

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0388
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Responsible Officer:	David Auster
Land to be developed (Address):	Lot 57 DP 11067, 204 Whale Beach Road WHALE BEACH NSW 2107
Proposed Development:	Modification of Development Consent N0280/15 granted for alterations and additions to dwelling including first floor addition renovations to existing ground floor area and alterations to the existing foundation area
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Hugh David Malcolm
Applicant:	Hugh David Malcolm

Application lodged:	25/07/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	06/08/2018 to 20/08/2018
Advertised:	Not Advertised
Submissions Received:	2
Recommendation:	Approval

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

Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 57 DP 11067 , 204 Whale Beach Road WHALE BEACH NSW 2107
Detailed Site Description:	<p>The site is known as 204 Whale Beach Road, Whale Beach and has a legal description of Lot 57 in Deposited Plan 11067. The site is regular in shape, with an angled frontage to Whale Beach Road, and has a total area of 853.6m². Vehicular and pedestrian access is gained via the 19.385m wide frontage of Whale Beach Road. The site is located on the western side of Whale Beach Road. The site falls 9.45m from the western rear boundary of the site, down towards the eastern front boundary of the site, with a slope of approximately 21.9%. The site is currently occupied by a single one-two storey dwelling. The property is surrounded by residential properties to the north, south and west with Surf Road located adjacent to the subject site to the east and Whale Beach located to the far east of the site.</p> <p>The site is zoned E4 – Environmental Living under the provisions of the Pittwater LEP 2014 and the proposed development being alterations and additions to a dwelling would be permissible with consent pursuant to the Pittwater Local Environmental Plan 2014.</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:

Application N0280/15 for Alterations and additions to dwelling including first floor addition, renovations to existing ground floor area and alterations to the existing foundation area was approved by Council on 11 February 2016. It involved:

Alterations and additions to the existing dwelling including:

- Extension of the Ground Floor subfloor to create a new Rumpus Room, Powder Room and Formal Entry;
- Alterations and Internal reconfiguration of the Ground Floor level and new en-suite to the west (rear);
- A new first floor level comprising of one (1) Bedroom, one (1) bathroom, Walk-in Robe, Study, Lobby and balcony to the east

Application N0280/15/S96/1 was to modify the above consent, and was approved by Council on 6 October 2016. The modifications approved were:

- Amendment to condition B1 to allow for a maximum building height of RL32.5;
- Amendment to condition C2(c) to allow for a Ground Floor Level floor ceiling height of 2.7m and a First Floor Level floor ceiling height of 2.7m;
- Amendment to condition C2(d) to allow for a high silled window on the southern elevation to bedroom 1 instead of deletion of the window.

The current modification application assessed in this report is the second modification of N0280/15.

PROPOSED DEVELOPMENT IN DETAIL

The proposed modifications involve the addition of a pergola roof structure, paving and spa pool in the rear yard area, and a 1.8m retaining wall. A small cabana is also proposed towards the rear boundary.

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 NO280/15, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The proposed modifications are works to the rear private open space of the dwelling. The original alterations and additions included works to the lower subfloor level, the existing ground level (including to the rear of the ground level), and a new upper level. As such, the proposed awning, paved area and spa coming directly off the rear of the ground level is considered to be within the definition and scope of works of the alterations and additions to the dwelling previously approved. However, the proposed cabana at the very rear of the site, is a new element, not attached to any of the previously approved works, and is considered to be beyond the scope of works which could be approved under the proposed modification. As such, a condition of consent is recommended deleting the cabana from the approved plans.</p> <p>Subject to deletion of the cabana at the rear of the site from the plans, the development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under</p>

Section 4.55 (2) - Other Modifications	Comments
	NO280/15.
(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	Development Application NO280/15 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (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	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environmental Plan 2011 and Pittwater 21 Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 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 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No Additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are</p>

Section 4.15 'Matters for Consideration'	Comments
environment and social and economic impacts in the locality	<p>addressed under the Warringah 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 development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mrs Barbara Lyle Dowe	17 Morella Road WHALE BEACH NSW 2107
Mrs Anita Lee Nolan	72 Windsor Street PADDINGTON NSW 2021

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

- **Views**
- **Privacy**
- **Plans**
- **Roof colour**
- **Planting**

The matters raised within the submissions are addressed as follows:

- **Views**

Comment: One of the properties to the rear of the site raised concerns with possible view impacts. This report recommends deletion of the cabana proposed at the rear of the site, at the highest part of the site (see discussion under EP&A Act section of this report). The other proposed works are at the ground level, well below the overall height of the building approved in the original DA. Those works will not have any impacts on views. Subject to deletion of the cabana, the submission is considered to be reasonably satisfied in this regard.

- **Privacy**

Comment: Concerns were raised with privacy impacts from the proposed cabana at the rear of the property. This element is recommended for deletion by condition of consent (see discussion under EP&A Act section of this report), and as such the submission is considered to be reasonably satisfied in this regard. The other proposed works, attached to the dwelling are at or below the existing ground level, and will not have any unreasonable privacy impacts on any neighbours.

- **Plans**

Comment: Concerns were raised that the proposed modifications are not shown on the plans originally approved and that they could not be understood properly. This contention is not supported. The proposed modifications are clear in their location at the rear of the dwelling, at ground level. The proposed awning shown on the plans will extend from the existing ground level roof, and the paving and spa pool will also extend out from the existing ground level. The plans are considered to be sufficiently clear to make a full and complete assessment of the modifications. The submission is not supported in this regard.

- **Roof colour**

Comment: Concerns were raised with the proposed awning, and a possible white roof causing reflectivity impacts on neighbours. The information submitted with the application does not make the proposed colour clear. However, there is an existing condition of the consent stating the following: *19. Roofs to all structures are to be of dark or mid grey, brown and/or green tones only. "Shale Grey" is too light and the roof is to be "Windspray" or darker. No white or light coloured roofs are permitted.* This condition will remain on the consent, and is considered to reasonably satisfy the submission in this regard.

- **Planting**

Comment: Concerns were raised that the modified plans showed some planting that no longer exists. Council's Bushland & Biodiversity division has assessed the proposal and is satisfied with the proposal. They have recommended a condition requiring planting of at least 2 locally native canopy trees that reach a mature height of 10 metres. Subject to this condition, planting on the site is considered to be acceptable. The proposed modifications are relatively minor works to the rear private open space, at or below ground level, and will have no significant or unreasonable visual impacts on neighbours.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	Council's Bushland & Biodiversity division has assessed the proposal against Pittwater LEP 2014 Control 7.6 Biodiversity Protection & Pittwater 21 DCP 2014 Control B1.4 Aboriginal Heritage Significance, B4.6 Wildlife Corridors and believes the proposed development complies subject to conditions, as recommended. All previous Natural Environment conditions are to be upheld.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).

- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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	8.2m	No change - mod works at ground level	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	6.095m	unaltered	Yes
Rear building line	6.5m	Greater than 20m	1.4m cabana 16.5m (other modifications)	No Yes

Side building line	2.5m	N 3.08m	1.5m (spa)	No
	1m	S 1.18m	4.2m (new awning)	Yes
Building envelope	3.5m	Outside envelope both sides	Modification elements within envelope	Yes
Landscaped area	50%	60.1%	55%	No

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
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	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
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	Yes	Yes
D12.6 Side and rear building line	No	Yes
D12.8 Building envelope	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

D12.6 Side and rear building line

The proposed cabana is 1.4m from the rear boundary. As discussed under the EP&A Act section of this report, the cabana is not supported and is recommended for deletion by condition of consent, meaning that the proposal will comply with the rear boundary setback (the other works are a minimum of 16.5m from the rear boundary). The proposed spa is 1.5m from the northern side boundary. The control allows that:

For swimming pools and spas a 1 metre minimum setback from the boundary to the pool coping may be permitted subject to the following:

satisfactory landscaping within the setback from the pool or spa coping to the side or rear boundary, and Council is satisfied that the adjoining properties will not be adversely affected, and the pool or spa is not more than 1 metre above ground level (existing), and that the outcomes of this clause are achieved without strict adherence to the standards, and where the site constraints make strict adherence to the setback impractical, and where strict compliance with these requirements will adversely impact on the views of adjoining residential properties.

The proposed spa generally achieves those requirements. There is no significant landscaping proposed between the spa and the pool. However, given that the spa is below the existing ground level and well below the level of the existing side boundary fence, it is not considered to cause any significant adverse impacts. A merit assessment against the outcomes of the clause is carried out below.

Merit Assessment

To achieve the desired future character of the Locality.

Comment: The proposed works are in the rear yard, and will not cause the overall development to become inconsistent with the desired future character. The works will not be readily visible from any public area, and will not have a high level of visual impact on neighbours. The spa in particular is below the existing ground level, and will not be readily visible from either public or private adjoining land.

The bulk and scale of the built form is minimised.

Comment: The proposed works are generally minor works to the rear private open space of the dwelling. The spa (being the element close to the side boundary) is below existing ground level and will not have any significant impacts on bulk and scale.

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

Comment: The proposed works are at ground level and will have no unreasonable impacts on views. As discussed in this report, the proposed cabana at the rear of the site is to be deleted by condition of consent. Subject to this condition there will be no significant impacts on any views as a result of the modifications.

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

Comment: The proposed modifications are at ground level, and will maintain view sharing as previously approved under the original DA.

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 spa and paved area to the rear is cut into the existing slope, and as such will not cause any unreasonable overlooking of neighbouring properties, given the private open space will essentially be lower than the existing private open space in the rear yard of the site. The works are generally to improve the amenity of the rear private open space area, and are standard residential works. They will have no unreasonable impacts on the amenity of neighbours. The proposed pergola roof is 4.2m from the southern side boundary and will not cause any significant shading of the southern neighbour.

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

Comment: Council's Bushland & Biodiversity division has assessed the proposal and is satisfied with the proposal. They have recommended a condition requiring planting of at least 2 locally native canopy trees that reach a mature height of 10 metres. Subject to this condition, the proposal is considered to achieve this objective.

Flexibility in the siting of buildings and access.

Comment: The location of the spa pool is acceptable as it does not cause any unreasonable impacts on neighbours.

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

Comment: The proposed modifications are generally below the existing ground level, and will not create any unreasonable visual impacts. Council's Bushland & Biodiversity division have recommended a condition requiring planting of at least 2 locally native canopy trees that reach a mature height of 10 metres. Subject to this condition, the proposal is considered to achieve this objective.

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

Comment: N/A

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCP 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.

D12.10 Landscaped Area - Environmentally Sensitive Land

The proposal results in landscaped open space of approximately 55%, including the 6% of site area permitted by the control as hard surface recreational area.

Merit assessment:

Achieve the desired future character of the Locality.

Comment: The proposed works are in the rear yard, and will not significantly alter the character of the building or site as viewed from public areas. The works are in the rear yard at ground level, and will increase the amenity of the dwelling without having any unreasonable impacts on neighbours. The proposal remains consistent with the desired future character.

The bulk and scale of the built form is minimised.

Comment: The proposed works are at ground level, and in the case of the spa and paving are cut into the ground level. The proposal will not result in any unreasonable bulk and scale being added to the overall development.

A reasonable level of amenity and solar access is provided and maintained.

Comment: The proposal will not create any unreasonable overshadowing given the proposed modifications are at the ground level, with the new pergola roof situated in the middle of the site a minimum of 4.2m from the southern boundary and generally to the north of the existing lower level roof. The works will also not have any unreasonable impacts on the amenity of neighbours, given they are generally standard residential recreational area works, to improve the amenity of the private open space of the dwelling. The spa and paving are generally below the existing ground level, and so will not have any unreasonable privacy impacts.

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

Comment: Council's Bushland & Biodiversity division has assessed the proposal and is satisfied with the proposal. They have recommended a condition requiring planting of at least 2 locally native canopy trees that reach a mature height of 10 metres. Subject to this condition, the proposal is considered to achieve this objective.

Conservation of natural vegetation and biodiversity.

Comment: Council's Bushland & Biodiversity division has assessed the proposal and is satisfied with the impacts on natural vegetation and biodiversity.

Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.

Comment: Hard surface area will be increased, however the site drains to the public drainage system in the street, and the stormwater will continue to drain there.

To preserve and enhance the rural and bushland character of the area.

Comment: The proposed works are in the rear yard, and will not have any significant or unreasonable negative impacts on the rural and bushland character of the area. The immediate area is generally highly urbanised and developed, and the minor non-compliance caused by paving of part of the rear private open space will not have any unreasonable impacts on the character of the area.

Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.

Comment: Part of the non-compliance is caused by the proposed spa pool, which will collect water and direct it to the sewerage system. The site drains to the street, and the public drainage system, and the minor non-compliance will not have major impacts on the ability of water to infiltrate on site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCA 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.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2018/0388 for Modification of Development Consent N0280/15 granted for alterations and additions to dwelling including first floor addition renovations to existing ground floor area and alterations to the existing foundation area on land at Lot 57 DP 11067,204 Whale Beach Road, WHALE BEACH, subject to the conditions printed below:

A. The existing approved plans are further modified by the following approved Plans and supporting documentation:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
M-11-266343-1A Amendment A	10/07/2018	Civil & Structural Engineering Design Services
M-11-266343-2A Amendment A	10/07/2018	Civil & Structural Engineering

		Design Services
A-11-266343 Issue 01 Amendment A	10/07/2018	Civil & Structural Engineering Design Services

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Risk Analysis and Management MQ30139B	20 July 2018	Jack Hodgson Consultants

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. Cabana

The '2000x3000 Cabana' shown on the above approved plans in the southwestern corner of the property is not approved and is to be deleted from the approved plans.

Updated plans complying with the above are to be submitted to the Principle Certifier prior to issue of any updated/amended construction certificate.

Reason: Consistency with clause 4.55 of the EP&A Act.