

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2023/0507
Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 10 DP 27133, 10 Taminga Street BAYVIEW NSW 2104
Proposed Development:	Modification of Development Consent DA2021/0060 granted for Alterations and additions to a dwelling house
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Lenore Anne Walter
Applicant:	JJ Drafting Australia Pty Ltd

Application Lodged:	18/09/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	25/09/2023 to 09/10/2023
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

This modification application seeks consent to modify DA2021/0060, which was granted consent for alterations and additions to a dwelling house.

The proposed modified works include:

Upper Floor Level Plan

- Remove approved study
- Approved bathroom to be relocated between the existing family room and guest room
- Removal of approved window 5
- Redesign of Window 4 to a highlight window and to be frosted

Entry Level Plan

- Walk-in robe within Bedroom 1 to be relocated and the en-suite extended
- Increase the size of Window 13 (also to be frosted)
- Two (2) new windows to the walk-in pantry (being N1 and N2)
- New splashback (N3) to the kitchen along the eastern elevation with external louvre-blind

Lower Level Plan

- Redesign of the existing bathroom
- New doors to Bedroom 3 and the bathroom
- Enclose existing door between Bedroom 3 and the bathroom

Gym & Mezzanine Level Plan

- Gym level:
 - External stairs along the western and eastern boundaries
 - Low retaining wall to the undercroft area
 - Retaining wall to create a level lawn area off the gym

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 - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - D4.6 Side and rear building line

SITE DESCRIPTION

Property Description:	Lot 10 DP 27133 , 10 Taminga Street BAYVIEW NSW 2104
Detailed Site Description:	<p>The subject site is identified as Lot 10 DP 27133 and is known as 10 Taminga Street, Bayview.</p> <p>The subject site is a single residential allotment located on the southern side of Taminga Street, Bayview. The property is located within land zoned for C4 Environmental Living pursuant to the <i>Pittwater Local Environmental Plan 2014</i>.</p> <p>The site is regular in shape and has a total area of 689.31m². The property has a frontage of 18.9m to Taminga Street and depths of 36.525m to the east and west. The subject site is currently under construction in accordance with the approval of DA2021/0060. The subject site benefits from vehicle access via a shared Right of Way (ROW) off Ilya Avenue located within the southern front setback boundary.</p> <p>The site has a very steep topography, with a fall from the south boundary down to north boundary of over 19m.</p> <p>The site has numerous trees throughout that were established prior to the construction of the dwelling house, or have been planted and established since its construction.</p> <p>Surrounding sites consist of multi-level, variably stepped houses, along steep topography, of varying ages, within a landscaped setting.</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:

- **DA2021/0060.** This development application sought consent for alterations and additions to a residential dwelling. This application was approved, subject to conditions, on 24 May 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 DA2021/0060, 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
<p>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:</p>	
<p>(a) it is satisfied that the proposed modification is of minimal environmental impact, and</p>	<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 include both internal and external works. The proposed modified internal works have no environmental impact. The proposed external works, including a retaining wall, steps, and changes to the window and door schedule will not cause unreasonable environmental impacts. As such, the proposed modified works are of a minimal environmental impact.</p>
<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>	<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 DA2021/0060 for the following reasons:</p> <p>The original development application sought consent for alterations and additions to a residential dwelling, including:</p> <ul style="list-style-type: none"> • Demolition of concrete parking platform & concrete terrace • New Upper Floor consisting of family room, wet bar, study, bathroom, guest bedroom and rear balcony • Entry Level floorplan amended to provide kitchen and living, butlers pantry, laundry, storage area, 2 bedrooms, WIR, ensuite, study and a new entry and entry portico. • New double garage • New Entry Level balcony • New internal access stairs • New Lower Level bedroom, rumpus, wet bar and a store. • New lower level balcony • Basement level subfloor area enclosed to form a gym with a mezzanine area for storage • External access stairs along the western boundary <p>The proposed modified works include:</p> <p>Upper Floor Level Plan</p> <ul style="list-style-type: none"> • Remove approved study • Approved bathroom to be relocated between the existing family room and guest room • Removal of approved window 5 • Redesign of Window 4 to a highlight window and to be frosted

Section 4.55(1A) - Other Modifications	Comments
	<p>Entry Level Plan</p> <ul style="list-style-type: none"> • Walk-in robe within Bedroom 1 to be relocated and the en-suite extended • Increase the size of Window 13 (also to be frosted) • Two (2) new windows to the walk-in pantry (being N1 and N2) • New splashback (N3) to the kitchen along the eastern elevation with external louvre-blind <p>Lower Level Plan</p> <ul style="list-style-type: none"> • Redesign of the existing bathroom • New doors to Bedroom 3 and the bathroom • Enclose existing door between Bedroom 3 and the bathroom <p>Gym & Mezzanine Level Plan</p> <ul style="list-style-type: none"> • Gym level: <ul style="list-style-type: none"> - External stairs along the western and eastern boundaries - Low retaining wall to the undercroft area - Retaining wall to create a level lawn area off the gym <p>In this instance, the proposed modified works are considered to be substantially the same as that which was previously approved under DA2021/0060.</p>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.</p>
<p>(d) it has considered any submissions made concerning</p>	<p>One (1) submission was received. This has been considered within the assessment report.</p>

Section 4.55(1A) - Other Modifications	Comments
the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	

Section 4.15 Assessment

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

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the proposed low retaining wall to the undercroft area. During a site visit it was observed that this retaining wall has been constructed and, in accordance with <i>Ku-ring-gai Council v Buyozo Pty Ltd</i> [2-21] NSWCA 177, Council does not have the power to grant retrospective approval for works as-constructed. The Applicant was advised of this issue through a Request for Further Information (RFI) letter, dated 12 October 2023, via the NSW Planning Portal and email. Amended plans were provided to Council on 17 October 2023 via</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>email, as well as being uploaded to the NSW Planning Portal. As the amended plans did not technically change the proposed development, in accordance with Council's Community Participation Plan (CPP), the application is 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 - 1991: 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 matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
<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>	<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>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 25/09/2023 to 09/10/2023 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:
Mrs Jillian Gay Murray	Po Box 341 MONA VALE NSW 1660

The following issues were raised in the submissions:

- **Privacy**

The above issues are addressed as follows:

- **Privacy**

The submissions raised concerns that the proposed windows to the pantry along the eastern elevation on the ground floor level will cause unreasonable privacy impacts upon the private open space and entry way of 11 Taminga Street, Bayview (the property to the east). The submission requested the sill height to these windows be increased and treated with a translucent glazing.

Comment:

A merit consideration of the proposal against the underlying outcomes of control C1.5 Visual Privacy of the Pittwater 21 Development Control Plan (P21 DCP) has been undertaken within this report. The assessment has found that the proposed development, subject to conditions, can achieve the underlying outcomes of C1.5 Visual Privacy.

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The application is for modification to development consent DA2021/0060. The proposed amendments will not change the landscape outcome

Internal Referral Body	Comments
	approved in DA2021/0060, and as such the original conditions remain. No further conditions are imposed.
NECC (Bushland and Biodiversity)	<p>The proposal seeks approval for the Modification of Development Consent DA2021/0060 granted for Alterations and additions to a dwelling house.</p> <p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> • Biodiversity Conservation Act 2016 • Pittwater LEP - Clause 7.6 Biodiversity Protection • Pittwater DCP - Clause B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor <p>The proposed modifications take place in previously disturbed areas of the site and no additional tree removal or vegetation removal is being proposed. The proposed modifications are therefore unlikely to impact upon native flora and fauna.</p> <p>No native vegetation or fauna habitat would be impacted, the development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p>
NECC (Development Engineering)	<p>04/10/2023:</p> <p>The proposal seeks approval for the Modification of Development Consent DA2021/0060 granted for Alterations and additions to a dwelling house.</p> <p>No objections are raised to the proposed modifications. No modifications to Development Engineering conditions required. Existing Development Engineering conditions for DA2021/0060 are considered to still be relevant and adequate.</p> <p>The proposal is therefore supported</p> <p>For Planner: Please include geotechnical letter from Soilsrock, ref: SRE/953/BV/23, Dated 13th Sept 2023 as part of approved documents.</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. A398756_02, dated 13 September 2023).

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

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	5.7m - 9.8m	No change	N/A	Yes*

* In accordance with PLEP 2014 Clause 4.3 (2D), the maximum building height permissible is 10.0 metres. The objectives of the height of buildings development standard, and relevant criteria were assessed within the 4.3 Height of buildings section of the report under DA2021/0060. As the building height is not changing under this modification application, no further discussion on this matter is required.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes

Clause	Compliance with Requirements
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	7.5m - 8.3m Upper Floor Dwelling 7.5m - 8.2m Entry Level Dwelling 7.9m - 8.2m Entry Level Garage	Unaltered	Yes
Rear building line	6.5m	11.6m - 11.8m Upper Floor Balcony 21.2m - 14.6m Upper Floor Dwelling 11.1m - 11.4 Entry Level Dwelling 6.6m - 6.9m Entry Level Balcony 9.7m Lower Level Dwelling 6.6m - 6.9m Lower Level Balcony 8.6m - 8.8m Mezzanine	Unaltered	Yes
Side building line	Eastern Boundary 2.5m	10.5m Upper Floor Balcony 4.8m - 6.7m Upper Floor Dwelling 2.1m Entry Level Dwelling 2.2m Entry Level Rear Balcony 0.885m Lower Level (existing) 11.7m Mezzanine	No change to dwelling External stairs: Nil	Yes & No, as approved No
	Western Boundary 1m	3.5m Upper Level Dwelling/Balcony 1.5m Entry Level Dwelling/Garage 2.6m - 3.3m Lower Level Dwelling 1.5m Lower Level Patio 1.5m Mezzanine 0.2m External Access Stairs	No change to dwelling Gym Level External stairs: 1.65m	Yes & No, as approved Yes
Building envelope	Eastern Elevation 3.5m	Encroachment of the Upper Floor dwelling house for a height of 0.2m for a length	Unaltered	No, as approved

		of 0.5m, encroachment of the Entry Level balcony for a height of 3.6m for a length of 2.4m		
	Western Elevation 3.5m	Encroachment of the Upper Floor for a height of 2.6m and a length of 1.7m, and the Upper Floor balcony area encroaches for a height of 1.6m for a length of 3m, with the Entry Level displaying new encroachment of a height of up to 3.3m for a length of 4.6m & 0.8m in height by 1.0m in length	Unaltered	No, as approved
Landscaped area	60% (413.6m ²)	47.1% (324.3m ²)	Unaltered	No, as approved

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.4 Church Point and Bayview Locality	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B5.15 Stormwater	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.5 Visual Privacy	No	Yes
D4.1 Character as viewed from a public place	Yes	Yes
D4.2 Scenic protection - General	Yes	Yes
D4.3 Building colours and materials	Yes	Yes
D4.5 Front building line	Yes	Yes
D4.6 Side and rear building line	No	Yes
D4.8 Building envelope	Yes	Yes
D4.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D4.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

C1.5 Visual Privacy

Detailed description of non-compliance

The proposed modified works include changes to the window schedule along the eastern elevation on the ground floor level. Two (2) windows are proposed to the walk-in pantry (N1 and N2) and one (1) window (N3) is proposed as a splash-back to the kitchen. A submission has been received which raised concern regarding the two (2) windows to the pantry, requesting that these be raised to be highlight windows to limit overlooking to the front entry area of 11 Taminga Street.

The proposed windows to the pantry have a sill height of 1.6 metres, when measured from the finished floor level. To ensure these windows comply with the requirements of this control, a condition has been recommended to increase the sill height to 1.7 metres, when measured from the finished floor level. As conditioned, the proposed windows to the pantry will provide a high level of privacy between properties, and therefore a translucent glazing is not required in this instance.

The proposed splash-back window has a sill height of 0.9 metres, which is well below the average sight line. No changes will be conditioned to the splash-back window.

Merit consideration

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)*

Comment:

As conditioned, the proposed modifications under this proposal result in a reasonable level of privacy between properties.

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

Comment:

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

As conditioned, the proposed development can achieve the underlying objectives of this control. The proposal can be supported on its merits.

D4.6 Side and rear building line

Detailed description of non-compliance

The proposed modified works include external timber steps on the gym and mezzanine level along the eastern elevation. These steps will result in a nil side setback distance to the eastern boundary, which presents a variation of 100%. Notwithstanding, due to the siting of the dwelling at 11 Taminga Street (the property directly to the east of the subject site), there are no unreasonable amenity impacts to 11 Taminga Street.

Regardless, a merit consideration has been undertaken below.

Merit consideration

- *To achieve the desired future character of the Locality. (S)*

Comment:

The proposed modified works will continue to maintain a low density residential build, with spatial separations that are consistent with the existing dwelling and surrounding developments. In this instance, the modified works will achieve the desired future character of the Bayview Locality.

- *The bulk and scale of the built form is minimised. (En, S)*

Comment:

The proposed stairs result in a reasonable bulk and scale of the built form.

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

Comment:

The proposed stairs are sited on the lowest level of building footprint, therefore these are not considered to result in an impact upon existing views obtained by adjoining properties.

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

Comment:

As detailed above, a reasonable level of view sharing is maintained, notwithstanding the numerical non-compliance to this control.

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

Comment:

As detailed above, the proposed stairs do not result in an unreasonable amenity (privacy, solar access, view sharing) impact upon adjoining properties.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*

Comment:

The non-compliance does not adversely or unreasonably impact upon the landscaping, tree canopy or the streetscape of Taminga Street.

- *Flexibility in the siting of buildings and access. (En, S)*

Comment:

The proposed stairs will facilitate flexibility and access throughout the subject site.

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

Comment:

The proposed stairs do not require the removal of vegetation. As the subject site is currently under construction, there is no substantial landscaping on the site. However, conditions under DA2021/0060 were included which require the replacement planting of multiple canopy trees

and vegetation throughout the site. Compliance with these conditions will ensure vegetation is utilised to visually reduce the built form.

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

Comment:

The subject site is located within, and surrounded by, residential zoning. As such, this outcome is not relevant to the subject site.

The proposed development can achieve the underlying objectives of this control. The proposal can be supported on its merits.

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. Mod2023/0507 for Modification of Development Consent DA2021/0060 granted for Alterations and additions to a dwelling house on land at Lot 10 DP 27133, 10 Taminga Street, BAYVIEW, 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 - 371341 Mod2023/0507	The date of this notice of determination	Modification of Development Consent DA2021/0060 granted for Alterations and additions to a dwelling house Amend Condition 1. Approved Plans and Supporting Documentation Amend Condition 9. Amendments to the approved plans

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
Mod.01	O	Site Analysis Plan	JJ Drafting	18 October 2023
Mod.02	O	Proposed Upper Level Plan	JJ Drafting	18 October 2023
Mod.03	O	Proposed Entry Level Plan	JJ Drafting	18 October 2023

Mod.04	O	Proposed Lower Level Plan	JJ Drafting	18 October 2023
Mod.05	O	Proposed Gym & Mezzanine Level Plan	JJ Drafting	18 October 2023
Mod.06	O	South Elevation	JJ Drafting	18 October 2023
Mod.07	O	West Elevation	JJ Drafting	18 October 2023
Mod.08	O	North Elevation	JJ Drafting	18 October 2023
Mod.09	O	East Elevation	JJ Drafting	18 October 2023
Mod.10	O	Section A-A	JJ Drafting	18 October 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate A398756_02	N/A	JJ Drafting Australia Pty Ltd	13 September 2023
Geotechnical Statement	SRE/953/BV/23	Soilsrock	13 September 2023

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. Amend Condition 9. Amendments to the approved plans to read as follows:


- A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost eastern edge of the balcony located off the kitchen/dinning room on the Entry Level as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.
- A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost eastern edge of the balcony located off the bedroom 3/rumpus room on the Lower Level as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.
- Windows N1 and N2 shall have a minimum sill height of 1.7 metres, when measured from the finished floor level of the walk-in pantry (WIP).

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

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

Signed



Megan Surtees, Planner

The application is determined on 23/10/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments