

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0196
Responsible Officer:	Kent Bull
Land to be developed (Address):	Lot 1 DP 23311, 36 Prince Alfred Parade NEWPORT NSW 2106
Proposed Development:	Modification of Development Consent DA2018/1161 granted for alterations and additions to an existing dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Michael John Harding Polly Harding
Applicant:	Blue Sky Building Designs Pty Ltd
Application Lodged:	15/05/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	25/05/2020 to 08/06/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The application seeks the modification of Development Consent No. DA2018/1161 granted for alterations and additions to an existing dwelling house.

Level 3 (Entry Level)

- Delete the enlarged approved entry and associated elevator/lift;
- Reconfiguration of the hard stand parking areas forward of the double garage; and
- Relocation of the pedestrian entry stairs off the Prince Alfred Parade frontage from the south-eastern side boundary to the north-western side boundary.

Level 2

- Deletion of winery (cellar) and associated pedestrian access;
- Deletion of elevator/lift and hallway to retain an existing bedroom;
- Replace approved Bedroom 1 with a decked area for access;
- Reconfiguration of internal stairs;
- Deletion of ensuite for an enlarged laundry/storage and bathroom;
- Minor internal modifications to the kitchen and living room including replacement of glazing to windows and doors;
- New window of increased width along the north-western elevation for the dining area; and
- Installation of a privacy screen to the north-western side of the balcony.

Level 1

- Deletion of the media room and elevator/lift;
- Reduction of size to the approved balcony to now form two separate balconies.

Level 1B

- Relocation of south-eastern side window to the wetbar area further to the rear.

Material/Finishes

- The modifications generally seek to retain the existing brick finish rather than cladding the building in dark grey and sandstone cladding.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.3 Flood planning
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy
 Pittwater 21 Development Control Plan - C1.23 Eaves
 Pittwater 21 Development Control Plan - D10.1 Character as viewed from a public place
 Pittwater 21 Development Control Plan - D10.7 Front building line (excluding Newport Commercial Centre)
 Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)
 Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)

SITE DESCRIPTION

Property Description:	Lot 1 DP 23311 , 36 Prince Alfred Parade NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site is known as 36 Prince Alfred Parade, Newport and legally referred to as Lot 1 DP 23311. The site consists of one (1) allotment located on the south-western side of Prince Alfred Parade.</p> <p>The site is regular in shape with a frontage of 20.225m along Prince Alfred Parade and a depth of 101.805m. The site has a surveyed area of 1126m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a four storey brick dwelling and garage located at the road frontage with a clad boatshed located towards the rear boundary.</p> <p>The site falls 22.56m from the road frontage to the rear boundary, with an average slope of 23.8%. The slope of building footprint however is far greater, measured at approximately 42.6%.</p> <p>The site contains multiple palms within the rear yard, with turf and smaller shrubs making up the remaining vegetation.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached residential dwellings within a bushland/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:

17 December 2018

Development Application No. DA2018/1161 for the alterations and additions to an existing dwelling house was granted consent.

APPLICATION HISTORY

25 May 2020

Photo confirmation of the notification sign in place provided to Council.

4 June 2020

Site inspection undertaken by the development assessment officer. One (1) property owner present at the time of the inspection.

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 DA2020/0228, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p>The application is not seen to result in further unreasonable effects to the natural environment or the amenity of the area when compared to that approved under DA2018/1161</p> <p>The proposal seeks a reduction to the overall built form, in particular the reduction to the size of the upper floor entry, deletion of a bedroom addition and does not result in a further reduction in landscaped area.</p>
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The 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 DA2018/1161 for the following reasons:</p> <p>The application involves modifications are predominantly internal alterations and the deletion of additions previously approved. Overall the modifications are seen to reduce the overall building footprint, reduce the bulk and scale of dwelling, which also not reducing landscaping on site or increasing building height when compared to that approved under DA2018/1161.</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</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control Plan.</p>

Section 4.55(1A) - Other Modifications	Comments
made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	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 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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
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 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>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</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</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>relevant to this application.</p> <p>Clause 98 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>Clause 98 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>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	No Development Engineering objection with no conditions.

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A374722, dated 11 May 2020).

The BASIX Certificate indicates that the development will achieve the following: A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*

- (b) *coastal environmental values and natural coastal processes,*
- (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) *Aboriginal cultural heritage, practices and places,*
- (g) *the use of the surf zone.*

Comment:

The proposed modifications are unlikely to cause adverse impact to the integrity and resilience of the biophysical, hydrological (surface and ground water) and ecological environment, coastal environmental values and natural coastal process, the water quality of the marine estate, or to marine vegetation, native vegetation and fauna and their habitats, underdeveloped lands and rock platforms. The modifications proposed does not restrict any existing public open space or safe access along the foreshore for members of the public, including persons with a disability. A condition was placed as part of the development consent of which this modification relates, to ensure that if any Aboriginal engravings or relics are unearthed as part of the development, works will cease immediately and the relevant authorities notified. The proposed modifications are not likely to cause an adverse impact to the use of the surf zone.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

As discussed within this report, the proposed modifications seek to reduce the overall building footprint. Consideration is given that the development has therefore been designed, sited and will be managed to avoid an adverse impact on the cultural and environmental aspects referred to in Subclause (1). The development consent of which this modification relates was referred to Council's NECC (Coast & Catchments) division that have raised no objections subject to conditions.

14 Development on land within the coastal use area

- (1)
 - (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,

- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
- (iv) Aboriginal cultural heritage, practices and places,
- (v) cultural and built environment heritage, and
- (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposed modifications are not likely to cause an impact on the existing access along the foreshore for members of the public, including persons with a disability and will not cause any overshadowing, wind tunneling or loss of views from public places to foreshores. The visual amenity and scenic qualities of the coast, including the coastal headlands will be preserved. The proposed modifications will also not have an adverse impact on the cultural and built environment heritage. It is considered that the proposal has satisfied the requirement to be designed, sited and will be managed to avoid an adverse impact to the above mentioned cultural and environmental aspects. Furthermore, the proposed modifications are considered to be of an acceptable bulk, scale and size that is generally compatible with the surrounding coastal and built environment.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

As previously discussed, the development consent of which this modification relates was referred to Council's NECC Coast & Catchments and Riparian Lands and Creeks divisions that raised no objections. It is therefore considered that the proposed modifications are not likely to cause increased risk of coastal hazards on the subject site or other land. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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:	10m (variation)	9.61m	Unchanged - 9.61m	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
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

7.3 Flood planning

Council's Team Leader for Floodplain Planning & Response has provided comments detailing that due to the proposed modifications being located outside the medium and high flood risk precinct, that no objections are raised and no further conditions are recommended in this regard.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	7m	6.7m (Dwelling)	Yes
Rear building line	6.5m	71m	unaltered	Yes
Side building line	2.5m	1.4m (North-West Elevation)	1.85m	No
	1m	1.4m	unaltered	Yes
Building envelope	3.5m	Outside envelope by 3.3m (North-West Elevaton)	Outside envelope by 479mm	No
	3.5m	Outside envelope as existing	unaltered	No
Landscaped area	60%	60.7% (679.65m ²)	61.3% (690.3m ²)	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	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
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	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
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	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
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.14 Separately Accessible Structures	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	No	Yes
D10.1 Character as viewed from a public place	No	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.5 Visual Privacy

The proposed modifications include the installation of privacy screens to balconies to further mitigate potential overlooking. Changes indicated to windows and doors are not seen to result in additional privacy impacts.

C1.23 Eaves

The proposed modification include changes to the roof form, in particular to the entry facing Prince Alfred Parade. Whilst the submitted plans do not demonstrate that all eaves are minimum of 450mm in width, consideration as been given appropriate solar access and shading is achieved through compliance with BASIX requirements. Further, the roof form and dark and earthy finishes indicated demonstrate that the resultant development will respond sensitively to the surrounding environment.

Based on the above, the non-compliance is supported on merit and considered to satisfy the outcomes of the control in this instance.

D10.1 Character as viewed from a public place

Despite the building continuing to be of four-storey appearance when viewed from the Pittwater waterway, the proposed modifications in particular, the scaled down entry to the upper floor and use of dark and earthy tones are seen to minimise the overall bulk and scale of the dwelling house. Whilst the double garage and associated hard stand parking area may be seen to be a dominant site feature when viewed from Prince Alfred Parade, consideration should be given that this area is lower than the street level and to the topographical difficulties in achieving compliance with the control requiring that these structures being preferably set back further than the primary building.

Based on the above, the non-compliance is supported on merit and considered to satisfy the outcomes of this clause.

D10.7 Front building line (excluding Newport Commercial Centre)

The extent of works forward of the front building line are for built structures typically not subject to the requirements of this clause. The modifications seek a relocation of the pedestrian access stairs from being along the south-eastern side boundary to being located off the Prince Alfred Parade frontage near the north western side boundary. Minor changes are also sought to reduce the overall scale of the for the raised hard stand parking platform. As the dwelling is located behind the minimum front building line, the proposal is seen to comply with the control requirements.

D10.8 Side and rear building line (excluding Newport Commercial Centre)

The proposed modifications are technically non-compliant with the control that requires a side setback of 2.5m from one side and 1m from the other side. With the existing dwelling being predominantly 1.4m from the south-eastern side boundary, and given the generally greater setback to the north-western boundary, the 2.5m setback requirement has been applied to this side of the dwelling. On this basis, the reconfigured Level 1 balcony being 1.85m from the north-western side boundary is technically non-complaint with the control requirement. It should be noted that the size of this balcony is to be reduced when compared to what has already been approved and that a full-height privacy screen has been incorporated to prevent visual privacy impacts towards 38 Prince Alfred Parade. Further, the bedroom addition on Level 1 that was also previously partially within the side setback area is to be replaced with an entry deck. In this regard, the proposal has demonstrated that a reasonable level of privacy, amenity, views and solar access is maintained for neighbouring dwellings.

Based on the consideration above, the proposal considered to be consistent with the outcomes of the control and is supported on merit.

D10.11 Building envelope (excluding Newport Commercial Centre)

The proposed Level 2 entry, whilst reduced in size, remains outside the prescribed building envelope and is therefore non-compliant with the control. The proposed development breaches the building envelope by 479mm at its greatest extent along the north-western elevation. The non-compliance is only applicable for a length of 1m, with the majority of the proposal being compliant with the envelope control. Consideration should be given that the scale of the entry has been reduced considerably, with an increased side setback and reduced height when compared to that previously approved. The variation sought for the proposal does not result in an unreasonable impact to neighbouring properties with regards to views, privacy and solar access. Furthermore, when viewed from Prince Alfred Parade, the dwelling will appear of one-storey appearance due to sloping topography of the site and the entry level will not be visually prominent when viewed from the foreshore area. The retention of vegetation including canopy trees and palms throughout the site further limit the built form of the development.

Based on the above, the variation to the control is supported on merit and considered to satisfy the outcomes of the control.

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.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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 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. Mod2020/0196 for Modification of Development Consent DA2018/1161 granted for alterations and additions to an existing dwelling house on land at Lot 1 DP 23311,36 Prince Alfred Parade, NEWPORT, 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
A100, Rev. 3 (Site Plan)	11.05.2020	Blue Sky Building Designs
A101, Rev. 3 (Roof Plan)	11.05.2020	Blue Sky Building Designs
A102, Rev. 3 (Demolition Plans)	11.05.2020	Blue Sky Building Designs
A103, Rev. 3 (Entry Lvl - Proposed)	11.05.2020	Blue Sky Building Designs
A104, Rev. 3 (Lvl 2)	11.05.2020	Blue Sky Building Designs
A105, Rev. 3 (Lvl 1)	11.05.2020	Blue Sky Building Designs
A106, Rev. 3 (Garden Lvl)	11.05.2020	Blue Sky Building Designs
A107, Rev. 3 (NE Elevation & Driveway Section)	11.05.2020	Blue Sky Building Designs
A108, Rev. 3 (NW Elevation & Mat. Schedule)	11.05.2020	Blue Sky Building Designs
A109, Rev. 3 (SE Elevation)	11.05.2020	Blue Sky Building Designs
A110, Rev. 3 (SW Elevation)	11.05.2020	Blue Sky Building Designs
A111, Rev. 3 (Section)	11.05.2020	Blue Sky Building Designs
A111.1, Rev. 3 (Section)	11.05.2020	Blue Sky Building Designs
A111.2, Rev. 3 (Section)	11.05.2020	Blue Sky Building Designs

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate, Ref. A374722	11 May 2020	Blue Sky Building Designs

c) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Waste Management Plan		
Drawing No.	Dated	Prepared By
A112, Rev 3 (Sediment & Waste Control Plan)	11.05.2020	Blue Sky Building Designs

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



Kent Bull, Planner

The application is determined on 16/06/2020, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments