

3 July 2025



Robert Brown
Level 1 63 William Street
DARLINGHURST NSW 2010

Dear Sir/Madam,

Development Application No: Mod2025/0226 for Modification of Development Consent DA2021/2442 granted for construction of a swimming pool, spa and pavilion at 90 Cabbage Tree Road BAYVIEW.

An assessment has been undertaken of your application. The assessment has found that it is unsatisfactory in its current form for the reasons identified below:

- **Insufficient information**

The following information/documentation is required to complete the assessment of the application:

1. Updated Geotechnical Forms 1 & 1A are requested prior to Development Engineering finalising comments.

- **Issues**

The following is a list of the issues and concerns identified in the assessment that cannot be supported:

1. **Application Categorisation**

The application was lodged as a section 4.55(1A) modification application.

The original application (DA2021/2442) was granted for construction of a swimming pool, spa and pavilion.

In order for an application to be considered a 4.55(1A) application, Council as the consent authority, must be *“satisfied that the proposed modification is of no or minimal environmental impact”* in accordance with the requirements of Section 4.5(1A) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

As the original application did not propose an art studio or fireplace, the proposed modifications cannot be considered to have *“no or minimal environmental impact”*. In this way, the current proposal cannot be considered a Section 4.55(1A) modification application.



2. Internal Referral - Development Engineers

Council's Development Engineer provided the following comment in response to the proposal:

"The proposal is for the modification of Consent DA2021/2442 to include an art studio to the east of the approved pool and terrace.

The applicant has provided an updated Geotechnical report but Forms 1 & 1A are not provided. Updated Geotechnical Forms 1 & 1A are requested prior to Development Engineering finalising comments.

The proposal is therefore unsupported."

Options available to the Applicant

Council is providing you with two (2) options to progress your application:

1. Prepare and submit further supporting information/amendments to address the above issues. Please carefully read the below advice if you choose this option.
2. Request that the current proposal proceed to determination in its current form, which may result in refusal of the application.

Please advise of your selected option by responding **within 7 days of the date of this letter** by email sent to council@northernbeaches.nsw.gov.au marked to the attention of the assessment officer. Should Council not receive your response by this date, Council will determine the application in its current form.

Submitting further information/amendments

Council will offer **one** opportunity to provide feedback on conceptual amendments addressing the issues raised in this letter. We strongly request that you contact the assessment officer directly for a 'without prejudice' discussion on your proposed resolution of the issues and the submission requirements **before** lodging any documentation on the NSW Planning Portal.

Conceptual amendments must be provided to Council for feedback **within 14 days of the date of this letter**. If conceptual amendments are deemed sufficient, we will then provide you with a timeframe upon which an amended application is to be lodged on the NSW Planning Portal (generally 14 days).

Please ensure that the amended/additional information submitted on the NSW Planning Portal is a genuine attempt to resolve the issues as Council will generally not seek any further information/amendments after that point. Council will proceed to assess and determine the application based on the submitted information without further consultation. Whilst we will provide feedback on your conceptual amendments in good faith, this cannot guarantee the approval of the amended application.

As part of any amended application, it may be necessary to update your supporting documentation (e.g., BASIX certificate, bushfire report, geotechnical report, etc.). Failure to do so may affect Council's ability to determine the application favourably.



Please ensure that any amendments are accompanied by a summary/schedule of amendments cover sheet.

Council reserves its right under section 37 of the *Environmental Planning and Assessment Regulations 2021* not to accept any information/amendment if it is not considered to be a genuine attempt to resolve the issues. In which case, Council will inform you that the changes have not been accepted and the application will proceed to be determined.

This process has been established to ensure an efficient and responsible level of service which meets the requirements of the Department of Planning and Environment's *23A Guidelines on withdrawal of Development Applications 2023*, Ministerial Orders *Statement of Expectations 2021* and the *Development Assessment Best Practice Guide 2017*.

As per the requirements of section 36 of the *Environmental Planning and Assessment Regulation 2021*, you are advised that this application was accepted on 8 May 2025 and 50 days in the assessment period have now elapsed.

This letter will be released on Council's webpage as part of the application's documentation.

Should you wish to discuss any issues raised in this letter, please contact Maxwell Duncan on 1300 434 434 during business hours Monday to Friday.

Yours faithfully

Maxwell Duncan
Principal Planner