

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2024/0554
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Responsible Officer:	Stephanie Gelder
Land to be developed (Address):	Lot LIC 561789, 18 - 20 Sturdee Lane LOVETT BAY NSW 2105 Lot 1 DP 1132852, 18 - 20 Sturdee Lane LOVETT BAY NSW 2105
Proposed Development:	Modification of Development Consent DA2022/1527 granted for Alterations and additions to a dwelling house
Zoning:	C3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	James de Soyres & Associates Pty Ltd

Application Lodged:	14/10/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	21/10/2024 to 04/11/2024
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposed modification works to DA2022/1527 comprise of the following:

Ground Floor

- A new window - 1J-08 - is to be added to the eastern side of the lounge area;

First Floor

- No changes;

Second Floor

- The western side wall of Bed 3 is to be moved 600mm to the West. It will remain under the approved roof;
- A new window – 3J-05 – is to be added to the western side of the bathroom;

Roof

- There will be minor changes to the skylight locations;

Pergola

- The location of the pergola posts is to be amended; and
- The roof over the approved pergola is to be changed from a fixed roof incorporating skylights to a glazed roof covering.

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 - 7.8 Limited development on foreshore area
Pittwater 21 Development Control Plan - D8.6 Side and rear building line
Pittwater 21 Development Control Plan - D15.12 Development seaward of mean high water mark

SITE DESCRIPTION

Property Description:	Lot LIC 561789 , 18 - 20 Sturdee Lane LOVETT BAY NSW 2105
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	Lot 1 DP 1132852 , 18 - 20 Sturdee Lane LOVETT BAY NSW 2105
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Sturdee Lane and southern side of Lovett Bay.</p> <p>The site is irregular in shape with a frontage of 13.33m along Sturdee Lane, and a frontage of 29.505m along Lovett Bay. The site has a surveyed area of 2538m².</p> <p>The site is located within the C3 Environmental Management zone from PLEP 2014 and accommodates a dwelling house, and a detached studio.</p> <p>The site slopes from the northern boundary upwards to the southern boundary over approximately 29 metres.</p> <p>The site contains dense vegetation to the south of the dwelling house. The vegetation includes trees, plantings, and vegetation.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by dwelling houses varying in architectural style and design.</p>

Map:



SITE HISTORY

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

CDC0124/16

Complying Development Certificate for Rebuild Existing Ramp, Jetty & Pontoon.

Approved on 14 July 2016 by External Certifier.

PLM2018/0098

Pre-Lodgement Meeting for Alterations and additions to an existing dwelling.

Meeting held on 31 May 2018.

The meeting notes concluded: *The proposal is not acceptable in its current form. The proposed additions within the foreshore area are prohibited pursuant to the provisions of clause 7.8(2)(a) of PLEP 2014. Furthermore, the proposal is found to be inconsistent with several of Council's planning controls in relation to the visual impact of the development and resultant bulk and scale, as well as the objectives of the E3 – Environmental Management zoning. It is strongly recommended that the design is amended in accordance with the recommendations within the report, with particular regards to minimising the overall built form and introducing landscaping within the foreshore area and within the northern portion of the site in order to screen the development and integrate the built form with the landscaping.*

DA2019/0671

Development Application for Replacement of the on-site waste water treatment system.

Approved on 29 August 2019.

DA2020/0033

Development Application for Demolition works and construction of a detached studio.

Approved on 13 July 2020.

Mod2021/0040

Modification of Development Consent DA2020/0033 granted for demolition works and construction of a detached studio.

Approved on 26 April 2021.

PLM2021/0053

Pre-Lodgement Meeting for Alterations and additions to a dwelling house.

Meeting held on 18 March 2021.

The meeting notes concluded: *The proposal is considered to have merit in that it does not detract from the waterway, nor impact upon the amenity of neighbouring residential and public land. Concern is raised with respect to impact on vegetation and this has been detailed within comments provided by Council's Biodiversity Officer.*

CC2022/0088

Construction Certificate for Demolition works and construction of a detached studio.

Approved on 8 February 2022 by External Certifier.

CC2022/0341

Construction Certificate for Replacement of the on-site waste water treatment system.

Approved on 5 April 2022 by External Certifier.

DA2022/1527

Development Application for Alterations and additions to a dwelling house.

Approved on 5 November 2022.

Mod2022/0726

Modification Application for Modification of Development Consent DA2022/1527 granted for alterations

and additions to a dwelling house.
Approved on 27 January 2023.

CC2023/0724

Construction Certificate for Alterations and additions to a dwelling house.
Approved on 6 July 2023.

NOC2023/0552

Notice of Commencement of Building Work for Alterations and additions to a dwelling house.
Dated 11 July 2023.

Mod2023/0506

Modification Application for Modification of Development Consent DA2022/1527 granted for alterations and additions to a dwelling house.
Approved on 23 October 2023.

FOC2024/0133

Occupation Certificate for Replacement of the on-site waste water treatment system.
Approved on 18 March 2024 by External Principal Certifier.

OC2024/0453

Occupation Certificate for Demolition works and construction of a detached studio.
Approved on 20 May 2024 by External Principal Certifier.

CC2024/0713

Modified Construction Certificate for Alterations and additions to a dwelling house.
Approved on 9 July 2024.

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 assessments detailed in the Assessment Reports for DA2022/1527, Mod2022/0726, Mod2023/0506, in full, with amendments detailed and assessed as follows:

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

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> • The proposed modified works are considered to be of minimal environmental impact, as the works are consistent with those approved under DA2022/1527. • The proposed modified works are contained within this existing approved building footprint. • The proposed modified works are consistent with approved development standard. • The proposed modified works are consistent with the approved built form controls, and the proposal remains largely compliant. • The proposed modified works result in no further encroachments into the Foreshore Building Area, or below the Mean High Water Mark.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2022/1527 for the following reasons:</p> <ul style="list-style-type: none"> • The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2022/1527.
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.</p>

Section 4.55(1A) - Other Modifications	Comments
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	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 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clauses 62</u> and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

A portion of the existing dwelling house is located below the Mean High Water Mark (MHW), and as such this land is zoned W1 Natural Waterways of Pittwater Local Environmental Plan 2014. In Zone W1 Natural Waterways, dwelling houses are prohibited in the W1 zone.

The proposed modified works are located above the MHW and as such there are no changes to the existing dwelling house below the MHW. Notwithstanding, an existing use rights assessment has been conducted under previous Modification Applications (Mod2022/0726 and Mod2023/0506).

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 Development Application that included a certificate (prepared by Bushfire Planning Services, dated 27 August 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.

A Bush Fire Cover Letter was submitted with the current application (prepared by Bushfire Planning Services, dated 30 September 2024), stating that the revised proposal does not adversely affect the results of the original bushfire assessment. The recommendations of the Bush Fire Cover Letter have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 21/10/2024 to 04/11/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Unsewered Lands)	<p>General Comments</p> <p>This proposal involves the following changes to development approval DA2022/1527 as follows:</p> <p>Ground Floor A new window - 1J-08 - is to be added to the eastern side of the Lounge area.</p> <p>First Floor No changes are proposed to the first-floor plan.</p> <p>Second Floor The western side wall of Bed 3 is to be moved 600mm to the West. It will remain under the approved roof. A new window – 3J-05 – is to be added to the western side of the bathroom.</p> <p>Exterior No changes to the exterior finishes are proposed</p> <p>Roofs There will be minor changes to the skylight locations</p> <p>Pergola The location of the pergola posts is to be amended The roof over the approved pergola is to be changed from a fixed roof incorporating skylights to a glazed roof covering</p>

Internal Referral Body	Comments
	<p>The Statement of Environmental Effects states (in part) "...There will be no change to the number of bedrooms or potential bedrooms in the development and no change to the loading of the approved wastewater system...."</p> <p>Accordingly, Environmental Health supports the proposal.</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Landscape Officer	<p>The modification plans and Statement of Modification indicate that no additional impacts on landscape features are proposed.</p> <p>No objections are raised to the modification.</p> <p>Existing conditions are considered still relevant and adequate.</p>
NECC (Bushland and Biodiversity)	<p>The proposed modification will not result in additional impacts to native vegetation or wildlife habitat, including the Pittwater Spotted Gum Forest threatened ecological community which occurs on site.</p> <p>The bushfire assessment addendum states that the modifications "do not adversely affect the results of the original bushfire assessment".</p> <p>It is therefore assumed that no further bushfire risk management works are required to facilitate the proposed modification.</p>
NECC (Coast and Catchments)	<p>The proposed modifications are minor in nature and do impact the assessment of coastal matters considered for DA2022/1527.</p>
NECC (Riparian Lands and Creeks)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> - Supplied plans and reports; - Coastal Management Act 2016; - State Environmental Planning Policy (Resilience and Hazards) 2021; - Relevant LEP and DCP clauses; and - Northern Beaches Council Water management for development policy. <p>This proposal is supported. Details below.</p> <p>The proposed modifications are minor in nature and are unlikely to impact estuarine health or riparian condition. Conditions from original DA remain</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational

provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No.A404869_06 dated 01 October 2024).

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

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - f) Aboriginal cultural heritage, practices and places,
 - g) the use of the surf zone.

Comment:

The site is located in land identified as "coastal environment area". The proposed modified development is not likely to cause any adverse impacts on items listed under Clause 2.10(1)(a-g) inclusive.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
- b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The proposed modified development is designed, sited, and will be managed appropriately to avoid an adverse impact to items listed under Clause 2.10(1)(a-g) inclusive.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock
 - ii) platform for members of the public, including persons with a disability,
 - iii) overshadowing, wind funnelling and the loss of views from public places to
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an
 - ii) adverse impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or 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 site is located in land identified as "coastal use area". The proposed modified development is unlikely to cause an adverse impact to items listed under Clause 2.11(1)(a)(i-v). The proposal has been designed, sited, and managed to avoid any adverse impacts, and it is considered that the proposed development has taken into account the surrounding coastal and built environment.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed modified development is not likely to cause an increase risk of coastal hazards on the site or other land.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

There is no certified coastal management program applied to the land.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	10.0m	8.7m	unaltered	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	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

Clause	Compliance with Requirements
7.10 Essential services	Yes

Detailed Assessment

7.8 Limited development on foreshore area

Under Clause 7.8 Limited Development on Foreshore Area, development consent must not be granted for development on land in the foreshore area except for the following purposes:

- *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
- *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

Comment:

The proposed modification works include alteration, and rebuilding of an existing building wholly in the foreshore area, but will not result in the footprint of the building extending further into the foreshore area.

Development consent must not be granted under this clause unless the consent authority is satisfied that:

- *the development will contribute to achieving the objectives for the zone in which the land is located, and*
- *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- *the development will not cause environmental harm such as:*
 - *pollution or siltation of the waterway, or*
 - *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
 - *an adverse effect on drainage patterns, or*
 - *the removal or disturbance of remnant riparian vegetation, and*
- *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
- *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.*

Comment:

The proposed development as modified is consistent with the objectives of the C3 Environmental Management zone. The appearance of the proposed development is compatible with the surrounding

area. The proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats, drainage patterns or remnant riparian vegetation. The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway. The proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. The proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following:

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*
- *public access to link with existing or proposed open space,*
- *public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- *public access to be located above mean high water mark,*
- *the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment:

The proposed modified development will retain continuous public access to and along the foreshore. The proposed development does not impact upon any public access. The proposed modified development is acceptable in relation to the foreshore character and the existing environmental conditions.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m (South)	>60m	unaltered	Yes
Rear building line	Foreshore Building Line (North)	Below Foreshore Building Line	Below Foreshore Building Line	No
Side building line	2.5m (West)	12.5m	unaltered	Yes
	1m (East)	1.08m	unaltered	Yes
Building envelope	3.5m (West)	Within envelope	Within envelope	Yes
	3.5m (East)	Within envelope	unaltered	Yes
Landscaped area	Maximum Area Not Landscaped (230m ²)	242.3m ²	unaltered	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.8 Lower Western Foreshores and Scotland Island Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
D8.1 Character as viewed from a public place	Yes	Yes
D8.2 Scenic protection - General	Yes	Yes
D8.3 Building colours and materials	Yes	Yes
D8.5 Front building line	Yes	Yes
D8.6 Side and rear building line	Yes	Yes
D8.8 Building envelope	Yes	Yes
D8.9 Landscaped Area	N/A	N/A
D8.11 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D8.13 Stormwater overflow	Yes	Yes
D8.14 Parking management	Yes	Yes
D8.15 Site disturbance	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D15.12 Development seaward of mean high water mark	Yes	Yes

Detailed Assessment

D8.6 Side and rear building line

The proposed rear setback is consistent with the footprint of the existing dwelling house that is located below the Foreshore Building Line. A detailed assessment has been conducted under Clause 7.8 Limited development on foreshore area of Pittwater Local Environmental Plan 2014 contained within this report.

Therefore, no further assessment is required under Clause D8.6 Side and rear building line of Pittwater 21 Development Control Plan, as the Foreshore Building Line takes precedence over this control.

D15.12 Development seaward of mean high water mark

The proposed modification works do not comprise of any works 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 2024

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2024/0554 for Modification of Development Consent DA2022/1527 granted for Alterations and additions to a dwelling house on land at Lot LIC 561789, 18 - 20 Sturdee Lane, LOVETT BAY, Lot 1 DP 1132852, 18 - 20 Sturdee Lane, LOVETT BAY, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-475217 Mod2024/0554	The date of this notice of determination	Modification of Development Consent DA2022/1527 granted for alterations and additions to a dwelling house Add Condition 1C - Modification of Consent - Approved Plans and supporting documentation
PAN-370626 Mod2023/0506	23 October 2023	Modification of Development Consent DA2022/1527 granted for alterations and additions to a dwelling house Add Condition 1B - Modification of Consent - Approved Plans and supporting documentation
PAN-292657 Mod2022/0726	27 January 2023	Modification of Development Consent DA2022/1527 granted for alterations and additions to a dwelling house

		Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation Add Condition 7A - Adherence to Natural Environment Consent Conditions Modify Condition 12 - Project Arborist Modify Condition 15 - Tree and Vegetation Protection
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Modified conditions

A. Add Condition 1C - Modification of Consent - Approved Plans and supporting documentation, to read as follows:

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

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA-01	C	Location, Site and Site Analysis Plan	James de Soyres & Associates	12 September 2024
DA-10	C	Proposed House Ground Floor Plan	James de Soyres & Associates	12 September 2024
DA-12	C	Proposed House First Floor Plan	James de Soyres & Associates	12 September 2024
DA-14	C	Proposed House Roof and Second Floor Plan	James de Soyres & Associates	12 September 2024
DA-15	C	Proposed Roof Plan	James de Soyres & Associates	12 September 2024
DA-20	C	North Elevation from Pittwater	James de Soyres & Associates	12 September 2024
DA-21	C	South Elevation	James de Soyres & Associates	12 September 2024
DA-22	C	West Elevation	James de Soyres & Associates	12 September 2024
DA-23	C	East Elevation	James de Soyres & Associates	12 September 2024
DA-30	C	Section A-A	James de Soyres & Associates	12 September 2024
DA-31	C	Section B-B	James de Soyres & Associates	12 September 2024
DA-32	C	Section X-X	James de Soyres & Associates	12 September 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document

BASIX Certificate	A404869_06	James de Soyres & Associates Pty Ltd	01 October 2024
Bush Fire Cover Letter	-	Bushfire Planning Services Pty Ltd	30 September 2024
Geotechnical Assessment Cover Letter	2018-116	Crozier Geotechnical Consultant	25 September 2024

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

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

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

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

Signed



Stephanie Gelder, Planner

The application is determined on 06/11/2024, under the delegated authority of:



Adam Richardson, Manager Development Assessments