows:

- **Acoustic Impacts**

The submissions raised concerns that the services contained within the southern plant/store room will result in acoustic amenity impacts to the adjoining property.

Comment:

The submitted documentation advises that the proposed plant/store is intended to accommodate air conditioning units that are currently located externally. The store/plant is fully enclosed, with the exception of louvred openings at the western elevation, and is anticipated to provide adequate acoustic screening. Condition No. 32 imposed in the previous consent is amended to limit noise generated by plant equipment to 5dBA above background noise level in accordance with PDCCP *C1.6 Acoustic Privacy*.

This matter is not considered to warrant refusal of the application.

- **Vegetation height**

The submissions raised concerns that vegetation within the roof garden over the southern store/plant will overshadow the adjoining property.

Comment:

A condition is imposed to ensure that the selected species to be planted in this area are not capable of exceeding 1m in height.

This matter is not considered to warrant refusal of the application.

- **Use of the shared driveway for construction access**

The submissions raised concerns that the use of the shared driveway during construction may result in damage to the driveway.

Comment:

Condition No. 13 imposed in the previous consent requires the preparation of a Construction Traffic Management Plan (CTMP). The CTMP must detail the intended use and management of

the driveway as well as the storage of goods and materials within the site, and must be provided to the relevant adjoining owners prior to the commencement of works. Any potential damage to the existing driveway as a result of the works is not a relevant consideration that would warrant refusal of the application and is a civil matter between the users/owners of the driveway.

This matter is not considered to warrant refusal of the application.

- **Extension of approved studio**

The submissions raised concerns that the proposed extension of the studio will adversely impact sunlight and privacy to the adjoining property. Concern is also raised in relation to the compliance of the proposal with the landscaped area control.

Comment:

The extension of the approved studio is limited to the north-eastern corner. The approved access arrangement and southern wall length remain unchanged. As such, the proposal is not considered to cause any additional privacy or overshadowing impacts. The modified proposal remains non-compliant with the landscaped area control, but results in an additional 4.2m<sup>2</sup> of landscaped area in comparison to the previous approval.

This matter is not considered to warrant refusal of the application.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	The application is for modification to development consent REV2021/0020. The proposed modification do not impact the landscape outcome of the development consent including the preservation of existing trees and relevant development consent landscape conditions remain applicable.
NECC (Bushland and Biodiversity)	<p>The proposal seeks approval for Modifications of Development Consent REV2021/0020 granted for Review of Determination of Application DA2020/1591 for alterations and additions to a dwelling house and garage.</p> <p>The proposal has been assessed against the following provisions:</p> <ul style="list-style-type: none"> <li>• SEPP (Resilience and Hazards) 2021 - Chapter 2 Development within the coastal environment</li> <li>• NSW Biodiversity Conservation Act 2016</li> <li>• Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP - Clause B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community</li> </ul> <p>Portions of the site are identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offset Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR).</p>

Internal Referral Body	Comments
	<p>However, the submitted plans and documentation indicate that the proposed works are located outside of the BV Map area and therefore will not trigger entry into the BOS.</p> <p>The modifications submitted indicate that no removal of native vegetation and impact to native trees will take place. No native vegetation or fauna habitat would be impacted, the development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p>
NECC (Coast and Catchments)	<p>Supported.</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied modification plans and reports;</li> <li>• Coastal Management Act 2016;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021;</li> <li>• Relevant Pittwater LEP and DCP clauses; and</li> <li>• Estuarine Risk Management Policy for Development in Pittwater.</li> </ul> <p>Comment:</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to the proposed development. The proposed development is consistent with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <p>State Environmental Planning Policy (Resilience &amp; Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience &amp; Hazards) 2021. Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R &amp; H) apply to this modification application.</p> <p>On internal assessment the modification application meets the provisions of clauses 2.10, 2.11 and 2.12 of the SEPP R&amp;H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience &amp; Hazards) 2021.</p> <p>As the majority of works proposed by this modification application are within the footprint of existing approved development and are likely to have only minor impacts when viewed from Pittwater and Hudson Parade, no additional coastal relevant conditions are proposed beyond those previously applied.</p> <p>The application, on assessment, meets the relevant requirements of the Environmental Planning Instruments, development controls and the risk management policy relating to the Pittwater estuarine waterway.</p>
NECC (Development Engineering)	The proposed modification includes an updated Geotechnical report which addresses the relevant DCP controls. Consent conditions 1 and

Internal Referral Body	Comments
	<p>11 of REV2021/0020 must be updated to reflect the new Geotechnical Report by White Geotechnical Group Ref: J2990B dated 1 December 2022.</p> <p>Development Engineering support the proposed modification subject to the above requirement.</p>
NECC (Riparian Lands and Creeks)	<p>Supported.</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Coastal Management Act 2016;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021;</li> </ul> <ul style="list-style-type: none"> <li>• Relevant LEP and DCP clauses; and</li> <li>• Northern Beaches Water Management for Development Policy</li> </ul> <p>Appropriate sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p> <p>On assessment the application on assessment meets the requirements of the relevant Environmental Planning Instruments and policies relating to waterways, riparian areas, and groundwater.</p>
Parks, reserves, beaches, foreshore	<p>The application is for modification to development consent REV2021/0020. Parks Reserves and Foreshore Referral raise no concerns.</p>

External Referral Body	Comments
Aboriginal Heritage Office	<p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</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)**

### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. A479554 dated 9 November 2022).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

### **SEPP (Transport and Infrastructure) 2021**

#### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

#### Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

### **SEPP (Resilience and Hazards) 2021**

#### **Chapter 2 – Coastal Management**

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

#### **Division 3 Coastal environment area**

##### **2.10 Development on land within the coastal environment area**

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
  - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,

- b) coastal environmental values and natural coastal processes,
  - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
  - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
  - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - f) Aboriginal cultural heritage, practices and places,
  - g) the use of the surf zone.
- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
- a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
  - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

#### **Division 4 Coastal use area**

##### **2.11 Development on land within the coastal use area**

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
- a) has considered whether the proposed development is likely to cause an adverse impact on the following:
    - i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
    - ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
    - iii) foreshores,
    - iv) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
  - b) is satisfied that:
    - i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
    - ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
  - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

#### Comment:

The proposed modifications are sited generally within the existing/approved development footprint and

are not anticipated to cause any adverse impacts in relation to the matters under 2.10 or 2.11 above. The application was referred to Council's Coast and Catchments team, who raised no objection to the proposal.

**Division 5 General**

**2.12 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposal is unlikely to cause increased risk of coastal hazards on the site or surrounding land.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

**Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

**Pittwater Local Environmental Plan 2014**

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

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	9.34m	Unaltered	N/A	No (as approved)

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes

Clause	Compliance with Requirements
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

### Detailed Assessment

## **Zone C4 Environmental Living**

### **1. Objectives of zone**

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To provide for residential development of a low density and scale integrated with the landform and landscape.
- To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.

### Comment:

The proposed works are largely sited within the existing/approved building footprint and result in minimal change to the external built form. The proposal retains the low density use of the site, is integrated with the landform and landscape and will not adversely impact the ecological, scientific or aesthetic values of the locality. Accordingly, the proposal is found to be consistent with the objectives of the zone.

### **4.3 Height of buildings**

The proposed works comply with the height of buildings standard and do not alter the previously approved variation.

### **5.10 Heritage conservation**

The site does not include a heritage item, is not within a heritage conservation area or in close proximity to a heritage item. The western extremity of the site is mapped as extremely high potential for Aboriginal sites. The application was referred to the Aboriginal Heritage Office, who raised no objection subject to the imposition of a condition in the event that any sites are discovered during works.

### **7.2 Earthworks**

The proposed excavation works are limited the development footprint and will not adversely impact adjoining properties or the natural environment.

### **7.7 Geotechnical hazards**

The submitted Geotechnical Report advises that the proposed development is suitable for the site. The recommendations contained within the report are incorporated into the conditions of consent.

## 7.8 Limited development on foreshore area

### Compliance with control

Under Clause 7.8 Limited Development on Foreshore Area, development consent must not be granted for development on land in the foreshore area except for the following purposes:

- *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
- *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

### Comment:

The proposed development is for the alteration of an existing building located partly in the foreshore area. The proposal includes minor works within the foreshore area, but will not result in the footprint of the building extending further into the foreshore area. Therefore the proposal complies with the control.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	11.5m	Unaltered	Yes
Rear building line	N/A - FBL applies	N/A	N/A	N/A
Side building line	2.5m	2.16m	Unaltered	No (as approved)
	1m	0.9m	Unaltered	No (as approved)
Building envelope	N: 3.5m	Within envelope	Unaltered	Yes
	S: 3.5m	One breach: - Up to 300m, length 870mm	Unaltered	No (as approved)
Landscaped area	50% 1141.2m <sup>2</sup>	46.7% 888.9m <sup>2</sup>	47% 893.1m <sup>2</sup>	No (as approved)

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.3 Bilgola Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Community		
B4.19 Estuarine Habitat	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D3.1 Character as viewed from a public place	Yes	Yes
D3.2 Scenic protection - General	Yes	Yes
D3.3 Building colours and materials	Yes	Yes
D3.6 Front building line	Yes	Yes
D3.7 Side and rear building line	No	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	No	Yes
D3.15 Scenic Protection Category One Areas	Yes	Yes

### Detailed Assessment

#### **B8.6 Construction and Demolition - Traffic Management Plan**

A condition was imposed through the previous consent requiring the preparation of a Construction Traffic Management Plan for the development.

#### **C1.3 View Sharing**

The proposal does not materially increase the height or bulk of the development and will not cause any

adverse view loss impacts.

#### **C1.4 Solar Access**

The proposed studio and store/plant extensions will not cause any substantial additional overshadowing or alter the approved development's compliance with the control. A condition is imposed limiting the height of vegetation within the roof planter over the store/plant to 1m above the finished floor level (RL19.21) of the adjacent garage.

#### **C1.5 Visual Privacy**

The proposed modifications will not result in any additional privacy or overlooking impacts. The access arrangement and southern elevation of the proposed studio remains as approved and the adjacent roof garden over the southern plant/store room is planted and non-trafficable.

#### **C1.6 Acoustic Privacy**

The proposed plant/store room adjacent to the southern boundary is enclosed with louvres at the western elevation. A condition is imposed to ensure that noise generated by mechanical plant equipment complies with the control and does not adversely impact the amenity of surrounding properties.

#### **C1.14 Separately Accessible Structures**

The proposed modification of the studio involves the addition of approximately 5m<sup>2</sup> of floor area, but does not alter the ancillary nature of the structure or enable its use for separate habitation.

#### **D3.7 Side and rear building line**

The approved side setback breaches remain unchanged as a result of the proposal. There are no proposed new works in the foreshore area extending beyond the footprint of the existing dwelling.

#### **D3.11 Landscaped Area - Environmentally Sensitive Land**

The proposal results in an increase of 4.2m<sup>2</sup> to the approved landscaped area. Despite remaining non-compliant with the 60% control, the increase in the approved landscaped area is considered to achieve consistency with the outcomes of the control.

### **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;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

**RECOMMENDATION**

THAT Council as the consent authority grant approval to Modification Application No. Mod2022/0643 for Modification of Development Consent REV2021/0020 granted for Review of Determination of Application DA2020/1591 for alterations and additions to a dwelling house and garage on land at Lot 1 DP 827733,316 Hudson Parade, CLAREVILLE, subject to the conditions printed below:

**A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By

Mod 2.00 Site Plan	Issue 1, 2 November 2022	Baxter & Jacobson Architects
Mod 10.03 Proposed Floor Plan - Level 1	Issue 1, 2 November 2022	Baxter & Jacobson Architects
Mod 10.04 Proposed Lower Ground Floor Plan	Issue 1, 2 November 2022	Baxter & Jacobson Architects
Mod 10.05 Proposed Plan - Garage / Studio	Issue 1, 2 November 2022	Baxter & Jacobson Architects
Mod 10.06 Roof Plan - House and Pavilion	Issue 1, 2 November 2022	Baxter & Jacobson Architects
Mod 10.07 Roof Plan - Garage / Studio	Issue 1, 2 November 2022	Baxter & Jacobson Architects
Mod 10.08 Master Bedroom Level	Issue 1, 2 November 2022	Baxter & Jacobson Architects
Mod 20.00 Elevation - West	Issue 1, 2 November 2022	Baxter & Jacobson Architects
Mod 20.01 Elevation - South	Issue 1, 2 November 2022	Baxter & Jacobson Architects
Mod 20.02 Elevations - East	Issue 1, 2 November 2022	Baxter & Jacobson Architects
Mod 20.03 Elevations - North	Issue 1, 2 November 2022	Baxter & Jacobson Architects
Mod 30.03 House - Section	Issue 1, 2 November 2022	Baxter & Jacobson Architects
Mod 30.11 Section - Pavilion - AA & BB	Issue 1, 2 November 2022	Baxter & Jacobson Architects
Mod 30.20 Section - Garage / Studio - CC & DD	Issue 1, 2 November 2022	Baxter & Jacobson Architects

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate No. A479554	9 November 2022	Leith Schmidt Architect
Geotechnical Report	1 December 2022	White Geotechnical Group

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

**B. Modify Condition 11. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans to read as follows:**

**11. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Reports prepared by White Geotechnical dated 27 November, 2020 and 1 December, 2022 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be

completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

**C. Add Condition 14A. Roof Planter to read as follows:**

**14A. Roof Planter**

Details of the vegetation within the roof planter above the store/plant room adjacent to the southern boundary are to be included on the plans. The selected species shall be limited to a height of 1m at maturity.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To minimise overshadowing resulting from vegetation.

**D. Add Condition 23A. Aboriginal Heritage to read as follows:**

**23A. Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning and Environment.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning and Environment.

Reason: Aboriginal Heritage Protection.

**E. Modify Condition 32. Noise from pool plant to read as follows:**

**32. Mechanical Plant**

Noise associated with the ongoing operation of all mechanical plant equipment, including the proposed swimming pool filter and air conditioning units, is not to exceed 5dBA above background noise level when measured at the nearest property boundary.

Reason: To maintain the amenity of the surrounding properties.

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

**Signed**



**Adam Croft, Principal Planner**

The application is determined on 14/04/2023, under the delegated authority of:



**Steven Findlay, Manager Development Assessments**