

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0321
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Responsible Officer:	Jordan Davies
Land to be developed (Address):	Lot 1 DP 121833, 13 A Ocean Road PALM BEACH NSW 2108
Proposed Development:	Modification of Development Consent DA2019/0619 granted for construction of a swimming pool and inclinor with associated landscaping
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Michele Matthews
Applicant:	Michele Matthews

Application Lodged:	07/06/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	15/06/2021 to 29/06/2021
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposed application is a Section 4.55(1A) modification to Development Consent DA2019/0619 which was for the 'construction of a swimming pool, inclinor and associated landscaping'.

The modifications to the original consent are as follows (as described in the SOEE):

1. The pool is reduced in length and has changed in orientation and the pool fence is relocated. The previously approved spa has been removed.
2. The previously paved terrace is to be changed to a lawn on slab area and the access from the secondary dwelling to the pool terrace is moved to the centre of the site
3. A new gym area is proposed under the terrace that is located within the previously approved hard surface area and within the former location of the excavated pool. The plant room moves further north.
4. The inclinor is also proposed to be extended to the first floor of the existing primary dwelling. There

are some minor alterations to the rear of the existing primary dwelling to allow access to the inclinor station.

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 21 Development Control Plan - B3.1 Landslip Hazard

SITE DESCRIPTION

Property Description:	Lot 1 DP 121833 , 13 A Ocean Road PALM BEACH NSW 2108
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Ocean Road.</p> <p>The site is regular in shape with a frontage of 28m along Ocean Road and a depth of 57m. The site also has a second frontage to Sunrise Road at the top of the site. The site has a surveyed area of 986m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a two storey dwelling house at the Ocean Road frontage, and a secondary dwelling currently under construction at the top of the site accessed from the Sunrise Road Frontage.</p> <p>The site has a very steep gradient falling from Sunrise Road to Ocean Road. The elevation change is approximately 40m across the site.</p> <p>The understorey vegetation is largely cleared upon the site,</p>

with a number of small native trees located at the top and centre of the site along the boundaries. There are a number of existing sandstone rocks center of the site and an existing retaining wall above an existing shotcrete cliff behind the main dwelling house.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by detached dwelling houses with ancillary development such as pools. The dwellings are sited within the steep sloping land and are surrounded by low to moderate shrubs and trees. Immediately to the north of the property is a two storey dwelling house. Immediately to the south of the property is a two storey and single storey dwelling house.

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:

NO567/10 Alterations and additions to the dwelling house approved by Pittwater Council on 25/08/11.
 NO328/16 Alterations and additions to the dwelling house and construction of a secondary dwelling and pool was withdrawn on 27/03/2017
 NO373/17 Construction of a secondary dwelling approved by Northern Beaches Council on 3/04/2018.
 Mod2018/0503 Modification of development consent NO373/17 for secondary dwelling approved by Northern Beaches Council on 26/09/2018.
 DA2019/0617 for Construction of a Swimming Pool, Terrace Area and Incline Passenger Lift, approved by Northern Beaches Council on 10/10/2019.
 MOD2020/0146 to DA2019/0617 to amend the design of the incline passenger lift and amend pool

design, deletion of stairs approved by Northern Beaches Council on 1 June 2020.

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 DA2019/0619, in full, with amendments detailed and assessed as follows:

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

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> - The modifications do not cause additional view impacts, overshadowing or overlooking that would otherwise result from the original development. - The modifications reduce the size of the swimming pool structure and use and existing excavated space in the former area of the pool. Visually, the development remains largely unchanged when viewed from the public domain as a result of the amendments. The modifications do not result in an increase in height, bulk or scale of the proposed development.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/0619 for the following reasons:</p> <ul style="list-style-type: none"> - The proposal is to alter the approved include passenger lift. - The modifications to the dwelling are directly linked to provide access to the approved incline passenger lift.

Section 4.55(1A) - Other Modifications	Comments
	<p>- The proposed gym are is within an existing undercroft area which is extended beneath the former location of the pool.</p> <p>- The proposal amend the approved pool.</p> <p>The development, as proposed, has been found to be such that Council is not satisfied that the proposed works are substantially the same as those already approved under DA2019/0619</p>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environment Plan 2011 and Pittwater 21 Development Control Plan.</p>
<p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p>	<p>See discussion on "Notification & Submissions Received" in this report.</p>

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.

Section 4.15 'Matters for Consideration'	Comments
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)(iiiia) – 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&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&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&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to clarification of pool fence location.</p> <p><u>Clause 92</u> of the EP&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> <p><u>Clauses 93 and/or 94</u> of the EP&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&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&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&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>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 15/06/2021 to 29/06/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Hugh Rodney Cooke	13 Ocean Road PALM BEACH NSW 2108
Ms Shirley Jean Walsh	18 Sunrise Road PALM BEACH NSW 2108

The following issues were raised in the submissions and each have been addressed below:

- Concern regarding additional tree removal.
- Concern and question regarding location of pool fence along common boundary with 18 Sunrise Road.
- Concern regarding additional hard surfaces/paving along the northern edge of the pool and extent of built structures along the northern edge.
- Request that survey be undertaken so all structures are within approved location and not within 1m of boundary.
- Same concerns raised by 13 Ocean Road as original DA2019/0619.

The matters raised within the submissions are addressed as follows:

- *Concern regarding additional tree removal.*

Comment:

The applicant has provided clarification confirming no additional tree removal is proposed. The submitted plan omitted two previously proposed trees adjacent to the pool. The plan has been updated to include the two proposed trees that were shown on the previous approved plan.

- *Concern and question regarding location of pool fence along common boundary with 18 Sunrise Road.*

Comment:

It is confirmed that pool fencing will run along the northern edge of the pool. This is necessary to comply with AS1926 Pool safety standard. A condition of consent is recommended that the pool fencing is located entirely within the subject site.

- *Concern regarding additional hard surfaces/paving along the northern edge of the pool and extent of built structures along the northern edge.*

Comment:

The plans submitted as part of this Section 4.55 Modification do not propose any further built structures within the 1m setback, apart from pool fencing which is a permissible encroachment and necessary to comply with AS1926. The proposal maintains a compliant 1m setback.

- *Request that survey be undertaken so all structures are within approved location and not within 1m of boundary.*

Comment:

The applicant will be required to adhere to the approved plan which includes the pool and associated structures being setback 1m from the shared boundary. A requirement for a boundary identification survey is required prior to the issue of any construction certificate and was imposed on the original consent. This condition remains upon the consent.

- *Same concerns raised by 13 Ocean Road as original DA2019/0619.*

Comment:

The concerns raised from 13 Ocean Road for the current modification application are the exact same concerns as the original DA2019/0619. The concerns were addressed in the original assessment report under DA2019/0619, with conditions imposed where necessary. All conditions will remain on the consent as modified in response to the concerns.

The amended plans do not result in any additional amenity impacts for the property at 13 Ocean Road with regard to privacy, views, noise or overshadowing.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	Council's Natural Environment Unit - Biodiversity referral team has no objections to the proposed modification subject to the conditions provided for the previous DA consent (DA2019/0619).
NECC (Coast and Catchments)	The modification application has been assessed in consideration of the <i>Coastal Management Act 2016</i> , State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21

Internal Referral Body	Comments
	<p>DCP.</p> <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>Coastline Beach Hazard Management The property is located within a "Wave inundation" hazard area designated on the Coastal Risk Planning Map that is referenced in Pittwater Local Environmental Plan 2014. The subject property is also mapped as being land identified under Coastline Beach Hazard Area on the Pittwater 21 Development Control Plan (DCP) Map MDCP016.</p> <p>No objection to the proposed modifications subject to adherence to the conditions provided for the previous determinations for DA2019/0619 dated 10 October 2019 and Mod2020/0146 dated 1 June 2020.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the

External Referral Body	Comments
	relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs 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, REPs 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 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A345820 dated 29 May 2021).

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP 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. Ausgrid raised no objections to the application subject to their usual terms and conditions.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) *the carrying out of any of the following:*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,*
 - (d) *any other development.*

Comment:

The land is not within coastal wetlands or littoral rainforest area.

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

Not within proximity to coastal wetlands or littoral rainforest.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of*

- the building or works, and*
- (b) *the proposed development:*
- (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
 - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.*

Comment:

Not within coastal vulnerability area.

13 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.*

Comment:

The proposal does not limit access to the foreshore area or have impact on the coastal environment within regards to biology or hydrology.

- (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 subclause (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.

Comment:

Impact of the development has been designed to avoid impact to matters referred to in Clause (1).

14 Development on land within the coastal use area

- (1)
 - (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) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) 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
 - (iii) 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 proposal does not limit access, overshadow or cause loss of views from a public place to the foreshore. The proposal is located upon the escarpment, however is not considered to have an unreasonable impact upon the visual quality of the scenic landscape as the proposed pool and works are low scale compared to the surrounding dwellings upon the escarpment, set within the slope of the land and will have sufficient native landscape planting surrounding the built form to blend into the landscape. The use of natural materials are used as well as dark tones to reduce the visual impact of the development. The incline passenger lift track is proposed to be finished in dark colours to bend into the vegetation behind. The incline passenger lift track follows the topography of the land as close as

practical to limit the visual impact. The proposal is not located within a heritage conservation area or identified as heritage item (for which there are a number within the locality).

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

15 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:

Proposal does not result in increase to coastal hazards.

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	3.3m max above ground level (top pool baulstrade)	3.3m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
7.2 Earthworks	Yes
7.5 Coastal risk planning	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	20.5m	unaltered	Yes

Rear building line	6.5m	16.3m	unaltered	Yes
Side building line	2.5m	2.5m - South	unaltered	Yes
	1m	1m - North	unaltered	Yes
Building envelope	3.5m	Within	unaltered	Yes
	3.5m	Within	unaltered	Yes
Landscaped area	50%	50.2%	54%	No - However increased soft landscaping

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.3 Coastline (Beach) Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	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
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D12.6 Side and rear building line	Yes	Yes
D12.8 Building envelope	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D12.12 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B3.1 Landslip Hazard

An addendum geotechnical report has been provided with the application (which is to be read in conjunction with the original geotechnical report) which confirms the amended plans do not present an unacceptable risk in regards to landslip and the original recommendations of the report continue to apply.

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 2019

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 2000;
- 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. Mod2021/0321 for Modification of Development Consent DA2019/0619 granted for construction of a swimming pool and inclinator with associated landscaping on land at Lot 1 DP 121833, 13 A Ocean Road, PALM BEACH, 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
DA00.01 Rev D	28/05/2021	McCormick and Associates
DA01.01 Rev D	28/05/2021	McCormick and Associates
DA02.02 Rev F	2/07/2021	McCormick and Associates
DA02.03 Rev B	28/05/2021	McCormick and Associates
DA03.01 Rev D	28/05/2021	McCormick and Associates
DA03.02 Rev E	28/05/2021	McCormick and Associates
DA03.03 Rev E	28/05/2021	McCormick and Associates
DA04.01 Rev E	28/05/2021	McCormick and Associates
DA04.02 Rev E	28/05/2021	McCormick and Associates
DA04.03 Rev D	28/05/2021	McCormick and Associates

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By

c) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

d) 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. Add Condition - Location of pool fence - Prior to the issue of a construction certificate to read as follows:

All pool fencing is to be located entirely within the subject property boundary.

Reason: To ensure the pool fencing does not sit with adjoining properties and can provide fencing in accordance with AS1926.

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

Signed



Jordan Davies, Planner

The application is determined on 05/07/2021, under the delegated authority of:



Lashta Haidari, Acting Development Assessment Manager