

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2022/0507
<b>Responsible Officer:</b>	Olivia Ramage
<b>Land to be developed (Address):</b>	Lot 16 DP 30325, 70 Lane Cove Road INGLESIDE NSW 2101
<b>Proposed Development:</b>	Modification of Development Consent DA2020/0241 granted for Alterations and additions to a dwelling house
<b>Zoning:</b>	RU2 Rural Landscape
<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>	Michael Anthony Conn Helen Louise Conn
<b>Applicant:</b>	Helen Louise Conn
<b>Application Lodged:</b>	28/09/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	10/10/2022 to 24/10/2022
<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 modification proposes the reconfiguration of the ground floor to allow for a four bedroom dwelling with a therapy/gym room. The previously approved living/dining area is to be deleted and modifications are proposed to windows and doors accessing the outdoor living area adjacent to the pool. The pool is also to be enlarged and the alfresco tiled area replaced with decking.

### 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 - D6.8 Landscaped Area - Non Urban General

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 16 DP 30325 , 70 Lane Cove Road INGLESIDE NSW 2101
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the northern side of Lane Cove Road. The site is irregular in shape with a frontage of 96m and a depth of 209m. The site has an area of 20,233m<sup>2</sup>.</p> <p>The site is located in the RU2 Rural Landscape zone and accommodates a dwelling house on site.</p> <p>The site slopes down from the southern frontage towards the northern rear with a fall of approximately 18m.</p> <p>The surrounding development is characterised by a rural setting with residential development.</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:

- **DA2020/0241** - Development Application for Alterations and additions to a dwelling house. Approved 12 May 2020.
- **N0030/13** - Development Application for Demolition of the existing dwelling and swimming pool and erection of a new dwelling, swimming pool and waste water treatment system. Approved on 16 May 2013.

## 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 DA2020/0241, 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 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 DA2020/0241 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposal remains for alterations and additions to a dwelling.</li> <li>• The modifications are mainly internal reconfigurations with minor external changes.</li> <li>• This amenity impacts to the surrounding environment remain unchanged.</li> </ul>
(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 DA2020/0241 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 2021, and the Northern Beaches Community Participation 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.	No submissions were received in relation to this application.

## 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)(iia) – 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>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <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 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 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 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) <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</p>



Section 4.15 'Matters for Consideration'	Comments
	social impact in the locality considering the character of the proposal.  (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.
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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bush Fire Planning Services, dated 31 August 2022) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 10/10/2022 to 24/10/2022 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)	The comments on this assessment relate to the following legislation: <ul style="list-style-type: none"> <li>Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection</li> <li>Pittwater 21 DCP - Clause B4.1 Flora and Fauna Conservation Category 1 Land / Clause B4.18 Heathland/Woodland Vegetation</li> </ul>

Internal Referral Body	Comments
	<p>No alterations affecting biodiversity have been observed in the modifications submitted.</p> <p>As stated in the previous "Natural Environment Referral Response - Biodiversity" with Application DA2020/0241 the proposal is supported as long as the original conditions are satisfied.</p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A364538\_03 dated 22 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
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#### Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6.0m	6.0m	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
7.10 Essential services	Yes

#### Pittwater 21 Development Control Plan

##### Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	20m	117m	Unaltered	Yes
Rear building line	7.5m	62m	Unaltered	Yes
Side building line	West - 7.5m	7.5m	Unaltered	Yes
	East - 7.5m	50m	Unaltered	Yes
Building envelope	3.5m	Within	Unaltered	Yes
	3.5m	Within	Unaltered	Yes
Landscaped area	96% of the total site area minus 400m <sup>2</sup> (19,023m <sup>2</sup> )	18,747m <sup>2</sup> (93%)	18,725.25m <sup>2</sup> (92.5%)	No

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.6 Ingleside Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
B3.11 Flood Prone Land	Yes	Yes
B4.18 Heathland/Woodland Vegetation	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
D6.1 Character as viewed from a public place	Yes	Yes
D6.3 Building colours and materials	Yes	Yes
D6.5 Front building line	Yes	Yes
D6.6 Side and rear building line	Yes	Yes
D6.7 Building envelope	Yes	Yes
D6.8 Landscaped Area - Non Urban General	No	Yes
D6.12 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

#### Detailed Assessment

#### **D6.8 Landscaped Area - Non Urban General**

##### Description of non-compliance

This control requires a minimum landscaped area of 96% minus 400m<sup>2</sup> which for this site, equates to 19,023m<sup>2</sup> for the site area of 20,233m<sup>2</sup>. The modification proposes a total landscaped area of 18,725.25m<sup>2</sup> which does not comply with the control. This is a minor reduction in landscaped area from the previously approved development which provided 18,747m<sup>2</sup> landscaped area.

##### 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 maintains the low density rural residential form of the area and therefore achieves the desired future character of the Locality.

- *To enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment.*

Comment

The proposal complies the building height development standard as well as the front, side and rear setback controls. The dwelling is setback over 100m from the street and the proposed modifications are not visible from the street. As such, the proposal does not impact on the existing streetscape and the development is of a scale and density that is compatible with the height of the natural environment.

- *To ensure that development does not unreasonably diminish sunlight to neighbouring properties and within the development site.*

Comment

The proposed development provides ample spatial separation to neighbouring properties and consists of a one storey dwelling. Therefore, the proposal does not impact on solar access to neighbouring properties.

- *To preserve and enhance vegetation to visually reduce the built form.*

Comment

The site contains substantial landscaping, trees and vegetation which will be largely retained. The dense vegetation and trees at the front of the site adequately visually reduce the built form.

- *To minimise the impact of development on Pittwater's biodiversity by minimising the removal of indigenous vegetation and naturally occurring soils, conserving existing significant indigenous and native trees, and encouraging planting of indigenous and native plants and trees on private property.*

Comment

Council's Bushland and Biodiversity Officer has reviewed the proposed modification and deemed it acceptable. The proposal does not require the removal of indigenous or significant vegetation and is considered to have minimal impact on Pittwater's biodiversity.

- *To conserve significant natural features of the site and contribute to effective management of biodiversity*

Comment

The proposal maintains substantial landscaped area at the front and rear of the site which maintains the natural features and values of the site. The proposed modifications are not considered to impact on biodiversity.

- *To provide for infiltration of water to the water table, minimise stormwater runoff and assist with stormwater management to reduce and prevent soil erosion and the siltation of natural drainage channels.*

Comment

The proposal provides sufficient landscaping to provide for infiltration of water and minimise stormwater runoff.

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

Comment

The proposal maintains ample soft surface throughout the site which assists with stormwater management.

- *To preserve and enhance the rural and bushland character of the non-urban area of the locality.*

Comment

The proposal maintains the rural and bushland character of the area by providing a low density residential dwelling surrounded by trees and vegetation. The proposed development complies with the height controls as well as the front, side and rear setback controls to provide a dwelling that complements the rural landscape.

The proposal is consistent with the underlying outcomes of the clause and as such is reasonable 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. Mod2022/0507 for Modification of Development Consent DA2020/0241 granted for Alterations and additions to a dwelling house on land at Lot 16 DP 30325,70 Lane Cove Road, INGLESIDE, subject to the conditions printed below:

### A. Add Condition No.1A - 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DFA1904-A03 Issue A - Site Plan / Waste Management Plan, Site Analysis and Location Map	30 August 2022	Dragonfly Architects
DFA1905-A05 Issue A - Cellar and Ground Floor Plan	30 August 2022	Dragonfly Architects
DFA1905-A06 Issue A - Level 1 and Roof Plan	30 August 2022	Dragonfly Architects
DFA1905-A07 Issue A - Elevations and Sections	30 August 2022	Dragonfly Architects
DFA1905-A09 Issue A - Landscape Calculations, Finishes Schedule and BASIX	30 August 2022	Dragonfly Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A364538_03	22 August 2022	Dragonfly Architects
Bush Fire Report	31 August 2022	Bush Fire Planning Services

#### b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

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

**Signed**



**Olivia Ramage, Planner**

The application is determined on 03/11/2022, under the delegated authority of:



**Adam Richardson, Manager Development Assessments**