

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2022/0450
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<b>Responsible Officer:</b>	Stephanie Gelder
<b>Land to be developed (Address):</b>	Lot 13 DP 1275411, 1180 Barrenjoey Road PALM BEACH NSW 2108
<b>Proposed Development:</b>	Modification of Development Consent N0379/16 granted for alterations and additions to an existing dwelling house
<b>Zoning:</b>	C4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Louise Katrina Manning
<b>Applicant:</b>	Andrew Darroch

<b>Application Lodged:</b>	25/08/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	08/09/2022 to 22/09/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The proposed modification works to N0379/16 comprise of the following:

#### Retrospective

1. Use of the new bathroom in the basement;
2. Use of the new staircase from the ground floor to the basement;
3. Use of the new plant area in the basement;
4. Use of the new laundry in the basement;
5. Use of the new playroom in the basement;
6. Use of the new wine cellar in the basement;
7. Use of the two new storage areas in the basement;
8. Use of the new sliding window to playroom in the basement;
9. Use of the new sliding window to laundry in the basement;

10. Use of the new ventilation vents to plant in the basement;
11. Use of the new bathroom on the ground floor;
12. Use of the three new bedrooms on the ground floor;
13. Use of the new ensuite on the ground floor;
14. Use of the new solar panels on the roof;
15. Use of the new skylights on the roof;

#### Prospective

16. Proposed new motorised powder coat aluminium louvred awning; and
17. Proposed new retractable fabric awning.

In accordance with *Ku-ring-gai Council v Buyozo Pty Ltd [2021] NSWCA 177*, the orders made by the Land and Environment Court outlined: A modification to a development consent can never retrospectively approve the carrying out of development, but can only prospectively approve the carrying out of development.

Furthermore, it is considered that the retrospective works results in the modification application to be inconsistent with Clause 4.55(2) of *Environmental Planning and Assessment Act 1979*. Specifically, Council is not satisfied that the retrospective works meets the following:

*(a) it is satisfied that the development to which the consent as modified relates is substantially*

Additionally, under Clause 4.69 of *Environmental Planning and Assessment Act 1979*, uses of unlawfully commenced works states the following:

- (1) The use of a building, work or land which was unlawfully commenced is not rendered lawful*
  - (a) the commencement of an environmental planning instrument which permits the use without*
  - (b) the granting of development consent to that use.*

As the application is a modification application, not a development application it does not hold an ability to constitute a development consent, and as such the use of Clause 4.69 is not available as a remedy. It is Council's position that the unlawful retrospective works are not able to be assessed under a modification application. Therefore, in this instance, the prospective works can be assessed under this Modification Application, however the retrospective works will not be assessed as part of this Modification Application. The applicant is required to seek an alternative pathway for approval of the retrospective works. In the absence of an approval for the retrospective works, the use of the portion of retrospective works is not able to be granted under this or any Modification Application. As such, a condition has been recommend to exclude the retrospective works as outlined above from this Modification Application.

#### **ASSESSMENT INTRODUCTION**

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest

- groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - D12.6 Side and rear building line

### SITE DESCRIPTION

<b>Property Description:</b>	Lot 13 DP 1275411 , 1180 Barrenjoey Road PALM BEACH NSW 2108
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of Barrenjoey Road.</p> <p>The site is regular in shape with a frontage of 13.41m along Barrenjoey Road and a depth of 45.72m. The site has a surveyed area of 613.1m<sup>2</sup>.</p> <p>The site is located within the C4 Environmental Living zone from PLEP 2014 and accommodates a dwelling house currently on the site.</p> <p>The site slopes gently from the southern side boundary downwards to the northern side boundary over approximately 1 metre.</p> <p>The site contains lawn areas, plantings, and vegetation. There are no details of any threatened species on the subject site.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by one and two storey 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:

### **N0379/16**

Development Application for Alterations and additions to an existing dwelling house.  
Approved on 1 February 2017.

### **Mod2018/0272**

Modification of Development Consent N0379/16 granted for alterations and additions to an existing dwelling house.  
Approved on 22 August 2018.

### **DA2018/1423**

Development Application for Boundary adjustment (subdivision and consolidation) from five (5) Lots into three (3) Lots.  
Approved on 5 April 2019.

### **Mod2019/0048**

Modification of Development Consent N0379/16 granted for alterations and additions to an existing dwelling house.  
Approved on 29 May 2019.

### **Mod2020/0160**

Modification of DA2018/1423 granted for a boundary adjustment subdivision and consolidation from five (5) Lots into three (3) Lots.  
Approved on 22 July 2022.

### **CC2020/1086**

Construction Certificate for Alterations and additions to an existing dwelling house - for Landscaping Works Only.

Approved on 1 October 2020 by External Private Certifier.

**SC2021/0025**

Subdivision Certificate for Boundary adjustment (subdivision and consolidation) from five (5) Lots into three (3) Lots.

Approved on 10 September 2021.

**Mod2021/0725**

Modification of Development Consent N0379/16 granted for alterations and additions to an existing dwelling house.

Approved on 3 November 2021.

**CC2021/0734**

Construction Certificate for Alterations and additions to an existing dwelling house.

Approved on 15 June 2021 by External Private Certifier.

**APPLICATION HISTORY**

Following the preliminary assessment of the application, which included a site visit on Tuesday, 20 September 2022, Council requested that the applicant submit amended plans to detail the prospective works only, noting that internal basement and ground floor works detailed on the plans had been completed prior to approval. Further information was requested from Council's Development Engineer, however given the completion of the internal works, these additional information was no longer required under this application. Furthermore, amended plans were requested to detail the awnings on the East Elevation, as the awnings were omitted from this plan only. The amended plans did not alter the environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan (CPP).

**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 N0379/16, 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	



Section 4.55 (2) - Other Modifications	Comments
<p>act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:</p>	
<p>(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>The 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 N0379/16 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The development, as proposed to be lawfully amended, has been found to be such that Council is satisfied that the prospective works are substantially the same as those already approved under N0379/16.</li> <li>• The proposed modification works are consistent with use of the dwelling house, and do not significantly alter the building footprint as approved, as the proposed works comprise of two awnings.</li> </ul>
<p>(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and</p>	<p>Development Application N0379/16 did not require concurrence from the relevant Minister, public authority or approval body.</p>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.</p>
<p>(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.</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>

## Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in

determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;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&amp;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&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to clarification of proposed works, additional information from Council's Development Engineer, and amended plans to detail the proposed awnings on the East Elevation plan.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 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 62 and/or 64</u> of the EP&amp;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&amp;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&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building</p>

Section 4.15 'Matters for Consideration'	Comments
	Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> 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) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 08/09/2022 to 22/09/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

## REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>The proposed modification will not result in substantial additional impacts to native vegetation. Therefore there are no objections to the modification from a biodiversity perspective, subject to retention of existing biodiversity conditions of N0379/16, specifically:</p> <ul style="list-style-type: none"> <li>• Conditions B6, B7, B8, B9, B10, B11, B12, B13, B14</li> </ul>



Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• Conditions D16, D17</li> <li>• Condition E7</li> </ul>
NECC (Development Engineering)	<p><b>07/09/2022:</b> Proposal is for alterations and additions to previously approved development under application number N0379/16 and subsequent modifications MOD2018/0272, MOD2019/0048 and MOD2021/0725. Proposal includes internal alterations and additions including;</p> <ul style="list-style-type: none"> <li>• construction of new playroom/cellar,</li> <li>• reducing parking space in basement for only one car by increasing livable area and</li> <li>• re-construction of recently dilapidated retaining wall (due to heavy rainfall) on the southern boundary.</li> </ul> <p><b>Stormwater</b> The submitted SEE report states that the new hardstand area is between 50 -70 sqm hence there is provision of an OSD tank but no plans have been submitted in this context.</p> <p><b>Geotech:</b> Site is mapped as H1 on Council's Geotechnical Hazard map and proposal is to excavate for new cellar under existing dwelling hence an updated Geotech Report with form 1 and 1a is required.</p> <p><b>Wall</b> The survey plan submitted with this application does not show any retaining wall at southern boundary. However based on the survey plan submitted at DA ( N0379/16) shows a retaining wall along southern boundary located within next door property no. 1178 Barrenjoey Road. Clarification and survey details are required.</p> <p><b>14/10/2022:</b> Requested information is not provided and planner has confirmed that during her site visit proposed works were already constructed at site except the awning.</p> <p>Hence Development Engineering can not support the rest of the proposal but can only approve the awning.</p> <p>Engineering approval is only provided for the following; 1) new motorised powder coat aluminium louvred awning, item 16 and 2) new retractable fabric awning, item 17 on the submitted plans.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed mod is for new awnings, other works will be assessed under a Building Information Certificate. There are no flood-related controls for awnings above the Flood planning level.

## 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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.A429977\_02 dated 03 August 2022).

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 4 – Remediation of Land

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

#### Pittwater Local Environmental Plan 2014

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

##### Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6.27m	5.9m (Awning)	-	Yes

##### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	10m	unaltered	15.5m (Awning)	Yes
Rear building line	6.5m	12.69m	22.4m (Awning)	Yes
Side building line	2.5m (North)	2.5m	0m (Awning)	<b>No</b>
	1m (South)	1.0m	unaltered	N/A
Building envelope	3.5m (North)	Within envelope	Within envelope	Yes
	3.5m (South)	Within envelope	Within envelope	Yes
Landscaped area	60% (367.9m <sup>2</sup> )	53.49% (328m <sup>2</sup> )	unaltered	N/A

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.6 Wildlife Corridors	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
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D12.5 Front building line	N/A	N/A
D12.6 Side and rear building line	No	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	N/A	N/A
D12.14 Scenic Protection Category One Areas	Yes	Yes

### Detailed Assessment

#### **D12.6 Side and rear building line**

##### Description of non-compliance

Under Clause D12.6 of Pittwater 21 Control Plan, the control requires development to be setback 2.5m from one side boundary and 1.0m from the other side boundary. For this assessment, the 2.5m control is applied to the northern side boundary and the 1.0m control is applied to the southern side boundary.

The proposed new motorised powder coat aluminium louvered awning above the existing outdoor shower presents a nil setback to the northern side boundary, presenting a 100% variation to the 2.5m control.

In this instance the proposed awning has been assessed against the outcomes of the control. The proposed awning has satisfactorily met the outcomes of the control, and as such the variation is supportable in this circumstance.

##### Merit consideration

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

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

##### Comment:

The proposal will continue to achieve the desired future character of the Palm Beach Locality.

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

##### Comment:

The proposed awning is an open structure, that is compliant with the height of buildings development standard. As such, it is considered the bulk and scale of the awning is minimal.

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

##### Comment:

The proposed awnings will not impact any views and vistas to and/or from public/private places.

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

##### Comment:

As outlined above, the proposed awning will not impact upon view sharing, and is sited in an appropriate location.

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

Comment:

The proposed awning will ensure an appropriate level of privacy, amenity, and solar access is provided within the development site and to adjoining residential properties.

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

Comment:

The proposal does not alter the existing landscaping on site, and is distanced from the streetscape.

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

Comment:

The proposed awning is suitably located above the existing outdoor shower area.

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

Comment:

As outlined above, the proposal does not result in any changes to the existing vegetation on site. As such, the existing vegetation is retained to visually reduce the built form.

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

Comment:

The proposal is surrounded by residential zones, thereby this outcome is not relevant in this instance.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2022**

Section 7.12 contributions were levied on the Development Application.

## **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation



submitted by the applicant and the provisions of:

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

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

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

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

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

**RECOMMENDATION**

THAT Council as the consent authority grant approval to Modification Application No. Mod2022/0450 for Modification of Development Consent N0379/16 granted for alterations and additions to an existing dwelling house on land at Lot 13 DP 1275411, 1180 Barrenjoey Road, PALM BEACH, subject to the conditions printed below:

**A. Add Condition No.1B - 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Proposed Site & Roof Plan - S050, Rev 4	30 September 2022	Studio Etic
Proposed Basement Plan - S100, Rev 4	30 September 2022	Studio Etic

Proposed Ground Floor Plan - S101, Rev 4	30 September 2022	Studio Etic
Proposed Sections - S300, Rev 4	30 September 2022	Studio Etic
Elevation North - S400, Rev 4	30 September 2022	Studio Etic
Elevation East & West - S402, Rev 5	30 September 2022	Studio Etic

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate (No.A429977_02)	3 August 2022	EPS

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 1C - Retrospective Works Excluded to read as follows:**

Despite any reference in Condition 1, the following use and parts of the dwelling house built without approval are excluded from this Modification:

Specifically, no approval is granted or implied for the following items detailed on the Plans prepared by Studio Etic dated 30 September 2022 as listed in Condition 1B:

1. Unspecified use and as-built component of the bathroom in the basement;
2. Unspecified use and as-built component of the new staircase from the ground floor to the basement;
3. Unspecified use and as-built component of the new plant area in the basement;
4. Unspecified use and as-built component of the new laundry in the basement;
5. Unspecified use and as-built component of the new playroom in the basement;
6. Unspecified use and as-built component of the new wine cellar in the basement;
7. Unspecified use and as-built component of the two new storage areas in the basement;
8. Unspecified use and as-built component of the new sliding window to playroom in the basement;
9. Unspecified use and as-built component of the new sliding window to laundry in the basement;
10. Unspecified use and as-built component of the new ventilation vents to plant in the basement;
11. Unspecified use and as-built component of the new bathroom on the ground floor;
12. Unspecified use and as-built component of the three new bedrooms on the ground floor;
13. Unspecified use and as-built component of the new ensuite on the ground floor;
14. Unspecified use and as-built component of the new solar panels on the roof; and
15. Unspecified use and as-built component of the new skylights on the roof.

Nothing in this approval implies the future use or regularisation of these works.

Reason: To ensure this modification does not provide consent for works already undertaken.

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

**Signed**



A handwritten signature in cursive script, appearing to read "Stephanie Gelder".

**Stephanie Gelder, Planner**

The application is determined on 05/12/2022, under the delegated authority of:

A handwritten signature in cursive script, appearing to read "Adam Richardson".

**Adam Richardson, Manager Development Assessments**