

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2024/0428
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Responsible Officer:	Nick England
Land to be developed (Address):	Lot 376 DP 19651, 35 Norma Road PALM BEACH NSW 2108
Proposed Development:	Modification of Development Consent DA2020/0132 granted for Alterations and additions to 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
Applicant:	Sophire Louise Wright

Application Lodged:	12/08/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	21/08/2024 to 04/09/2024
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The application is made pursuant to Section 4.55 (1A) of the Environmental Planning & Assessment Act 1979 and proposes the following modifications to the existing consent, DA202/0132:

- correction of the approved nominated maximum roof ridge height of RL 80.63m AHD, to RL 80.95m; and
- the inclusion of balustrades on the lower ground floor terrace on the rear (south) elevation of the dwelling.

Note that the proposed change in the roof ridge height is nominal only, and results in no effective change to the approved building height. This 0.32m difference is likely the result of the floor dividing the upper ground and 1st floor levels (being shown on approved and proposed plans as being 320mm

in thickness) not being calculated into the RL of the total height.

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.

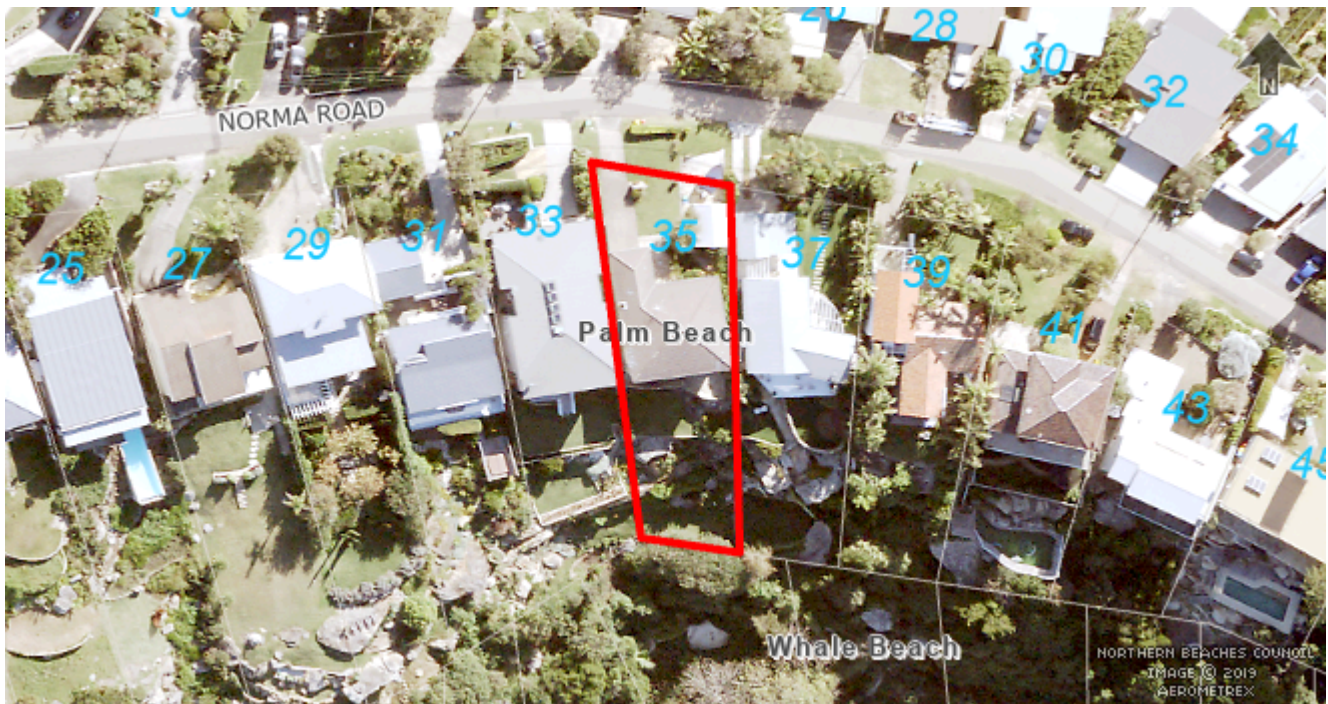
SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living

SITE DESCRIPTION

Property Description:	Lot 376 DP 19651 , 35 Norma Road PALM BEACH NSW 2108
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Norma Road.</p> <p>The site is irregular in shape with a frontage of 18.95m along Norma Road and a depth varying between 49 and 50m. The site has a surveyed area of 785m².</p> <p>The site is located within the C4 Environmental Living zone and accommodates a dwelling house and detached garage.</p> <p>The site has a southerly aspect with a very steep slope down towards the rear (northern) boundary.</p> <p>The site has significant vegetation and rock outcrops towards the rear boundary.</p> <p>Adjoining and surrounding development is characterised by dwelling houses.</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:

DA2020/0132: Development consent granted for "Alterations and additions to a dwelling house" on 3 June 2020. This consent is the subject of the proposed modification.

MOD2023/0626: Modification of Development Consent DA2020/0132 to: increase foundation space area; widen garage; delete / modify windows on east and west elevation; and reduce upper level balcony. This application was approved on 11 January 2024.

CC24004/-01: Construction certificate for DA2020/0132, issued by Armstrong Building Certifiers, on 29 February 2024. Construction works have commenced on the site, however not in relation to the parts of the approval that relate to the proposed modification.

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 DA2020/0132, 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"> • results in no effective change to the overall height and vertical proportions of the approved works; • no change to the approved footprint of the dwelling; and • incorporates no change to existing windows / openings.
(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 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 DA2020/0132 for the following reasons:</p> <ul style="list-style-type: none"> • results in no effective change to the overall height and vertical proportions of the approved works; • no change to the approved footprint of the dwelling; and • incorporates no change to existing windows / openings.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	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.
(d) it has considered any submissions made concerning	No submissions were received in relation to this application.

Section 4.55(1A) - Other Modifications	Comments
the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	

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)(iia) – 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 the original consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. However, 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 - 2001: The Demolition of Structures. This matter has been addressed via a condition of the original consent.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clauses 62</u> and/or 64 of the EP&A Regulation 2021 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 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 the original consent.</p> <p><u>Clause 69</u> 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.</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 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 application has been publicly exhibited from 21/08/2024 to 04/09/2024 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

No referrals were sent in relation to this application

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 (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	8.5m	No change	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes

Detailed Assessment

Zone C4 Environmental Living

The proposed modification is considered against the objectives of the C4 Environmental Living zone below:

To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.

Comment: The proposed modification will not have an adverse impact on the special values of the site and the surrounding area.

To ensure that residential development does not have an adverse effect on those values.

Comment: The proposed modification will not have an adverse impact on the special values of the site and the surrounding area.

To provide for residential development of a low density and scale integrated with the landform and landscape.

Comment: The proposed modification is of a sufficiently 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 modification will not have an adverse impact on the identified wildlife corridors on the site.

In summary, the proposed modification will not be adverse to the objectives of the C4 Environmental Living zone.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	5.4m	No change	N/A
Rear building line	6.5m	19.5m	No change	N/A
Side building line	2.5m (west)	1.5 - 2.5m	No change	N/A
	1m (east)	1.2m	No change	N/A
Building envelope	3.5m (east)	Breach of 2.9m (length) x 0.4m (height)	No change	N/A
	3.5m (west)	Breach of 4.5m (length) x 1-2m (height)	No change	N/A
Landscaped area	60%	416.5m ² or 53%	No change	N/A

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
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

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. Mod2024/0428 for Modification of Development Consent DA2020/0132 granted for Alterations and additions to a dwelling house on land at Lot 376 DP 19651,35 Norma Road, PALM BEACH, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-459677 - MOD2024/0428	The date of this notice of determination	Change nominated roof ridge height RL; add balustrades to south elevation Add Condition No.1B - Modification of Consent - Approved Plans and supporting documentation to reference modified plans.
PAN-389410 - MOD2023/0626	11 January 2024	Increase foundation space area; widen garage; delete / modify windows on east and west elevation; reduce upper level balcony. Insert additional condition No.1A - Approved Plans and supporting documentation to reference modified plans.

Modified conditions

A. Add Condition No.1B - Modification of Consent - Approved Plans and supporting documentation, to read as follows:

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require

otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
1995-1	C	Site Plan	J.D. Evans and Company	30 July 2024
1995-2	C	Lower Ground Floor Plan	J.D. Evans and Company	30 July 2024
1995-3	C	Upper Ground Floor Plan	J.D. Evans and Company	30 July 2024
1995-4	C	First Floor Plan	J.D. Evans and Company	30 July 2024
1995-5	C	North / South Elevation	J.D. Evans and Company	30 July 2024
1995-6	C	East / West Elevation	J.D. Evans and Company	30 July 2024
1995-7	C	Section A - A / Longitudinal Section	J.D. Evans and Company	30 July 2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

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

Signed



Nick England, Planner

The application is determined on 27/09/2024, under the delegated authority of:



Adam Richardson, Manager Development Assessments