

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0079
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Responsible Officer:	Kent Bull
Land to be developed (Address):	Lot 61 DP 771456, 188 McCarrs Creek Road CHURCH POINT NSW 2105 Lot PO 169846, 188 McCarrs Creek Road CHURCH POINT NSW 2105
Proposed Development:	Modification of Building Consent No.3233-87 granted for erection of additions
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Rhonda Gay Thorp
Applicant:	Rhonda Gay Thorp

Application Lodged:	18/03/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	10/06/2021 to 24/06/2021
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The application seeks the Modification of Building Consent No.3233-87 granted for erection of additions. In particular, the works include:

- New window placement including new larger windows on the northern elevation (lower and upper ground floor) and delete three existing windows; remove windows on south elevation and new highlight windows installed;
- Alter roof form, existing ridge retained pitched altered to 6.5 degrees; and
- Alter balcony to lower and upper ground floor plans. Square off approved balcony and reduce portion.

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 - 7.7 Geotechnical hazards
 Pittwater 21 Development Control Plan - A1.7 Considerations before consent is granted
 Pittwater 21 Development Control Plan - B5.13 Development on Waterfront Land
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
 Pittwater 21 Development Control Plan - B8.5 Construction and Demolition - Works in the Public Domain
 Pittwater 21 Development Control Plan - C1.1 Landscaping
 Pittwater 21 Development Control Plan - C1.3 View Sharing
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy
 Pittwater 21 Development Control Plan - D4.3 Building colours and materials
 Pittwater 21 Development Control Plan - D4.5 Front building line
 Pittwater 21 Development Control Plan - D4.6 Side and rear building line
 Pittwater 21 Development Control Plan - D4.8 Building envelope
 Pittwater 21 Development Control Plan - D4.10 Landscaped Area - Environmentally Sensitive Land
 Pittwater 21 Development Control Plan - D4.14 Scenic Protection Category One Areas
 Pittwater 21 Development Control Plan - D15.12 Development seaward of mean high water mark

SITE DESCRIPTION

Property Description:	Lot 61 DP 771456 , 188 McCarrs Creek Road CHURCH POINT NSW 2105 Lot PO 169846 , 188 McCarrs Creek Road CHURCH POINT NSW 2105
Detailed Site Description:	The subject site is known as 188 McCarrs Creek Road, Church Point and is legally referred to as Lot 61 DP 771456. The site consists of one (1) allotment located on the western side of McCarrs Creek Road.

The site is regular in shape with a frontage of 12.205m along McCarrs Creek Road and a depth of up to 41.01m to the Mean High Water Mark (MHWM). The site has a surveyed area of 478.1m². The site fronts McCarrs Creek, with the area beyond the MHWM being under the ownership of Crown Lands.

The site is located within the E4 Environmental Living zone and accommodates a two storey dwelling house. To the road frontage of the site is an enclosed garage with store room below and to the rear of the site is a sea wall and an associated jetty (these works do not form part of this application).

The slope of site is measured at 47.6%, falling approximately 19.54m from the road frontage to the MHWM.

The site contains terraced gardens within the front setback area with the rear portion of the property containing minimal vegetation due to a recent landslip event and tree removal.

The site is mapped within the Geotechnical Hazard Map, Northern Beaches Bush Fire Prone Land Map, Biodiversity Map, Estuarine Hazard Map and Foreshore Building Line Map.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by dwelling houses within a bushland/landscaped setting.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

21 October 1977

Building Application BA A110-77 for the 'erection of a dwelling' was granted approval by Council.

17 December 1987

Building Application BA 3233-87 for the 'erection of additions' was granted approval by Council.

18 June 2020

EPA2020/128 Stop Works Order issued by Council in relation to decking works off the western elevation of the upper and lower ground floor as well as the replacement and/or installation of windows and/or doors.

25 May 2020

Building Certificate BC2020/0093 was lodged in relation to 'Alteration and additions to an existing dwelling including upper and lower balcony extension, reconstruction and change of roof pitch and internal renovations' and has yet to be determined.

18 March 2021

Tree Permit TA2021/0166 for the removal of two trees is issued, subject to replacement tree plantings.

29 March 2021

Emergency Order LGA2021/0028 is issued by Council in relation ensuring that the land is kept in a safe

condition.

APPLICATION HISTORY

18 March 2021

Subject application is accepted by Council.

26 April 2021

Site inspection undertaken at the subject property by the assessing officer.

29 April 2021

The property owner/Applicant and site builder provide an email response to Council in relation to the submission received. The assessing officer sends an email response advising how Council public records can be accessed.

6 May 2021

Site inspection undertaken at the adjoining property No. 186 McCarrs Creek Road by the assessing officer.

18 May 2021

Following a request made by the property owner/Applicant, the assessing officer provides PDF copy of the original plans for BA A1101-77.

24 May 2021

Phone conversation between the Applicant's Town Planner and the assessing officer to discuss issues preventing Council from supporting the application.

2 June 2021

Email and phone correspondence between the Applicant and the assessing officer. Specifically the Applicant requests that the modification be made to Building Application 3233-87.

4 June 2021

Email correspondence between the assessing officer and Applicant to confirm that Council management will permit amendment to the modification application to now be in reference to Building Application 3233-87. Clarification was given by Council that there was a greater level of consistency '*substantially the same test*' with the 1987 approval than the 1977 approval in this instance.

The Applicant's Town Planner submits an amended Statement of Modification to refer to Building Application 3233-87.

7 June 2021

Email correspondence from the assessing officer to the Applicant advising that re-notification of the modification application had commenced.

10 June 2021

The Applicant provides Council with evidence of the re-notification sign erected on site.

23 June 2021

Following a request made from the neighbouring property owner, the assessing officer provides a PDF copy of Building Application 3233-87 via email.

25 June 2021

The Applicant sends an email to the assessing officer in response to concerns raised in a submission and evidence that the re-notification sign had been in place to the end of the notification period.

29 June 2021

The assessing officer sends the Applicant an email confirming that no further information or evidence is required in response to this submission.

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 Building Consent No.3233-87, 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
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 development to which the consent as modified relates is substantially the same development as the development for which	<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 Building Consent No.3233-87 for the following reasons:</p> <p>The modifications reflect window changes as well as alterations to</p>

Section 4.55 (2) - Other Modifications	Comments
<p>consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>the western roof pitch and balconies. Whilst these changes to the roof pitch appear to indicate a minor increase in height to what had previously been in place, its skillion form is consistent with previous approvals and remains below the prescribed building height. Consideration has been given to the window changes, in particular to the floor-to-ceiling windows along the northern elevation of the dwelling. While windows of such size are atypical along side elevations, the lowering of the sill height is not considered to result in an unreasonable privacy impact upon neighbours to the windows that were previously in place. Furthermore, these windows do not result in direct overlooking or views into the neighbouring dwelling. It is acknowledged that the northern-most extent of the rear decks appear to extend beyond that of the previous approved decks. It is also recognised that the depth of these decks appear reduced along the southern-most portion. These changes are not seen to result in any unreasonable amenity impacts on adjoining properties. A comparison of the modified proposal reveals that the overall building envelope, configuration, bulk and scale and design is largely consistent with the original approval. The consent authority can therefore be satisfied that the development as modified will be "essentially or materially" substantially the same as the approved development.</p>
<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>Building Consent No.3233-87 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</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 Environmental Plan 2014 and Pittwater 21 Development Control Plan.</p>

Section 4.55 (2) - Other Modifications	Comments
under section 72 that requires the notification or advertising of applications for modification of a development consent, and	
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 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	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 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. This matter can addressed via a condition of consent. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was not formally requested, however following concerns raised by Council questioning the modification being "substantially the same", the

Section 4.15 'Matters for Consideration'	Comments
	<p>Applicant requested that the modification be made against Building Consent No.3233-87.</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 clause is not relevant to this application.</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 matter can be addressed via a condition of consent.</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/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 the provisions of the Building Code of Australia (BCA). This matter can be 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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and

Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Australian Bushfire Consulting Services, dated 17 May 2021) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 10/06/2021 to 24/06/2021 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 3 submission/s from:

Name:	Address:
Miss Nikki Janice Smeaton	186 McCarrs Creek Road CHURCH POINT NSW 2105
Wainwright Legal	112 Condamine Street BALGOWLAH NSW 2093
Mr Andrew Tait	186 McCarrs Creek Road CHURCH POINT NSW 2105

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

- **Privacy - Upper and Lower Decks**

Comment:

Concerns were raised on behalf the adjoining property owners of No. 186 McCarrs Creek Road with regards to privacy impacts arising from the upper and lower decks subject to this application. In this regard, the submitted plans indicates 1.8m high fixed privacy screens along the northern (side) length of both decks. Consideration has therefore been given that appropriate privacy measures have been included in order to minimise overlooking towards No. 186 McCarrs Creek Road. Refer to further discussion under C1.5 Visual Privacy of the Pittwater 21 DCP of this report.

- **Privacy - Northern windows**

Comment:

Concerns were raised in the submission on behalf the adjoining property owners of No. 186 McCarrs with regards to the size of the two (2) floor to ceiling northern windows and the resulting visual privacy impacts. Consideration was given that despite the size of these side windows being atypical for its context, it is accepted that the extent of impact is not unreasonable when accounting for the windows that had previously been in this location. Further, these windows do not result in direct views or overlooking to the principal living areas or entertainment areas of No. 186 McCarrs Creek Road. Refer to further discussion under C1.5 Visual Privacy of the Pittwater 21 DCP of this report.

- **Landslip**

Comment:

The submission on behalf of the adjoining property owners of No. 186 McCarrs Creek Road also raised concern with a recent landslip event that occurred on the site and there the stability of the west facing decks as a result. In this regard, Council's Development Engineer has reviewed the submitted Geotechnical Assessment Report and has advised that all recommendations made in this report are to be incorporated should this application be approved. See further discussion under Clause 7.7 Geotechnical Hazards of the Pittwater LEP 2014 of this report.

- **Roof and building height**

Comment:

The submission also raised specific concerns on the disruption of views and amenity impacts on the occupants of No. 186 McCarrs Creek Road as a result of the roof works westwards of the ridge capping. In order to assess these concerns, the assessing officer undertook a view impact assessment from No. 186 McCarrs Creek Road on 6 May 2021. The overall increase to the building height and associated roof form is considered acceptable. Refer to further discussion under C1.3 View Sharing of the Pittwater 21 DCP of this report.

- **Stormwater run-off**

Comment:

The submission highlighted a number issues relating to the impact on stormwater run-off arising from the modified development. While a number of properties along the lower side of McCarrs Creek Road are impacted by overland flow, measures must be incorporated to ensure stormwater arising from the development. Conditions have therefore been recommended to ensure that stormwater run-off from the dwelling house is managed appropriately.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	<p>The proposed modification relates to alterations to the dwelling. The submitted Geotechnical report recommends some remedial works and upon completion of these works, a portion of the land will achieve an 'Acceptable' Risk in accordance with the 2009 Geotechnical Risk Management Policy for Pittwater. As this application is for a modification to a Building Application approval, it is unclear if a construction certificate and or occupation certificate will be required upon approval of this application.</p> <p>Provided that the remedial works are completed in accordance with the conclusion of the Geotechnical Report by White Geotechnical Group dated 22 May 2021, Development Engineers raise no objection approval.</p>

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 (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:

As the proposal was not seen to trigger the above considerations under Clause 45, a referral to Ausgrid was not made.

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:

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 proposed development is unlikely to cause an adverse impact to the integrity and resilience of the biophysical, hydrological (surface and ground water) and ecological environment, coastal environmental values and natural coastal process, the water quality of the marine estate, or to marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms. The proposed development does not restrict on any existing public open space or safe access along the foreshore for members of the public, including persons with a disability. The subject site has not been identified to contain any Aboriginal cultural heritage, practices of places, however, a recommended condition will be placed with the consent to ensure that if any Aboriginal engravings or relics are unearthed as par of the proposed development, works will cease immediately and the relevant authorities are notified. The proposed development is not likely to cause an adverse impact to the use of the surf zone.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in 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:

As as detailed above, the proposed development has been designed, sited and will be managed to avoid an adverse impact on the cultural and environmental aspects referred to in Subclause (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 proposed development is not likely to cause an impact on the existing access along the foreshore for members of the public, including persons with a disability and will not cause any overshadowing, wind tunneling or loss of views from public places to foreshores. The visual amenity and scenic qualities of the coast, including the coastal headlands will be preserved. As identified above, the site has not been identified to contain any Aboriginal cultural heritage, practices or places. The proposed development will also not have an adverse impact on the cultural and built environment heritage. It is considered that the proposed development has satisfied the requirement to be designed, sited and will be managed to avoid an adverse impact on the above mentioned cultural and environmental aspects. Furthermore, the proposed development is considered to be of an acceptable bulk, scale and size that is generally compatible with the surrounding coastal and built environment, which consists of low density residential dwellings and waterway structures facing the McCarrs Creek.

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:

Considered has been given that the proposed development will not likely cause increased risk of coastal hazards on the subject site or other land.

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

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	7.87m (as reflected in Building Consent No.3233-87 and architectural plans by Absolute Building Designers dated 06.05.21)	8.377m	-	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
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

7.7 Geotechnical hazards

The subject site is mapped under the Geotechnical Hazard Map - W Hazard H1. Council's Development Engineer has provided the following comments with regards to the Geotechnical matters concerning this application:

"The proposed modification relates to alterations to the dwelling. The submitted Geotechnical report recommends some remedial works and upon completion of these works, a portion of the land will achieve an 'Acceptable' Risk in accordance with the 2009 Geotechnical Risk Management Policy for Pittwater. As this application is for a modification to a Building Application approval, it is unclear if a construction certificate and or occupation certificate will be required upon approval of this application.

Provided that the remedial works are completed in accordance with the conclusion of the Geotechnical Report by White Geotechnical Group dated 22 May 2021, Development Engineers raise no objection approval."

Accordingly, relevant geotechnical conditions have been placed prior to the issuance of any Occupation Certificate.

Pittwater 21 Development Control Plan

Built Form Controls

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Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	5.8m (Dwelling House)	unaltered	No, however building footprint remains largely unchanged from BA3233-87
Rear building line	Foreshore Building Line applies	16.07m	15.7m	Yes
Side building line	2.5m	0.9m (North)	0.9m	No, however building footprint remains largely unchanged from BA3233-87
	1m	0.9m (South) Nil to stair landing	0.7m (lower balcony)	No, however building footprint remains largely unchanged from BA3233-87
Building envelope	3.5m	Outside envelope	Outside envelope	No
	3.5m	Outside envelope	Outside envelope	No
Landscaped area	60%	55.8% (211.6m ²)	54.2% (219.4m ²)	No, however building footprint remains largely unchanged from BA3233-87

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.4 Church Point and Bayview Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B5.13 Development on Waterfront Land	No	Yes
B5.15 Stormwater	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	No	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D4.1 Character as viewed from a public place	Yes	Yes
D4.3 Building colours and materials	No	Yes
D4.5 Front building line	No	Yes
D4.6 Side and rear building line	No	Yes
D4.8 Building envelope	No	Yes
D4.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D4.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D4.14 Scenic Protection Category One Areas	No	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes

Detailed Assessment

A1.7 Considerations before consent is granted

A site inspection confirmed that a number of proposed changes, including window and door changes have already been completed.

Modification applications can be granted retrospective approval under NSW case law as established in the case of *Windy Dropdown Pty Ltd v Warringah Council [2000] NSWLEC 240*. Commissioner J. Talbot considered the following:

the broad construction of s 96 (now referred to as s 4.55) leads to a practical result that enables a consent authority to deal with unexpected contingencies as they arise during the course of construction of development or even subsequently, provided of course that the development to which the consent as modified relates is substantially the same development.

Therefore, although some of the works which form the basis of this section 4.55 application have

already been undertaken, modification approval can still be granted. The changes which have already been undertaken do not adversely impact on the amenity, including visual privacy of neighbouring properties (see C1.5 Visual Privacy), therefore the modifications are supported.

B5.13 Development on Waterfront Land

In accordance with the requirements of this clause, 'waterfront land in a degraded state, should be restored and rehabilitated' and 'development adjoining waterfront land is to be landscaped with local native plants'. It is acknowledged that whilst the modification is largely limited to the existing building footprint, that recent tree removal and a landslide/collapse event has resulted in the western portion of the property to the Mean High Water Mark being largely devoid of vegetation. Whilst it is understood that the Applicant seeks to remediate the western side of the property in the future, this modification application has not demonstrated such a provision. It has therefore recommended that at least two (2) native canopy trees be planted between the dwelling house and the Mean High Water Mark to address the requirements of this clause, in addition (but not limited to) to those under Clause 7.6 (Biodiversity protection), Clause A4.4 (Church Point and Bayview Locality), Clause C1.1 (Landscaping), Clause D4.10 (Landscaped Area – Environmentally Sensitive Land) and D4.14 (Scenic Protection Category One Areas). Standard conditions are recommended in relation to management of stormwater run-off, in accordance with Council's Water Management for Development Policy.

Subject to compliance with these conditions, the application is considered acceptable on merit and capable of satisfying the outcomes of this clause.

B6.3 Off-Street Vehicle Parking Requirements

The submitted Site Plan (Dwg. No. THORP 1 of 4, dated 06.05.21) indicates the location of a car parking structure to the road frontage of the site which appears to have dimensions appropriate to accommodate at least two (2) vehicles. It should be noted that this structure does not form part of this application and appears to encroach the front boundary into Council's road reserve.

B8.5 Construction and Demolition - Works in the Public Domain

No approval is issued for any works in the public domain.

C1.1 Landscaping

The requirements of this clause state that 'At least 2 canopy trees in the front yard and 1 canopy tree in the rear yard are to be provided on site. Where there are existing canopy trees, but no natural tree regeneration, tree species are to be planted to ensure that the canopy is retained over the long-term. Where there are no canopy trees the trees to be planted are to be of sufficient scale to immediately add to the tree canopy of Pittwater and soften the built form'. As discussed earlier in this report, there is currently no native canopy trees existing or proposed to the rear of the dwelling. Whilst it is accepted that there is limited opportunities for tree plantings within the front yard due to existing site constraints, consideration has been given that there is ample area within west of the dwelling house to accommodate such trees. As such, conditions have been recommended for at least two (2) native trees to be planted to ensure the long-term retention of the local tree canopy and to soften the built form of the resultant development when viewed from McCarrs Creek. Furthermore, the provision of such trees are seen to address outcomes that seek to reduce risk of landslip, as well as those outcomes aiming to enhance the habitat and amenity value of Church Point.

Subject to compliance with these conditions, the proposal is considered acceptable on merit and considered is considered to satisfy the outcomes of this clause.

C1.3 View Sharing

As discussed earlier in this report, concerns were raised on behalf of the property owners of No. 186 McCarrs Creek Road with regards to the potential of the development impeding views towards McCarrs Creek. A view impact inspection undertaken at No. 186 McCarrs Creek Road on 6 May 2021, identified that water views at both a seated and standing level towards McCarrs Creek and the Ku-ring-gai Chase National Park were obtained from the ground living areas (Figure 1, Figure 2) and the upper floor bedrooms (Figure 3). An assessment against the submitted plans reflect that the proposed development will have a minor impact upon these views (Figure 3), with water views largely remaining unchanged and only a limited extent of the bushland views being impacted. It should also be noted that views over side boundaries are more difficult than the protection of views from front and rear boundaries. Based on the above, the application has demonstrated that a reasonable sharing of views has been achieved in accordance with the planning principles established in *Tenacity Consulting v Warringah Council [2004] NSW LEC 140*.



Figure 1: Photo taken at a standing level from the northern side of the living/dining room looking southwards to No. 188 McCarrs Creek Road.



Figure 2: Photo taken at a standing level from the balcony to the living/dining room looking southwards

to No. 188 McCarrs Creek Road.



Figure 3: Photo at a standing level from the upper level balcony to the bedrooms looking southwards to No. 188 McCarrs Creek Road.



Figure 4: Image taken at a standing level from the balcony to the living/dining room looking directly westwards to McCarrs Creek.

C1.5 Visual Privacy

The proposed western terrace and balcony are non-compliant with requirement to incorporate privacy screens to prevent the direct overlooking of the private open space areas of No. 190 McCarrs Creek Road (Figure 5). As the distance between the proposed terrace/balcony and the private open space areas of No. 190 McCarrs Creek Road is less than 9m, a condition is recommended for a 1.8m high fixed privacy screen to be installed along the southern extent. The modification also proposes two large floor to ceiling windows (Figure 6, Figure 7) along the northern elevation which have been the subject to objections raised on behalf of the neighbouring property owners at No. 186 McCarrs Creek Road. It should be recognised that while windows were previously in place in the same locations, that the sill heights have been effectively been reduced to the floor level. Despite this additional glazing and no

privacy measures being incorporated, consideration has been given these windows do not result in direct views of the private open space or any habitable room window of No. 186 McCarrs Creek Road. As such, it is not recommended that additional screening or fixed translucent glazing need to be incorporated to these windows.



Figure 5. Photo taken from the lower ground terrace looking southwards to No. 190 McCarrs Creek Road.



Figure 6. Photo taken from the upper ground floor dining area looking northwards to No. 186 McCarrs Creek Road.



Figure 7. Photo taken from the lower ground floor family room looking northwards to No. 186 McCarrs Creek Road.

Subject to compliance with these conditions, the modifications are considered to meet the outcomes of this clause and is supported on merit.

D4.3 Building colours and materials

The modification application seeks to maintain an existing 'white' colour scheme that is non-compliant with the requirement for the use of 'dark and earthy tones'. Whilst the use of the colour 'white' as an external finish is not in harmony with the surrounding natural environment, it is acknowledged that the extent of the modifications are limited. Further, the tree plantings as required under this consent are considered to help minimise the prominence of the development and ensure that the resultant development enhances the visual character of its location with the natural landscapes of Church Point.

Based on the above, the proposal is considered to achieve the outcomes of this clause is supported on merit.

D4.5 Front building line

The modifications to the dwelling house have been measured at 5.8m from the front boundary and is therefore technically non-compliant with the 6.5m prescribed front setback control. Despite this, it is acknowledged that the modified works to the eastern windows and gable entry are largely contained within the building footprint as reflected in Building Application No. BA3233-87. Furthermore, due to the sloping nature of the site, the dwelling house is seen as a single storey when viewed from McCarrs Creek Road therefore minimising its overall visual dominance. The modified works are not considered to unreasonably impact upon views or vistas from to and/or from public/private places.

Based on the above, the non-compliance is considered to meet the outcomes of this clause and is supported on merit.

NB: As highlighted earlier in this report, the car parking structure and any associated works do not form part of this consent.

D4.6 Side and rear building line

Requirement:

2.5m to at least one side; (North)
1.0m for other side (South)

Proposed:

0.9m (North)
0.7m (South)

The modified works, specifically the west facing upper and lower decks and the windows along the northern and southern elevations are non-compliant with the side setback control. As discussed under Clause D4.5 (Front building line) of this report, it is accepted that the modified works are largely contained within the building footprint as reflected in Building Application No. BA3233-87. Whilst it appears evident that the ground floor terrace and upper floor balcony appear to result in a further breach to the southern setback area, the stamped plans for Building Application No. BA3233-87 indicate an external staircase previously connected to these decks being in a similar location. Consideration has been given that whilst a privacy screen has been installed along the northern elevation of the ground floor terrace and upper floor balcony, that no such provision has been made to address overlooking towards the southern adjoining property at No. 190 McCarrs Creek Road. To ensure a reasonable level of privacy and amenity is maintained for the occupants of this property, a condition is recommended for the installation of privacy screens along the southern extent of both the terrace and balcony. The modified works are seen to be generally consistent with providing a reasonable sharing of views and solar access to adjoining properties. Furthermore, while opportunities for landscaping along the side setback areas are limited, conditions have been placed for tree plantings to the rear to assist with achieving the relevant landscaping outcomes of this clause.

Based on the above, the non-compliance is considered to meet the outcomes of this clause and is supported on merit.

D4.8 Building envelope

The modifications, in particular the raising of the western portion of the roof, results in a further breach to the prescribed building envelope. At its maximum extent, the northern elevation breaches the building envelope by 2.7m. Along the southern elevation, dwelling house breaches the building envelope by 3.1m. Despite this further breach, it should be acknowledged that the existing dwelling house as reflected in BA3233-87 appears to also breach the building envelope. Consideration has been given that the modified development minimises the bulk and scale of the built form by remaining below the 8.5m building height development standard. Furthermore, a reasonable sharing of views is achieved through limiting the extent of the building works to behind the Foreshore Building Line. The increased breach is considered to maintain a reasonable level of solar access and, subject to conditions, considered to achieve a reasonable level of privacy within the development site and to adjoining properties.

Based on the above, the proposal is considered to meet the outcomes of this clause and is supported on merit.

D4.10 Landscaped Area - Environmentally Sensitive Land

The modified development proposed 54.2% (219.4m²) of the site area to be dedicated towards landscaping, which is inconsistent with the requirement for 60% of the site to be landscaped area. It should however be acknowledged that Building Consent No. BA3233-87 appears to indicate a provision of 55.8% (211.6m²) of the site to landscaped area. Furthermore, the variations within this clause permit up to 6% of

the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only. On this basis, the overall breach to the landscaped area is considered to be minimal. The bulk and scale of the built form is also seen to be minimised, through the modified works being largely within the building footprint as indicated in Building Consent No. BA3233-87. As discussed throughout this report, a reasonable level of amenity and solar access is also considered to be provided and maintained. Conditions have also been applied for the provision of at least two (2) native canopy trees within the rear yard to the west, which seeks to address the outcomes for the preservation and enhancement of the area's bushland character, the conservation of area's biodiversity whilst also assisting to visually reduce the built form when viewed from McCarrs Creek. Conditions are also to be applied to ensure stormwater run-off arising from the development is managed appropriately.

Subject to the compliance with conditions, the modification is considered to meet the outcomes of this clause and is supported on merit.

D4.14 Scenic Protection Category One Areas

The modified development is inconsistent with the requirements of this clause for 'canopy trees are required between dwellings and boundaries facing waterways and waterfront reserves' and for 'the development must incorporate the use of unobtrusive and non-reflective materials and the colours of exterior surfaces shall help blend structures into the natural environment'. The controls also outline requirements for the regeneration of native vegetation outside the area immediately required to carry out development and for there to be screen planting between structures and boundaries facing waterways. As highlighted earlier in this report, it is acknowledged that recent tree removal and a landslide/collapse event has resulted in the western portion of the property to the Mean High Water Mark being largely devoid of vegetation. In order to address the requirements of this clause, conditions have been recommended that at least two (2) native canopy trees be planted between the dwelling house and the Mean High Water Mark. As discussed under Clause D4.3 Building colours and materials, the maintenance of the existing non-compliant 'white' colour scheme is acceptable on merit.

Subject to compliance with these conditions, the application is considered acceptable on merit and capable of satisfying the outcomes of this clause.

D15.12 Development seaward of mean high water mark

No works are proposed seaward of the Mean High Water Mark.

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. Mod2021/0079 for Modification of Building Consent No.3233-87 granted for erection of additions on land at Lot 61 DP 771456, 188 McCarrs Creek Road, CHURCH POINT, Lot PO 169846, 188 McCarrs Creek Road, CHURCH POINT, 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
THORP 1 of 4 (Site Plan)	06.05.21	Absolute Building Designers
THORP 2 of 4 (Upper Ground Floor Plan, Lower	06.05.21	Absolute Building Designers

Ground Floor Plan)		
THORP 3 of 4 (East Elevation, South Elevation, West Elevation, North Elevation)	06.05.21	Absolute Building Designers
THORP 4 of 4 (Section A-A)	06.05.21	Absolute Building Designers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Assessment Report, Ref. 20-213	17 May 2020	Australian Bushfire Consulting Services
Geotechnical Report, Ref. J2498A	22 May 2020	White Geotechnical Group Pty Ltd
Geotechnical Addendum, Ref. J2498B	30 March 2021	White Geotechnical Group Pty Ltd

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

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

B. Add Condition 10 - "Amendments to the approved plans" to read as follows:

Amendments to the approved plans

The following amendments are to be made to the approved plans:

- Privacy screens to a height of 1.8m from the finished floor levels are to be located along the length of the southern side of the proposed lower ground terrace and upper ground balcony.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the commencement of works.

Reason: To ensure development minimises unreasonable privacy impacts upon surrounding land.

C. Add Condition 11 - "Prescribed Conditions" to read as follows:

Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

A. the name and licence number of the principal contractor, and

B. the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

A. the name of the owner-builder, and

B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

(i) protect and support the adjoining premises from possible damage from the excavation, and

(ii) where necessary, underpin the adjoining premises to prevent any such damage.

(iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

(iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

D. Add Condition 12 - "General Requirements" to read as follows:

General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

7.00 am to 5.00 pm inclusive Monday to Friday,

8.00 am to 1.00 pm inclusive on Saturday,

No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

(b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.

(c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(d) Where demolition works have been completed and new construction works have not commenced

within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

i) Building/s that are to be erected

ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

iii) Building/s that are to be demolished

iv) For any work/s that is to be carried out

v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

(i) Swimming Pools Act 1992

(ii)

Swimming Pools Amendment Act 2009

(iii) Swimming Pools Regulation 2018

(iv)

Australian Standard AS1926 Swimming Pool Safety

(v)

Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools

(vi)

Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

E. Add Condition 13 - "Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans" to read as follows:

Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Assessment dated 22/5/20, and as updated in Geotechnical Addendum, Ref. J2498B dated 30 March 2021 prepared by White Geotechnical Group Pty Ltd are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the commencement of works.

Reason: To ensure geotechnical risk is mitigated appropriately.

F. Add Condition 14 - "Compliance with Standards" to read as follows:

Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the commencement of works.

Reason: To ensure the development is constructed in accordance with appropriate standards.

G. Add Condition 15 - "Sydney Water "Tap In"" to read as follows:

Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:
"Tap in" details - see <http://www.sydneywater.com.au/tapin>
Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

H. Add Condition 16 - "Stormwater Drainage Disposal" to read as follows:

Stormwater Drainage Disposal

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council approval must be provided to the Certifying Authority prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

I. Add Condition 17 - "Aboriginal Heritage" to read as follows:

Aboriginal Heritage

Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Aboriginal Heritage Protection.

J. Add Condition 18 - "Building Materials and Sedimentation" to read as follows:

Building Materials and Sedimentation

No building materials or other materials are to be placed on or enter areas of bushland, wetland, saltmarsh, seagrass or foreshore vegetation.

Reason: Environmental Protection.

K. Add Condition 19 - "No approval for car parking structure and associate store" to read as follows:

No approval for car parking structure and associate store

No approval is granted under this Consent for the car parkign structure and associated store room

below.

Reason: To ensure compliance with the relevant Local Environmental Plan.

L. Add Condition 20 - "Survey Certificate" to read as follows:

Survey Certificate

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To demonstrate the proposal complies with the approved plans.

M. Add Condition 20 - "Geotechnical Certification Prior to Completion of Works" to read as follows:

Geotechnical Certification Prior to Completion of Works

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Assessment dated 22/5/20, and as updated in Geotechnical Addendum, Ref. J2498B dated 30 March 2021 prepared by White Geotechnical Group Pty Ltd are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the completion of works.

Reason: To ensure geotechnical risk is mitigated appropriately.

N. Add Condition 21 - "Stormwater Drainage Disposal Certification" to read as follows:

Stormwater Drainage Disposal Certification

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Certifying Authority prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the completion of works.

Reason: To ensure satisfactory management of stormwater.

O. Add Condition 22 - "Installation of Privacy Screens" to read as follows:

Installation of Privacy Screens

Prior to the completion of the development, evidence shall be provided to the Certifying Authority that the privacy screens have been installed in accordance with the approved plans and conditions of consent.

Reason: To maintain privacy.

P. Add Condition 23 - "Tree Plantings (Rear Yard)" to read as follows:

Tree Plantings (Rear Yard)

Landscaping is to be implemented in accordance with the following requirements:

- i) At least two (2) native canopy trees selected from the below species list are to be planted within between the dwelling house and the Mean High Water Mark.
- ii) Each tree planting shall be a minimum 75 litre container size, located within 9m² deep soil area wholly within the site and be located a minimum of 5 metres from existing and proposed buildings, and other trees.
- iii) The tree species may be selected from the following list: *Allocasuarina littoralis* – Black She-oak, *Allocasuarina torulosa* – Forest Oak, *Angophora costata* - Sydney Red Gum/Smooth-barked Apple, *Angophora floribunda* - Roughbarked Apple, *Eucalyptus botryoides* - Bangalay Gum, *Eucalyptus maculate* - Spotted Gum, *Eucalyptus punctate*- Grey Gum, *Eucalyptus umbra* - Bastard Mahogany, *Glochidian ferdinandi* - Cheese Tree or *Syncarpia glomulifera* – Turpentine.

Prior to the completion of the development, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the tree plantings have been completed in accordance with the conditions of consent.

Reason: To maintain the natural environment/native tree canopy of Pittwater as the predominant feature of the landscape with built form being a secondary component when viewed from the waterway.

Q. Add Condition 24 - "Geotechnical Recommendations" to read as follows:

Geotechnical Recommendations

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

R. Add Condition 25 - "Landscape Maintenance" to read as follows:

Landscape Maintenance

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

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

Signed



Kent Bull, Planner

The application is determined on 02/07/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments