

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2024/0422
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Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 56 DP 7794, 60 Hudson Parade CLAREVILLE NSW 2107
Proposed Development:	Modification of Development Consent DA2022/1715 granted for Alterations and additions to a dwelling house including a swimming pool
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Bennett Murada

Application Lodged:	03/09/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	10/09/2024 to 24/09/2024
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposed application seeks consent to modify DA2022/1715 in the following ways:

Lower Ground Floor Plan

- Removal of kitchenette
- Reconfiguration of laundry
- Reconfiguration of internal staircase
- Minor amendment to finished floor level (approved at FFL6.85 and sought to change to FFL6.86)
- Amendment to window and door schedule

Ground Floor Plan

- Inclusion of bin storage area adjacent to garage
- Screen located along the northern elevation of the driveway
- Games room changed to sunroom
- Amendment to window and door schedule throughout
- Removal of bathroom 3 and increased floor area to the plant / store / bike area
- Pool shape amended in accordance with Condition 19. Pool Design and Setback of DA2022/1715 (which was applied by the DDP)
- Screen included along the northern elevation of the swimming pool
- Gallery moved closer to the southern boundary
- Staircase 1 location moved to align with southern wall

First Floor Plan

- Entry path level increased from RL13.26 to RL13.5
 - Entry vestibule level increase from RL13.50 to RL13.535
 - Amendment to window and door schedule throughout
 - Reconfiguration of Guest Bed and Bed 4
 - The FFL of the landing at Stair 3 and the gallery has increased from FFL11.09 to FFL11.10
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- Amendments to the roof form (not material)

Based on the amendments made to the approved plans, this current application seeks consent to delete **Condition 20. Amendments to the approved plans**. This condition was not applied by the DDP. However, the proposed modified plans do not clearly show compliance with part (c) Southern elevation windows and part (d) Swimming Pool Balustrading/fence of Condition 20. As such, these elements of Condition 20 will remain and shall be complied with.

Furthermore, while the shape of the swimming pool has been amended and the northern side setback has been increased to 2.5 metres in accordance with **Condition 19. Pool Design and Setback**, the proposed alternative pool fence is not supported and thus Condition 19. shall remain and be complied with to the satisfaction of the Certifier.

Planner note:

Condition 19. Pool Design and Setback was modified by the DDP. As this condition is remaining, this modification application is not required to be referred to the DDP for review and determination.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;

- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D1.11 Building envelope

Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 56 DP 7794 , 60 Hudson Parade CLAREVILLE NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the north-western side of Hudson Parade.</p> <p>The site is irregular in shape with a frontage of 28m along Hudson Parade and a depth of between 70.675m and 87.175m down to the mean high watermark. The site has a surveyed area of 1239m².</p> <p>The site is located within the C4 Environmental Living zone and accommodates 2 & 3 storey brick house and detached carport and parking bay accessed via a driveway from Hudson Parade. The property has been identified as potentially being of heritage significance, as the existing dwelling onsite was designed by the well known Australian architect Bruce Rickard in the late 1980s.</p> <p>The site has a crass fall of approximately 12.5m from the east (street frontage) to the west (Pittwater foreshore).</p> <p>The vegetation within the subject property comprises of scattered native canopy trees amongst a sparse mid-storey of predominately landscaped and planted species. Seventeen (17) trees grow within the site and an additional twelve (12) trees grow in close proximity within the street and neighbouring properties. The property is mapped as part of the existing Pittwater Spotted Gum Forest and contains multiple Spotted Gum trees.</p> <p>Detailed Description of Adjoining/Surrounding</p>

Development

Adjoining and surrounding development is characterised by two and three storey single occupancy dwellings within a landscaped setting on sloping sites oriented towards Pittwater waterway.

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:

- **N1060/02** - Development Application for the construction of a new driveway, turning circle and parking bay - Approved 26/09/2003
- **N0071/14** - Development Application for a stepped sandstone seawall to align with existing embankment beach front and associated landscaping - Approved 25/08/2015
- **DA2022/1715** - Development Application for alterations and additions to the existing dwelling, including a swimming pool. This application was approved by Council's Development Determination Panel (DDP) on 22 November 2023.

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 DA2022/1715, 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> <p>The proposed modified works are considered to be of minimal environmental impact as the works relate to complying with a recommended condition under the original consent, internal reconfiguration of the approved floor plans, as well as amendments to the approved window and door schedule. The proposal also shifts the approved 'open gallery' closer to the southern boundary, yet remaining compliant with the side setback requirement. The proposed modified works do not require the removal of any vegetation or important native trees on the site.</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 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 DA2022/1715 for the following reasons:</p> <p>The proposed modified works are considered to be alterations and additions to the consent of DA2022/1715. In this instance, the proposed modified works are considered to be substantially the same as that which was previously approved.</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</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
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	
(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>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in response to issues raised by Council's Landscape Officer and Development Engineer. These issues were detailed within a Request for Further Information (RFI) letter which was sent to the Applicant via email and uploaded to the NSW Planning Portal on 4 November 2024. The request information was provided to Council on the same day. In accordance with Council's Community Participation Plan (CPP) the additional information was not required to be re-notified.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This clause is not relevant to this application.</p> <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 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 the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 10/09/2024 to 24/09/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Michael Anthony Still	62 Hudson Parade CLAREVILLE NSW 2107

The issues raised within the submission is as follows:

- **Privacy**

Concern has been raised that the proposed relocation of the approved open gallery closer to the southern side boundary and amendments to the approved window schedule along the southern elevation will cause unreasonable privacy impacts to 62 Hudson Parade, Clareville - the property immediately to the south.

Comment:

The proposed modified works have been assessed against the requirements of control C1.5 Visual Privacy of the Pittwater 21 Development Control Plan (P21DCP). It is found that the proposed modified works are consistent with the requirements and outcomes of this control.

This issue does **not** warrant reason for refusal of this application.

- **Boat Shed**

Concern has been raised that the proposed modified works include the construction of a boat shed, which is inconsistent with the original approval.

Comment:

Nothing within this proposed modified application seeks consent to construct a boat shed.

This issue does **not** warrant reason for refusal of this application.

- **Development Creep**

Concern has been raised that the proposed modified works, particularly the reduced southern side setback distance to the approved gallery, results in development creep. Of further concern is that the proposed modified works will increase the approved building footprint and envelope, resulting in an unreasonably large built form with unreasonable and adverse impacts upon adjoining properties.

Comment:

The proposed modified works results in a built form that is considered to be substantially the same as that which was previously approved. In this instance, the modified works are not considered to result in a larger built form that would be considered as development by stealth, or development creep. For example, the width of the approved gallery is 1.4 metres (measured from the internal face of the walls). This is not changing under this current modification application.

As has been discussed elsewhere within this assessment report, the proposed modified works result in a reasonable level of amenity for the occupants of the subject site and adjoining properties.

This issue does **not** warrant reason for refusal of this application.

- **Proposed modified southern side setback**

Clarification is sought as to the proposed modified southern side setback distance, noting that the floor plan indicates a revised setback distance of 1.8 metres, but the 'Schedule of Key Amendments' indicates a revised side setback distance of 1.0 metre. Additionally, concern has been raised regarding the reduced southern side setback distance to the approved gallery, noting that this reduced setback distance will cause unreasonable solar access and significant loss of amenity of the occupants of 62 Hudson Parade. The continuous southern elevation wall plane is inconsistent with the C4 Environmental Living zone.

Comment:

The original consent granted approval for the following southern side setback distances on both the ground and first floor levels (as shown on the stamped plans):

- 1.1 metres to the rear portion of the dwelling;
- 2.61 metres to the gallery; and,
- 1.0 metre to the front portion of the dwelling.

The proposed modified works seeks to reduce the setback distance to 1.0 metre at the rear portion of the dwelling, and 1.8 metres to the gallery. Hence the comment '*aligned to the 1.0 metre setback*'. The proposed modified setback distances to the southern boundary continues to achieve compliance with the minimum setback distance requirement as stipulated under control D1.9 Side and rear building line of the P21DCP.

Furthermore, as indicated on the proposed modified plans (and as detailed above and within the Built Form Control table) the southern elevation does not display a continuous wall plane from the front to the rear of the dwelling. While there is a reduced setback distance for the extent of the approved gallery, the southern elevation has a degree of articulation that does not result in a continuous wall plane.

The submitted amended shadow diagrams indicates that the proposed modified works will

continue to provide a reasonable level of solar access to adjoining properties between 9am and 3pm on June 21 to the main private open spaces and windows to the main internal living areas, thus achieving compliance with the requirements of control C1.4 Solar Access of the P21DCP.

The proposed modified works continue to be consistent with the objectives of the C4 Environmental Living zone, as has been detailed within this assessment report.

This issue does **not** warrant reason for refusal of this application.

- **Proposed gate along southern setback**

Concern has been raised regarding the proposed gate along the southern elevation between the boundary and proposed southern external wall. Confirmation is sought as to whether a southern boundary fence is proposed between the subject site and 62 Hudson Parade.

Comment:

The proposed modified plans do not indicate a side boundary fence to the southern boundary. It is unclear as to what the proposed gate will be fixed. However, Condition 5. No Works on Adjoining Land stipulates that all approved works are to be located entirely within the subject site, and that no approval is granted under the original consent for any works within or on the property boundaries of adjoining privately owned land. In this instance, Condition 5 ensures that the proposed gate will not extend beyond the subject site's property boundary.

This issue does **not** warrant reason for refusal of this application.

- **Proposed roof material**

Concern has been raised regarding the roof material, noting that Drawing No. DA500 describes the roof material as 'metal roof sheeting'. However, there is no confirmation that the metal roof sheeting is not reflective, which would have unreasonable glare impacts upon 62 Hudson Parade.

Comment:

The roof will be constructed in accordance with the approved BASIX certificate and NatHERS requirements. No change is proposed to the approved roof under this modification application.

This issue does not warrant reason for refusal of this application.

- **Key to plans**

Concern has been raised that the 'key to plans' refers to 'RWT' but the architectural plans do not show the location of a rainwater tank. Clarification is sought as to where the rainwater tank will be located on the subject site.

Comment:

The 'Key to Plans' is the legend/key for abbreviations that may be used by the architects, Bennett Murada Architects. It is not indicative of *all* elements on the proposed plans.

This issue does **not** warrant reason for refusal of this application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The application is for modification to development consent DA2022/1715.</p> <p><u>Additional Information Comment 07/11/24:</u> The amended reports and plans are noted.</p> <p>Previous concerns have been addressed. Condition 33 Project Arborist and 53 Landscape Completion will be amended as part of this application.</p> <p><u>Original Comment:</u> <i>The changes to the driveway and pedestrian entry path may further impact street trees A and B. The pedestrian entry path appears to be hard against the trunk of tree B and the driveway will encroach further into the structural root zone of tree A. Comment from the Arborist is required to determine whether or not these changes are acceptable before landscape referral can continue their assessment. Trees A and B shall be retained as approved under DA2022/1715.</i></p>
NECC (Bushland and Biodiversity)	<p>The application seeks to modify Development Consent DA2022/1715.</p> <p>The proposed modifications do not require any additional tree removal nor increased impacts to biodiversity within the site. As such, Council's Biodiversity referrals team raise no objections.</p>
NECC (Coast and Catchments)	<p>The proposed modifications do not impact the assessment of coastal matters considered for DA2022/1715. However, conditions relating to sediment erosion and stockpiling of material materials has been added.</p>
NECC (Development Engineering)	<p>The proposal is to modify Consent DA2022/1715. The modification includes changes to the driveway and a pedestrian pathway.</p> <p>It is noted that Council's Landscape team have requested additional information for the works in the public domain. As this may alter the proposal Development Engineering cannot finalise the assessment Prior to Landscape team finalising comments.</p> <p>Additional Information provided on 4/11/2024 No objections to approval subject to the following amendments to conditions of consent 2022/1715:</p> <p>Amend Condition 23 as follows: Submission Roads Act Application for Civil Works in the Public Road The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the</p>

Internal Referral Body	Comments
	<p>new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design of vehicular crossing and retaining walls in the road reserve which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:</p> <ol style="list-style-type: none">1. A vehicular crossing 3.5 meters wide to be constructed in accordance with Council's standard drawing Maximum Low Skew.2. Engineering Long sections at both edges and centerline of the driveway.3. Structural details for the retaining structures along both sides of the roadway.4. Sight distances are to be in accordance with AS2890.1.5. Details of the pedestrian access pathway.6. The application is to include a geotechnical report that is prepared by an appropriately qualified Geotechnical Engineer to assess all proposed works including road works and retaining walls.7. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided. <p>The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. An approval is to be submitted to the Certifier prior to the issue of the Construction Certificate Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	The modification was referred to Heritage due to involvement in the original application.
	Details of heritage items affected
	There is no inventory sheet as this property is not a heritage item. However the dwelling is designed by a significant architect, Bruce Rickard
	Other relevant heritage listings
	SEPP (Biodiversity and Conservation) 2021
No	

Internal Referral Body	Comments		
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register		
	RAIA Register of 20th Century Buildings of Significance		
	Other	N/A	
	Consideration of Application		
	<p>The proposal seeks consent for a number of modifications. The majority are noted without comment. However Heritage notes that the link has been adjusted as well as the internal staircase within the original house and these probably the most substantial in impact. in light of works that conserve the majority of the important external appearance to the sound, Heritage will raises no objections to the modifications.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>		

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. However, these conditions do not differ from the recommended conditions applied under the original development application (DA2022/1715). In this instance, no additional conditions will be included under this modification application.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1421376S_04 dated 24 July 2024).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to recommended conditions. However, these comments and conditions do not differ from the comments and recommended conditions applied under the original development application (DA2022/1715). In this instance, no additional conditions will be included under this modification application.

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 2 Coastal Vulnerability Area

2.9 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of

- the building or works, and
- b) the proposed development:
 - i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and
 - ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and
 - iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and
- c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.

Comment:

A Coastal Vulnerability Area Map has, to date, not been adopted and therefore no Coastal Vulnerability Area has been identified.

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:

This Clause is relevant to the subject site. Consent has already been granted for substantial construction works on the site and the proposed works are such that they are unlikely to have any adverse impacts upon the matters as prescribed within the above Clause, and thus the proposed modified works are considered to comply with the requirements of this Clause.

- 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:

This Clause is relevant to the subject site. Consent has already been granted for substantial construction works on the site and the proposed works are such that they are unlikely to have any adverse impacts upon the matters as prescribed within the above Clause, and thus the proposed modified works are considered to comply with the requirements of this Clause.

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:

This Clause is relevant to the subject site. Consent has already been granted for substantial construction works on the site and the proposed works are such that they are unlikely to have any adverse impacts upon the matters as prescribed within the above Clause, and thus the proposed modified works are considered to comply with the requirements of this Clause.

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 works are unlikely to cause an increased risk of coastal hazards.

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:	8.5m	8.0m	No change	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone C4 Environmental Living

Zone Objectives

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

Comment:

The proposed modified works are considered to be of low-impact residential development on the site which may have special ecological, scientific or aesthetic values.

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

Comment:

As the proposed modified works are minor, there are no unreasonable or adverse affects upon the values prescribed above.

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

Comment:

The extent of proposed modified works are either internal, responding to conditions of DA2022/1715 or are external with minor impacts. In this instance, the proposed modified works are considered to be of a low density and scale that is appropriately integrated into the existing landform and landscape.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment:

The proposed modified works will not cause any unreasonable or adverse impacts upon riparian and/or foreshore vegetation, nor will it impact upon wildlife corridors.

7.1 Acid sulfate soils

The site is located within the following acid sulfate soil areas:

- Class 1
- Class 3
- Class 5

The location of the approved dwelling, and the proposed modified works, are sited entirely in the Class 5 Acid Sulfate Soils area. The original assessment report assessed the development against the requirements of this Clause and found it to be consistent with such requirements. In this instance, another assessment against the requirements of this Clause is not required.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	2.3m - 8.7m (Garage) 3.3m - 14m (First floor)	Unaltered	Yes
Rear building line	N/A - FBL Applies	N/A	N/A	N/A
Side building line	Northern Boundary 2.5m	1.6m (Pool)	2.5m (pool) in accordance	Yes

			with Condition 19 of DA2022/1715	
	Southern Boundary 1m	1m	1.8m (gallery)	Yes
Building envelope	Northern Elevation 3.5m	Within envelope	Unaltered	Yes
	Southern Elevation 3.5m	Outside envelope	Unaltered	Yes, as previously approved
Landscaped area	60% (743.4m ²)	54% (677.m ²)	55.5% (689.5m ²)	No, as previously approved

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5.15 Stormwater	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
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	Yes	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes

increased, level of privacy between buildings through good design.

- *A sense of territory and safety is provided for residents. (S)*

Comment:

The proposed development provides a sense of territory and safety for residents.

Having regard to the above assessment, it is considered that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1.11 Building envelope

The proposed works under this modification are sited within the building envelope along both the northern and southern elevations. The original development application extended beyond the prescribed building envelope along the southern elevation - this isn't changing under this modification. As such, an additional detailed merit consideration of the approved non-compliance is not required, in this particular circumstance.

D1.14 Landscaped Area - Environmentally Sensitive Land

The approved development application granted consent for a landscaped area less than the minimum requirement. The proposed modified works seeks to marginally increase this to 55.5% (or 689.5m²). This continues to present a numeric non-compliance to this control. However, with consideration of the variations applicable under this control, the landscaped area is increased to 61.3% (760.0m²), which achieves compliance with this control.

As the original development application granted approval for a landscaped area less than the minimum requirement, an additional detailed merit consideration of this non-compliance is not required in this circumstance.

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. Mod2024/0422 for Modification of Development Consent DA2022/1715 granted for Alterations and additions to a dwelling house including a swimming pool on land at Lot 56 DP 7794,60 Hudson Parade, CLAREVILLE, 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 - 458413 Mod2024/0422	The date of this notice of determination	Modification of Development Consent DA2022/1715 granted for Alterations and additions to a dwelling house including a swimming pool

		Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation Modify Condition 20. Amendments to the approved plans
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Modified conditions

A. Add Condition No.1A - 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_003	2	Site Plan	Bennett Murada Architects	2 October 2024
DA_004	1	Demolition Plans - Lower Ground + Ground	Bennett Murada Architects	29 July 2024
DA_005	2	Demolition Plans - Level 01 + Roof	Bennett Murada Architects	11 October 2024
DA_100	1	Proposed Lower Ground Floor Plan_OP2	Bennett Murada Architects	29 July 2024
DA_101	1	Proposed Ground Floor Plan	Bennett Murada Architects	29 July 2024
DA_102	1	Proposed First Floor Plan	Bennett Murada Architects	29 July 2024
DA_103	1	Proposed Roof Plan	Bennett Murada Architects	29 July 2024
DA_200	1	East + West Elevations	Bennett Murada Architects	29 July 2024
DA_201	1	North + South Elevations	Bennett Murada Architects	29 July 2024
DA_210	1	Longitudinal Section	Bennett Murada Architects	29 July 2024
DA_211	1	Cross Sections	Bennett Murada Architects	29 July 2024
DA_500	1	Schedules of Colours and Materials	Bennett Murada Architects	29 July 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
D02, D03, D04, D05, D06, D10, D30 - Site Stormwater Drainage Plan, Stormwater Drainage Plan, Stormwater Drainage	D	NB Consulting Engineers	14 June 2024

Details and Sections Sheet 1, Sediment and Erosion Control Plan			
BASIX Certificate 1421376s_04	-	Green Choice Consulting	24 July 2024
NatHERS Certificate	-	Bennett Murada Architects	24 July 2024
000 Cover Sheet, 401 Lower Ground, 402 Ground, 403 First Floor, 600 Planting Details.	F	Arcadia	21 August 2024
Geotechnical Memorandum (Reference: R.001.Rev0)	-	Douglas Partners	15 August 2024
Addendum to Arboricultural Impact Assessment Report	-	Martin Peacock Tree Care	2 October 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.

B. Modify Condition 20. Amendments to the approved plans:

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

a) Delete

b) Delete

c) **Southern elevation windows:** All proposed windows on the southern elevation shall be fitted with obscured glazing be designed to be fixed (non-operable) or casement with a maximum opening of less than 45 degrees.

d) **Swimming Pool Balustrading/fence** - The proposed swimming pool to incorporate solid balustrading/fencing for the entire length of the northern elevation. This balustrading is to be constructed of nontransparent material or opaque glazing measured at a height of at least 1.0m above the finished floor level.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

C. Modify Condition 23. Submission Roads Act Application for Civil Works in the Public Road to read as follows:

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of

the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of vehicular crossing and retaining walls in the road reserve which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. A vehicular crossing 3.5 meters wide to be constructed in accordance with Council's standard drawing Maximum Low Skew.
2. Engineering Long sections at both edges and centerline of the driveway.
3. Structural details for the retaining structures along both sides of the roadway.
4. Sight distances are to be in accordance with AS2890.1.
5. Details of the pedestrian access pathway.
6. The application is to include a geotechnical report that is prepared by an appropriately qualified Geotechnical Engineer to assess all proposed works including road works and retaining walls.
7. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

D. Modify Condition 33. Project Arborist to read as follows:

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:

- a) section 9.0, including 9.1 to 9.13 inclusive,
- b) all recommendations outlined in the Addendum to Arboricultural Impact Assessment Report dated 02/10/2024 by Martin Peacock Tree Care.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s).

Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

E. Modify Condition 53. Landscape Completion to read as follows:

Landscape works are to be implemented in accordance with the approved Landscape Plans prepared by Arcadia dated 21/08/24 (drawings 000 Cover Sheet, Plant Schedule, 401 Lower Ground, 402 Ground, 403 First Floor, 600 Planting Details and 601 Specification; all issue F), and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) any landscape works proposed for the road reserve shall be included as part of the s.138 works within the road reserve application, for approval or otherwise,
- c) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
- d) all Pennisetum species shall be deleted and replaced with non spreading species.

Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

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

Signed



Megan Surtees, Planner

The application is determined on 12/11/2024, under the delegated authority of:



Adam Richardson, Manager Development Assessments