

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2022/0407
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Responsible Officer:	Olivia Ramage
Land to be developed (Address):	Lot 22 DP 11552, 9 Ocean Road PALM BEACH NSW 2108
Proposed Development:	Modification of Development Consent DA2020/0028 granted for the construction of a dwelling house
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	John Charles Bubb Christina Veronika Ingrid Neumann-Bubb
Applicant:	John Charles Bubb

Application Lodged:	29/07/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	11/08/2022 to 25/08/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposed development consists of the installation of an inclinor to provide access to the north-western corner of the site for ongoing weed control and maintenance. A buttress wall is also proposed to provide support to the southern boundary retaining wall.

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 - C1.19 Incline Passenger Lifts and Stairways
 Pittwater 21 Development Control Plan - D12.6 Side and rear building line

SITE DESCRIPTION

Property Description:	Lot 22 DP 11552 , 9 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 irregular in shape with a frontage of 21.391m along Ocean Road and a depth of 64.445m along the northern side boundary and 48.095m along the southern side boundary. The site has a surveyed area of 1189m².</p> <p>The site has a fall of over 30m from the top (rear boundary) to the bottom (front boundary) or approximately 47% sloping grade.</p> <p>The site has a mix of native and exotic species of plants, shrubs and trees with a large rock floater approximately two thirds of the way up in the rear yard.</p> <p>Adjoining and surrounding development are characterised by two (2) and three (3) storey dwellings within landscaped settings. It is noted that the dwellings within this section of Ocean Road are located close to the front boundary due to the significant slope of the land leaving a limited area available for development.</p>

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:

- **CDC2020/0235** (CDC2020-544) - Demolition of existing structures - Approved 14 April 2020
- **DA2020/0028** - Construction of a dwelling house approved 25 June 2020
- **Mod2021/0198** - Modification of Development Consent DA2020/0028 granted for the construction of a dwelling house approved 18 May 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 DA2020/0028, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - 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 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 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 DA2020/0028 for the following reasons:</p> <ul style="list-style-type: none"> • The proposed inclinator is replacing previously approved stairs to access the rear portion of the site whereby providing the same function and use. • The proposed inclinator is partially screened by the retaining wall and is not immediately visible. As such, the appearance of the development remains the same. • The proposal remains for the construction of a dwelling house with a location and form that is the same as what was originally approved.
<p>(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and</p>	<p>Development Application DA2020/0028 did not require concurrence from the relevant Minister, public authority or approval body.</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 2021, and the Northern Beaches Community Participation Plan.</p>

Section 4.55 (2) - Other Modifications	Comments
(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.	No submissions were received in relation to this application.

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 96 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 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. .</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p>

Section 4.15 'Matters for Consideration'	Comments
	Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
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 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 11/08/2022 to 25/08/2022 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The application is for modification to development consent DA2020/0028 and proposes the installation of an inclinor lift to

Internal Referral Body	Comments
	<p>provide access to the upper slopes for ongoing landscape maintenance. Following review of the modification proposal, Landscape Referral raise no concerns as the landscape outcomes of the development consent remains.</p> <p>Landscape conditions as included under development consent DA2020/0028 remain.</p>
NECC (Bushland and Biodiversity)	<p>The application is for modification to development consent DA2020/0028 and proposes the installation of an inclinor lift to provide access to the upper slopes for ongoing landscape maintenance. Following review of the modification proposal, Biodiversity Referral raise no concerns as the biodiversity outcomes of the development consent remains.</p> <p>Biodiversity conditions as included under development consent DA2020/0028 remain.</p>
NECC (Development Engineering)	<p>The proposed modifications do not alter the original assessment of the application by Development Engineering.</p> <p>Development Engineering support the proposal with no additional or modified conditions of consent recommended.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>
Aboriginal Heritage Office	<p>No sites are recorded in the current development area and the area of works has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Whilst the area of works does not contain Aboriginal sites or Aboriginal heritage sensitivity other portions of the DA area do. There is a large sandstone overhang on the property. According to the Due Diligence Code of Practice, any land within 20m of or in a rock shelter is considered to have Aboriginal heritage sensitivity and the potential to contain Aboriginal sites. Given the presence of these landscape features in the proposal area there is potential that the works may harm unrecorded Aboriginal sites which are protected under the NPW Act 1974. Harm to these landscape features should therefore be avoided during the construction phase of the works.</p> <p>Inadvertent impacts is considered harm under the NPW Act (1974). Storing materials, parking vehicles on an Aboriginal site or area likely to contain Aboriginal sites is considered harm. During construction all workers and contractors should be made aware of their obligations to avoid harm to Aboriginal sites and areas of Aboriginal sensitivity.</p> <p>Should any Aboriginal Cultural Heritage items be uncovered during</p>

External Referral Body	Comments
	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.

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 (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 who raised no objections, subject to conditions which have been included in the recommendation of this report.

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.

Comment:

The proposed works are unlikely to cause an adverse impact upon the matters identified in this clause. The proposal is located wholly within the subject site and does not discourage public access or amenity along the foreshore area nor impact on natural foreshore processes.

- 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.

Comment:

The development has been designed and sited to avoid adverse impacts to the coastal environment.

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
 - 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
 - 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 is unlikely to cause an adverse impact on foreshore access, overshadowing, wind funnelling, views, visual amenity and Aboriginal cultural heritage. The proposed development has been designed and sited to avoid adverse impacts on the above matters.

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 land or other 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	Dwelling: 4m-10m Retaining Walls: 7.6m	Inclinators: 7.6m	N/A	Yes

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
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.5 Coastal risk planning	Yes
7.6 Biodiversity protection	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	Dwelling: 3.195m-4.5m Verandah: 2.0m-3.1m	Unaltered	No (As approved)
Rear building line	6.5m	Dwelling: 20.005m Retaining Walls: 15.8m- 25.3m	Unaltered	Yes
Side building line	South - 2.5m	Dwelling: 2.5m	Unaltered Buttress Wall: 0.8m	Yes No
	North - 1m	Dwelling: 1.9m Verandah: 1.1m Terrace/Courtyard: 1.0m	Unaltered Inclinators: 0.6m Unaltered	Yes No Yes
Building envelope	North - 3.5m	Outside envelope	Unaltered	No (As approved)
	South - 3.5m	Outside envelope	Unaltered	No (As approved)
Landscaped area	60%	61.5% (730.9m ²) - 55.5% + 6%	Unaltered	Yes

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
B1.3 Heritage Conservation - General	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
B3.11 Flood Prone Land	Yes	Yes
B4.17 Littoral Rainforest - Endangered Ecological Community	Yes	Yes
B5.13 Development on Waterfront Land	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
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
C1.13 Pollution Control	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	No	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
D12.6 Side and rear building line	No	Yes
D12.8 Building envelope	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.19 Incline Passenger Lifts and Stairways

Description of non-compliance

The proposed inclinators are setback 0.6m from the northern side boundary and does not comply with the 2.0m requirement.

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying outcomes of the control as follows:

- *Incline passenger lifts and stairways that cause minimal visual and acoustic disturbance to the environment and neighbours.*

Comment

The proposed inclinator has been designed to involve minimal excavation and does not require the removal of any additional trees. The inclinator is to replace the previously approved stairs to provide access to the north-western corner of the site. It is sited adjacent to the retaining walls whereby the visual appearance will be screened and is considered to be visually less dominate than the stairs. The noise level of the inclinator shall not exceed 60dB(A) subject to the recommended conditions. The proposed inclinator does not pass any windows to habitable rooms of adjoining dwellings and will not give rise to unreasonable privacy or amenity impacts. As such, the proposal is considered to satisfy the outcomes of the control and is considered acceptable.

D12.6 Side and rear building line

Description of non-compliance

This control requires development to be setback 2.5m from one side boundary and 1.0m from the other side boundary. For this assessment, the 2.5m control is applied to the southern boundary and the 1.0m control is applied to the northern boundary.

The proposed inclinator is setback 0.6m from the northern side boundary and does not comply with the side setback control. The proposed buttress wall is setback 0.8m from the southern side boundary and does not comply with the side setback control. It is noted that there is specific setback controls for inclinator, however for completeness, a merit assessment against the DCP has been considered:

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying outcomes of the control as follows:

- *To achieve the desired future character of the Locality.*

Comment

The proposal maintains the low density residential form of the area and therefore achieves the desired future character of the Locality.

- *The bulk and scale of the built form is minimised.*

Comment

The proposal is for an inclinator which is a minor structure that will not contribute to excessive bulk and scale. The buttress wall is set back towards the rear of the dwelling which helps to reduce the visual appearance from the street. The buttress wall is to provide structural support and is not intended to create visible bulk and scale.

- *Equitable preservation of views and vistas to and/or from public/private places.*

Comment

The proposed inclinator sits at an appropriate height and is adjacent to the retaining walls. As such, the proposal will ensure the preservation of views.

- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

Comment

As above, the proposed inclinator maintains view sharing as it is a minor structure presenting minimal bulk and scale.

- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*

Comment

The proposed inclinator replaces the approved stairs to access the north-western corner of the site and will not result in additional privacy and amenity impacts. Additionally, the inclinator is partially screened by the retaining walls and therefore will not cause privacy, amenity and solar impacts to adjoining properties.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape.*

Comment

The proposal provides sufficient landscaped area in excess of the control and helps facilitate an attractive streetscape.

- *Flexibility in the siting of buildings and access.*

Comment

The proposed inclinator has been sited in a suitable location to provide safe access to the rear garden for maintenance.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment

The proposed inclinator does not require the removal of any additional trees and the quantum of landscaped area remains unchanged.

- *To ensure a landscaped buffer between commercial and residential zones is established.*

Comment

The site does not adjoin a commercial zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P 21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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. Mod2022/0407 for Modification of Development Consent DA2020/0028 granted for the construction of a dwelling house on land at Lot 22 DP 11552,9 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
S4.55-01 RevJ - Site Plan	5 September 2022	Map Architecture & Interiors
S4.55-02 RevJ - Proposed Inclinorator	5 September 2022	Map Architecture & Interiors
S4.55-03 RevJ - Elevations	5 September 2022	Map Architecture & Interiors
S4.55-04 RevJ - Existing Photo Images	5 September 2022	Map Architecture & Interiors
S4.55-05 RevJ - Elevation - South Buttress Wall	5 September 2022	Map Architecture & Interiors

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Project 86970.01 - Section 4.55 Amendment	6 July 2022	Douglas Partners
Structural Design Certificate	9 July 2022	NB Consulting Engineers

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

c) The development is to be undertaken generally in accordance with the following:

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

B. Modify Condition No.2 - Compliance with Other Department, Authority or Service Requirements to read as follows:

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	Undated
Aboriginal Heritage Office	AHO Referral Response	17 August 2022

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

C. Add Condition No.49 Inclinorator (Noise) - to read as follows:

The inclinorator noise level shall not exceed 60dB(A), when measured one metre from any adjoining properties.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of neighbouring properties.

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

Signed



Olivia Ramage, Planner

The application is determined on 08/09/2022, under the delegated authority of:



Adam Richardson, Manager Development Assessments