

GYDE

Modification Application

346- 352 Whale Beach Road, Palm Beach

submitted to Northern Beaches Council
on behalf of The Applicant

This report was prepared by:

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1. INTRODUCTION

This planning statement has been prepared by GYDE Consulting (GYDE) on behalf of the applicant to support a Section 4.55(1A) modification application to Northern Beaches Council (Council). The application is to amend the approved development application DA2021/0268 relating to the redevelopment of 346- 352 Whale Beach Road, Palm Beach.

The original approval, DA2021/0268, relates to demolition of the existing site structures, construction of a new dwelling house, lot consolidation of Lots 328- 330, landscaping works and bushfire hazard reductions works on Lot 327.

The purpose of this report is to describe the proposed amendments, review the applicable planning regime relating to the proposal, assess the degree of compliance and examine the environmental impacts of the development when measured against the relevant requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

A detailed description of the proposal is provided in Section 2 and assessment against the matters for consideration under Section 4.55 of the EP&A Act in Section 3.

The proposed modification to DA2021/0268 sought in this application can be summarised as follows:

- Minor increase in the approved excavation volume by 179m³;
- Minor internal amendments on all levels;
- Adjustment to skylights, roof parapets and minor increase of a stone wall at the upper level; and
- Minor extension of roof eaves at south-west corner of approved building in the westerly direction by 600mm.

The application has been prepared after taking into account the following key issues:

- Legislative requirements relating to the modification of a consent;
- Compliance with environmental planning instruments;
- Likely impacts of the development as amended;
- Suitability of the site; and
- The public interest.

This report has been prepared in association with amended architectural plans prepared by Harry Seidler & Associates dated September 2021 which accompany this application. It is considered that the proposed amendments result in substantially the same development and do not result in any adverse environmental impacts over and above those that were approved in the original development application.

2. THE APPROVED DEVELOPMENT

Consent No DA2021/0268 was granted by Northern Beaches Council on 14 July 2021 for:

“Demolition works, lot consolidation and construction of a dwelling house including swimming pool.”

The original consent applies to land legally described as:

- Lot 327 DP 16362 (346 Whale Beach Road)
- Lot 328 DP16362 (348 Whale Beach Road)
- Lot 329 DP16362 (350 Whale Beach Road)
- Lot 330 DP16362 (352 Whale Beach Road)

Consolidation was approved for Lots 328, 329 and 330 and bushfire hazard reduction works on Lot 327 to the south of the development lots.

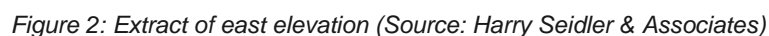
3. PROPOSED MODIFICATION

3.1. Overview and Justification of Modifications

The proposed modification involves an amendment to the approved dwelling house at the site. The amendments result in changes to the approved architectural plans prepared by Harry Seidler & Associates. The modifications include:

- Increase the width of the garage and level 0- 2 and 0- 3 by 300mm below ground;
- Adjust internal planning at levels 0- 2 and 0- 3 including amending the store to a bedroom and ensuite on level 0-2 and store to bed loft on level 0- 3, adding a window, deleting the split level and increase the width of the building envelope by 300mm;
- Add and relocate structural columns at Level 0- 1 and 1;
- Minor increase in the extent of excavation from 3,114m³ to 3,293m³ (179m³ increase) due to planning changes and latent conditions;
- Adjust internal planning at Level 0- 4 including adding a lift stop, corridor for plant, amend the stair and add gardener's bathroom;
- Amend skylight locations at Level 0- 4;
- Minor amendments to internal planning at Level 1;
- Increase the width of the external stair on levels 1 and 2;
- Amend the planning of the swimming pool on levels 1 and 2;
- Amend location of openable panels in glazing at level 1 (bedrooms) and level 2 (pool terrace);
- Add bath to master ensuite on level 2;
- Add glass door and adjust glazing at level 2 beside fireplace;
- Increase window size overlooking pool at level 2 master bedroom;
- Lower the landing level (lift/stair) at the roof level;
- Amend design of screen wall and fireplace on roof;
- Minor extension of roof eaves at south-west corner of approved building in the westerly direction by 600mm;
- Relocate glass skylights to top of stone towers, amending approved uncapped stone parapets so a visible metal trim can be seen;
- Minor increase in the height of the stone wall as seen in Section A from RLRL66.725 to RL66.925 (200mm increase) to achieve a workable freeboard for water proofing of the roof.

The proposed changes, which are mostly internal and not visible from the public domain, have resulted from detailed design development.



Refer to the amended architectural plans prepared by Harry Seidler & Associates for detail.

3.2. Conditions to be Modified

Consent is sought to amend Condition 1(a) Approved Plans. Table 1 details these amendments.

Table 1: Proposed amendments to conditions

APPROVED CONDITION			PROPOSED AMENDMENT		
1. Approved Plans and Supporting Documents The development must be carried out in compliance (except as amended by any other condition of consent with the following) a) Approved Plans			1. Approved Plans and Supporting Documents The development must be carried out in compliance (except as amended by any other condition of consent with the following) a) Approved Plans		
Drawing No.	Dated	Prepared by	Drawing No.	Dated	Prepared by
005 Issue E – Site Plan (Level 1)	09 March 2021	Harry Seidler & Associates	005 Issue G – Site Plan (Level 1)	06 Sep 2021	Harry Seidler & Associates
006 Issue N – Site Plan (Level 2)	09 March 2021		006 Issue Q – Site Plan (Level 2)	6 Sep 2021	
010 Issue H – Plan Level 0 – 1	09 March 2021		010 Issue L – Plan Level 0 – 1	14 Sep 2021	
011 Issue G – Plan 0 - 2	09 March 2021		011 Issue K – Plan 0 - 2	14 Sep 2021	
012 Issue G – Plan Level 0 – 3	09 March 2021		012 Issue K – Plan Level 0 – 3	14 Sep 2021	
013 Issue H – Plan Level 0 – 4	09 March 2021		013 Issue L – Plan Level 0 – 4	14 Sep 2021	
020 Issue T – Plan Level 1	09 March 2021		020 Issue W – Plan Level 1	14 Sep 2021	
030 Issue T – Plan Level 2	09 March 2021		030 Issue W – Plan Level 2	14 Sep 2021	
040 Issue R – Plan Roof	09 March 2021		040 Issue U – Plan Roof	14 Sep 2021	
050 Issue R – East Elevation	09 March 2021		050 Issue U – East Elevation	14 Sep 2021	
051 Issue G – South Elevation	09 March 2021		051 Issue K – South Elevation	14 Sep 2021	
052 Issue F – North Elevation	09 March 2021		052 Issue H – North Elevation	14 Sep 2021	
060 Issue J – Section A	09 March 2021		060 Issue M – Section A	14 Sep 2021	
061 Issue L – Section B	09 March 2021		061 Issue P – Section B	14 Sep 2021	
062 Issue J – Section	09 March		062 Issue M – Section	14 Sep	

APPROVED CONDITION			PROPOSED AMENDMENT		
C	2021		C	2021	
063 Issue J – Section D	09 March 2021		063 Issue M – Section D	14 Sep 2021	
064 Issue H – Section E	09 March 2021		064 Issue L – Section E	14 Sep 2021	
065 Issue F – Section F	09 March 2021		065 Issue J – Section F	14 Sep 2021	
066 Issue F – Section G	09 March 2021		066 Issue G – Section G	06 Sep 2021	

4. MATTERS FOR CONSIDERATION UNDER SECTION 4.55

4.1. Overview

Section 4.55(1A) of the EP&A Act outlines the matters that a consent authority must take into consideration when determining an application that seeks to modify an existing consent involving minimal environmental impact.

The matters for consideration under Section 4.55(1A) of the EP&A Act that apply to the modification of DA2021/0268 have been considered in Table 2.

Table 2: Section 4.55(1A) Consideration

SECTION 4.55(1A) EVALUATION	CONSIDERATION
(a) it is satisfied that the proposed modification is of minimal environmental impact	<p>The development as modified is substantially the same development as approved and does not result in any significant change to the development as proposed. Notwithstanding, consideration of the environmental impacts caused as a result of this modification is provided below.</p> <p>Visual Impact Most of the changes are internal and are not visible from the public domain. Changes which result in a minor change in the visual presentation of the building are amendment to the skylights/roof parapets, minor increase to the stone wall at the roof by 200mm and increase in various window/glazing on level 1 and 2. The amendment in the capping detail of the stone towers means metal trim is visible and creates visual interest. The increase in the stone wall by 200mm at the roof as illustrated in Section A will result in very minor change to the presentation of the wall as originally approved. Having regard to the context of the approved building and varying heights of roof structures, the amended stone wall will not cause adverse visual impact. The changes are not considered to cause negative visual impacts.</p> <p>Views The approved development resulted in minor and inconsequential view loss from the oblique view across the subject site looking north and north-east. The proposed amendments in this modification application do not cause any additional view loss.</p> <p>Overshadowing Harry Seidler & Associates confirm there are no additional shadow impacts with the minor changes proposed.</p> <p>Acoustic As shown on the amended architectural plans, the changes involve amending storage to a bedroom/bathroom on level 0-2 and bed loft on level 0-3. The</p>

SECTION 4.55(1A) EVALUATION	CONSIDERATION
	<p>adjacent plant is water storage. The only noise to be generated by pumps is located remotely within the room. The pumps activate the water supply to garden hoses and the swimming pool, meaning they are activated infrequently; however, they will be treated acoustically to mitigate both structure-borne and air-borne sound for the building occupants and neighbours.</p> <p>Internal amenity The proposed modifications improve the internal amenity of the dwelling house. The reconfiguration of the pool area and minor amends on levels 0- 2 and 0- 3 elevate the functionality of the spaces for the future residents.</p> <p>Landscaping and stormwater The proposed amendments do not result in changes to the approved landscape or stormwater design and as such do not cause any environmental impacts.</p> <p>Conclusion With regard to the above, we consider that the proposed modifications will result in no environmental impacts.</p>
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all) under this section	As previously stated, the proposed modification to one condition of consent does not seek to change the nature and substance of the approved development. The overall use, scale and intensity of the development on the site will remain unchanged. We therefore consider that the development (as modified) will remain substantially the same as the development that was originally approved.
(c) the application has been notified in accordance with the regulations	The modification application may be notified in accordance with the <i>Environmental Planning and Assessment Regulation 2000</i> .
(d) any submission made concerning the proposed modification has been considered	Council will consider any submissions received as a result of the notification process, if required.

Subsection (1), (2) and (5) under Section 4.55 of the EP&A Act do not apply to modifications involving minimal environmental impact as is proposed by this application. Subsection (4) is an advisory matter and does not require further matters to be considered.

Section 4.55(3) of the EP&A Act, however, requires that:

“(3) In determining an application for modification of a consent under this section, 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 environmental assessment matters relevant to the proposed modified development under Section 4.15(1) (a), (b), (c), (d) and (e) of the EP&A Act are addressed in Section 3.2 below.

4.2. Section 4.15(1) Considerations (Section 4.55(3))

The environmental assessment matters relevant to the proposed modified development under Section 4.15(1) (a), (b), (c), (d) and (e) of the EP&A Act are addressed below.

Environmental Planning Controls

The principal planning controls applying to the development are contained in:

- State Environmental Planning Policy (Coastal Management) 2018
- Pittwater Local Environmental Plan 2014
- Pittwater Development Control Plan 2014

State Environmental Planning Policy (Coastal Management) 2018

The Policy aims to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act* 2016. The site is within a coastal environmental area and coastal use area. The proposed modification is consistent with clauses 13, 14, 15 and 16 of the SEPP as:

- The risk of coastal hazards is not increased at the site; and
- The site is not subject of a coastal management program.

Pittwater Local Environmental Plan 2014

The proposal remains consistent with the relevant provisions of the Pittwater Local Environmental Plan 2014 (PLEP).

- Land use zoning – E4 Environmental Living – dwelling houses are permissible with consent – modification involves minor amendment to the approved dwelling house.
- Height of buildings – the proposed modification involves a minor change to the approved height of the building at the top of the stone screen wall. The increase in the stone screen wall by 0.2m from RL66.725 to RL66.925, results in a further minor exceedance of the height of buildings development standard approved with the original DA. The approved development exceeds the 8.5 metre development standard by 2.365m and the 10 metre ‘allowance’ due to the slope of the land by 0.807m. The 200mm increase does not cause in any adverse visual impact, view or overshadowing impacts as discussed earlier in this statement and despite the change, the stone wall continues to sit lower than the majority of the roof structures. Refer to below amended height plane diagrams.

Section 4.55 Modification Application

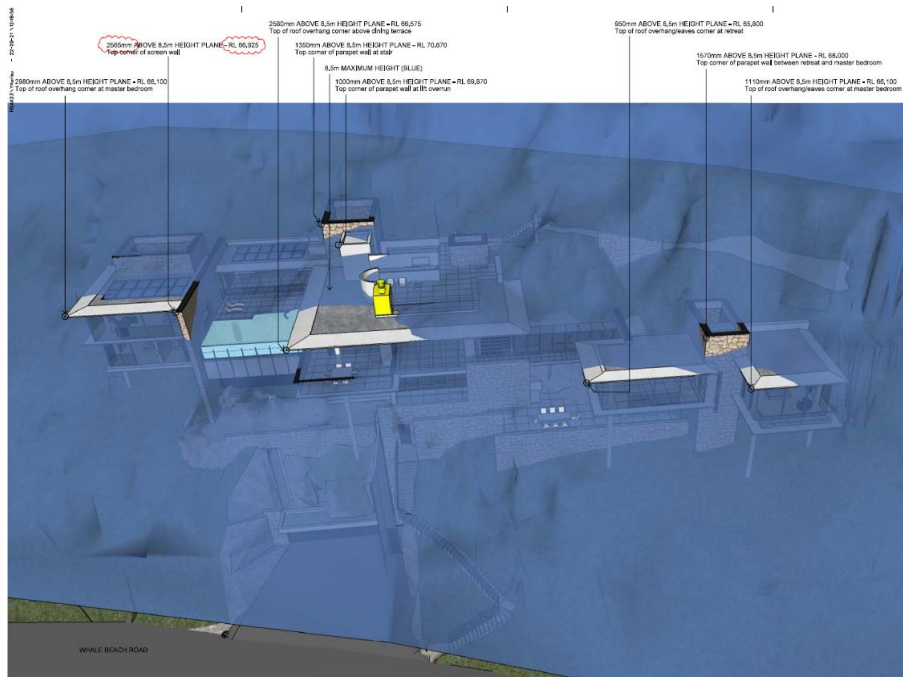


Figure 3: Amended 8.5 metre height plane diagram (Source: Harry Seilder & Associates)



Figure 4: Amended 10 metre height plane diagram (Source: Harry Seilder & Associates)

Other proposed changes do not amend the approved building height.

- Floor space ratio – the site is not subject of a maximum FSR.
- Heritage conservation – The dwelling as modified does not cause any material impacts on local heritage item 'Cox House'.
- Geotechnical hazards – the proposed changes do not increase geotechnical hazard risks.

In summary, the subject modification application is consistent with the relevant provision of the PLEP.

Pittwater Development Control Plan 2014

An assessment of the proposed modification against the relevant provision of the Pittwater Development Control Plan 2014 (PDCP) is provided in the below table.

Table 3: Consistency with PDCP

PROVISION	RESPONSE
B1.2 Heritage Conservation – Development in the vicinity of heritage	The proposed amendments do not cause impacts to the nearby 'Cox House'. City Plan Heritage assessed in DA2021/0268 that the building utilises a design and materials that is respectful to the surrounding setting and sympathetic to the characteristics of the built environment in the area. This is unchanged in this modification application, hence provision B1.2 is achieved.
B3.1 Landslip Hazard	The proposal in the context of the changes continues to be suitable on the land and will not cause adverse risk for people, assets or infrastructure.
C1.6 Acoustic privacy	The proposed bedroom and bed loft on level 0- 2 and level 0- 3, respectively, are located in proximity of water storage. The room will infrequently supply water to garden hoses and the pool. They will be acoustically treated during the construction certificate phases to mitigate both structure-borne and air-borne sound.
D12.1 Character as viewed from a public place	The minor amendments to the design which are visible from Whale Beach Road are compatible with the dwelling house approved in DA2020/0268 and the design characteristics of the locality.

Environmental Impacts and Site Suitability

There is nothing with respect to the modifications that would result in any adverse environmental impact (noting visual impact and acoustic in Section 3.1 above) or affect the suitability of the site for the development as approved or as proposed to be modified. The proposed modification result in positive environmental impacts improving the internal amenity of the dwelling house.

The Public Interest

No public interest issues arise as a consequence of the proposed modifications. Council's intentions in imposing conditions to preserve the public interest are not affected, since the proposed modifications continue to give effect to those general intentions, simply in a more practical and achievable way.

5. CONCLUSION

This application seeks consent to modify development consent DA2021/0268. The modification seeks to amend the approved architectural plans in condition 1(a) to reflect a series of minor internal and external design changes that have arisen during detailed design development. The environmental impacts of the amendments relating to visual impact and noise are minor. Overall, the modifications are positive as they enhance the internal amenity and functionality of the dwelling house without having any adverse environmental impacts. The modifications do not involve any material changes to the physical form or intensity of use of the approved dwelling house.

We therefore consider that the proposed modified development is substantially the same as that approved in DA2021/0268. The impacts of the modifications are, on balance, positive and the development will remain consistent with the approved application. The proposed changes of the original consent maintain the integrity of the approved development, the intent of the original conditions and will have no identifiable environmental impacts.