

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

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| Application Number: | Mod2018/0387 |
| Responsible Officer: | Megan Surtees |
| Land to be developed (Address): | Lot 46 DP 13620, 967 Barrenjoey Road PALM BEACH NSW 2108 |
| Proposed Development: | Modification of Development Consent N0272/16 granted for demolition of existing dwelling house and construction of a new dwelling house and swimming pool |
| Zoning: | E4 Environmental Living |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | SMJ Investments Pty Ltd |
| Applicant: | Blue Sky Building Designs Pty Ltd |
| Application lodged: | 25/07/2018 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Single new detached dwelling |
| Notified: | 06/08/2018 to 20/08/2018 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Recommendation: | Approval |

ASSESSMENT INTRODUCTION

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

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

- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area

Pittwater 21 Development Control Plan - D12.6 Side and rear building line

SITE DESCRIPTION

| | |
|-----------------------------------|--|
| Property Description: | Lot 46 DP 13620 , 967 Barrenjoey Road PALM BEACH NSW 2108 |
| Detailed Site Description: | <p>The subject site consists of one (1) allotment located on the western side of Barrenjoey Road.</p> <p>The site is regular in shape with a frontage of 24.38m along Barrenjoey Road and a depth of 41.32m. The site has a surveyed area of 727.1m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a derelict one (1) and two (2) storey residential dwelling, a timber boat shed and in-ground pool at the water frontage.</p> <p>The site has a slope of 43.3% and falls from the road frontage towards Pittwater Waterway.</p> <p>The site is overgrown with vegetation, including palm trees, small trees and hedges.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by similar low density residential dwellings, some with swimming pools, along Pittwater Waterway.</p> <p>A site visit was conducted on 8th January 2019.</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:

- Development Application for the demolition of an existing garage structure; Approved; N0597/07.
- Development Application for the demolition of existing dwelling and construction of a new dwelling; Approved; N0086/09.
- Development Application for the construction of a new dwelling and waterfront facilities at 967 Barrenjoey Road, construction of new waterfront facilities at 969 Barrenjoey Road and a boundary adjustment between the two sites; Refused; N0389/13.
- Development Application for the demolition of existing dwelling and construction of a new dwelling, with a swimming pool and associated decking; Approved; N0272/16.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks to modify the original consent for the construction of a new dwelling, swimming pool and associated landscaping. The modifications include:

- Reorientation of the swimming pool.
- Reduce the size of the living room on the ground floor by 10m².
- Reduce size of the ground floor patio from 11.2m² to 9.6m².
- Reduce patio roof.
- Erection of waterfront equipment storage.

The applicant was requested to provide updated landscape plans to reflect proposed species planting. The plans were provided on 21 January 2019. Subsequently, the Landscape Officer comments were

amended to reflect the updated landscape plans.

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 N0272/16, 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 | Yes The modification, as proposed in this application, is considered to be of minimal environmental impact. |
| (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 | 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 N0272/16. |
| (c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and | The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environment Plan 2011 and Pittwater 21 Development Control Plan. |
| (d) it has considered any submissions made | No submissions were received in relation to this |

| Section 4.55(1A) - Other Modifications | Comments |
|---|--------------|
| concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be. | 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 | None applicable. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Pittwater 21 Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No Additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> |

| Section 4.15 'Matters for Consideration' | Comments |
|--|---|
| | <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 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.

The original DA (N0272/16) a Bush Fire Report was submitted with the application that included a certificate (prepared by Building Code & Bushfire Hazard Solutions Pty Limited, dated 7 March 2016) 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 in the original DA are to be complied with.

Accompanying MOD2018/0387 is a letter from Building Code & Bushfire Hazard Solutions Pty Limited dated 2nd July 2018 stating that they are satisfied the proposed modification to N0272/16 does not alter the findings and/or recommendations made within the Bushfire Hazard Assessment Report that was submitted with the original DA. No additional Bushfire Protection measures, other than those already detailed in the aforementioned Bushfire Hazard Assessment Report.

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.

MEDIATION

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

REFERRALS

| Internal Referral Body | Comments |
|----------------------------------|--|
| Landscape Officer | <p>The modification proposal in terms of landscape outcome, is acceptable subject to the completion of landscaping, and subject to conditions.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls: C1.1 Landscaping</p> |
| NECC (Bushland and Biodiversity) | <p>Council's Bushland & Biodiversity division has assessed the proposal against Pittwater LEP 2014 Control 7.6 Biodiversity Protection & Pittwater 21 DCP 2014 Control B1.4 Aboriginal Heritage Significance, B4.15 Saltmarsh EEC and believes the proposed development complies subject to conditions, as recommended.</p> |
| NECC (Coast and Catchments) | <p>Estuarine Risk Management The property at 967 Barrenjoey Road, Palm Beach has been identified as being affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. The Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p> <p>Based upon the survey submitted with the DA, the foreshore edge treatment type for the subject site appears to be a seawall with a variable crest height slightly >2.0m AHD. As such, in accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study</p> |

| Internal Referral Body | Comments |
|---|--|
| | <p>(2015), an estuarine planning level (EPL) of RL 2.65m AHD has been adopted by Council for the subject site.</p> <p>With the exception of the the new boat/storage shed, development the subject of this application is proposed to be constructed above the adopted EPL. Subject to conditions, however the proposal is able to satisfy the relevant requirements of the Policy and related controls.</p> <p>Coastal Management Act 2016 The development proposal is located within the coastal zone of NSW and is subject to the provisions of the Coastal Management Act 2016 (CM Act) and associated State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP).</p> <p>The subject site is included on the Coastal Wetlands and Littoral Rainforests Area Map as a Proximity Area to Littoral Rainforest and on the Coastal Environment Area Map as well as the Coastal Use Area Map. The objectives and requirements of both the CM Act and the CM SEPP must be addressed by the DA as they relate to development proposed in these coastal management areas.</p> |
| NECC (Development Engineering) | Submitted geotechnical report is satisfied that the previous recommendation is satisfactory for the proposed changes. The existing vehicular crossing is damaged and requires replacement. No Development Engineering objection subject to conditions. |
| NECC (Riparian Lands and Creeks) | <p>The modification application reduces impervious area overall for the development and therefore does not trigger additional stormwater water quality controls.</p> <p>The application is therefore recommended for approval.</p> <p>Stormwater water quality and impacts does not appear to have been addressed in N0272/16, so we encourage the applicant to consider applying the following points.</p> <ul style="list-style-type: none"> - Under Pittwater 21 DCP B5.8 dwellings are required to screen organic matter and coarse sediments prior to rainwater collecting in the rainwater tank, and again prior to discharge of stormwater from the land. - Additionally, it's not clear whether an existing outlet to Pittwater is being used or a new one is being installed. If new, according to Pittwater 21 DCP B5.11 it should reduce flow velocities to reduce scour, and should also be installed in a way that reduces visual impact. <p>These small additions to the development would prevent visual impacts of stormwater and worsening of water quality in the sensitive Pittwater Estuary.</p> |
| NECC (Stormwater and Floodplain Engineering – Flood risk) | <p>The proposed reorientation of the pool, proposed storage and other modifications are not considered to increase flood risk.</p> <p>No flood related objections.</p> |

| External Referral Body | Comments |
|----------------------------|--|
| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended. |
| Aboriginal Heritage Office | <p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted.</p> |

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. 944001S on 19 July 2018). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. N00765, 2018-2019).

The BASIX Certificate indicates that the development will achieve the following:

| Commitment | Required Target | Proposed |
|-----------------|-----------------|----------|
| Water | 40 | 40 |
| Thermal Comfort | Pass | Pass |
| Energy | 40 | 50 |

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

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 | 6.6m | Unchanged | | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|--|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments | Yes |
| 2.7 Demolition requires development consent | Yes |
| 5.10 Heritage conservation | Yes |
| 7.1 Acid sulfate soils | Yes |
| 7.2 Earthworks | Yes |
| 7.3 Flood planning | Yes |
| 7.7 Geotechnical hazards | Yes |
| 7.8 Limited development on foreshore area | No |
| 7.10 Essential services | Yes |

Detailed Assessment

7.8 Limited development on foreshore area

The proposed modification includes the reorientation of the swimming pool and associated decking, a minor reduction in size of the living room and the erection of a water storage shed behind the existing boat shed. Swimming pools and the rebuilding of an existing dwelling wholly or partly within the foreshore area are both listed as being permissible development within the foreshore area under Clause 7.8(2)(a) and (b). However, the proposed water storage shed behind the existing boat shed is not a permissible structure within the foreshore area.

Development consent can only be granted to this type of development where Council is convinced that the assessment criteria as listed under Clause 7.8(3) and (4) can be satisfied.

The assessment of Clause 7.8 is as follows:

(3) Development consent must not be granted under this clause unless the consent authority is satisfied that:

a) the development will contribute to achieving the objectives for the zone in which the land is located, and

The modification proposes the reorientation of the swimming pool, from east-west to north-south with associated decking, reducing the size of the living room, erecting a water storage shed behind the existing boat shed within the foreshore area and significant landscape planting. The swimming pool orientation with associated decking and the reduction in size of the living room and landscape planting are permissible within the E4 Environmental Living zone. The landscape planting included in this modification will enhance the vegetation on site. The bulk and scale of the reorientation of the swimming pool and associated decking is likely to have minimal impact as viewed from Pittwater Waterway when compared to that of neighbouring properties.

b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and

Reducing the living room size will reduce the overall bulk of the dwelling. The landscape planting will reduce a portion of the swimming pool and associated decking when viewed from Pittwater Waterway. The swimming pool and associated decking are in keeping with the surrounding developments situated on Pittwater Waterway.

c) the development will not cause environmental harm such as:

i) pollution or siltation of the waterway, or

II) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or

III) an adverse effect on drainage patterns, or

IV) the removal or disturbance of remnant riparian vegetation

Council's Engineers and Environmental Officers are supportive of the works proposed in the modification.

d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and

The works proposed in the modification are located all within private land and will, therefore, have no impact on public spaces or the waterway.

e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and

There is no impact to public access to the waterway.

f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and

The land to which the proposed modification works are located will not have an impact on the significance of the subject site and neighbouring properties.

g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and

The modification includes a reduction in size of the living room located within the dwelling. This reduction in size will minimise the impact when viewed from Pittwater Waterway. Furthermore, the reorientation of the swimming pool and associated decking is minor in scale when compared to surrounding built structures along Pittwater Waterway. The proposed water storage shed located behind the existing boat shed is wholly within the foreshore area and is a prohibited structure, therefore consent cannot be granted for the proposed water storage shed.

h) sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.

Council's Engineers are supportive of this modification application and have raised no concern with regards to the abovementioned issues.

(4) In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following:

(a) continuous public access to and along the foreshore through or adjacent to the proposed development.

No changes to existing foreshore access proposed.

(b) public access to link with existing or proposed open space.

Currently, there is no link to public open space areas on either side of the subject site. The modification is not seeking to amend this.

(c) public access to be secured with appropriate covenants, agreements or other instruments registered on the title to the land.

Currently, there is no link to public open space areas on either side of the subject site. The modification is not seeking to amend this.

(d) public access to be located above mean high water mark.

Currently, there is no link to public open space areas on either side of the subject site. The modification is not seeking to amend this.

(e) the reinforcing of the foreshore character and respect for existing environmental conditions

The proposed erection of the water storage shed behind the existing boat shed is a prohibited structure within the foreshore area and is thus not reinforcing the character of the foreshore area when viewed from Pittwater Waterway. The swimming pool and associated decking, as well as the reduction in size of the dwelling is believed to be consistent with the character of the surrounding area when viewed from Pittwater Waterway due to the size of the pool, dwelling and the significant landscape planting.

Pittwater 21 Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Approved | Proposed | Complies |
|---------------------|----------------------------------|------------------|-----------|----------|
| Front building line | 10m | 15m | unaltered | Yes |
| Rear building line | N/A FBL applies | N/A | unaltered | N/A |
| Side building line | 2.5m (Northern Side Boundary) | Nil | 1.1m | No |
| | 1m (Southern Side Boundary) | 1.3m | 1.6 | Yes |
| Building envelope | 3.5m (North) | Within envelope | unaltered | Yes |
| | 3.5m (South) | Outside envelope | unaltered | No |
| Landscaped area | 60% | 61.1% | 67.6% | Yes |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted | Yes | Yes |
| A4.12 Palm Beach Locality | Yes | Yes |
| A5.1 Exhibition, Advertisement and Notification of Applications | Yes | Yes |
| B1.3 Heritage Conservation - General | Yes | Yes |
| B1.4 Aboriginal Heritage Significance | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| B3.1 Landslip Hazard | Yes | Yes |
| B3.2 Bushfire 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 |
| B4.15 Saltmarsh Endangered Ecological Community | Yes | Yes |
| B4.19 Estuarine Habitat | Yes | Yes |
| B4.20 Protection of Estuarine Water Quality | Yes | Yes |
| B5.4 Stormwater Harvesting | Yes | Yes |
| B5.8 Stormwater Management - Water Quality - Low Density Residential | Yes | Yes |
| B5.11 Stormwater Discharge into Waterways and Coastal Areas | 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 |
| C1.13 Pollution Control | Yes | Yes |
| C1.17 Swimming Pool Safety | Yes | Yes |
| C1.25 Plant, Equipment Boxes and Lift Over-Run | Yes | Yes |
| C5.21 Plant, Equipment Boxes and Lift Over-Run | Yes | Yes |
| D1.21 Masterplan - Careel Bay | Yes | Yes |
| D12.1 Character as viewed from a public place | Yes | Yes |
| D12.6 Side and rear building line | No | Yes |
| D12.10 Landscaped Area - Environmentally Sensitive Land | Yes | Yes |
| D12.13 Construction, Retaining walls, terracing and undercroft areas | Yes | Yes |
| D12.14 Scenic Protection Category One Areas | Yes | Yes |
| D15.22 Masterplan - Careel Bay | Yes | Yes |

Detailed Assessment

D12.6 Side and rear building line

Side Boundary Line

Required:

2.5m on one side
1.0m on the other side

Proposed:

1.1m on one side
1.6m on the other side

The northern side boundary line remains non-compliant, however, it is a slight improvement to what was approved in the original DA. Amended landscaped plans were provided which shows there will be planting between the northern end of the pool and the northern boundary line. This planting will improve the visual separation and privacy between the subject site and the property directly to the north (being 969 Barrenjoey Road).

While the proposed development is numerically non-compliant with the minimum side setback requirements, it is considered that the development is appropriate and consistent with the outcomes of the Clause, and is therefore supported.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

CONCLUSION

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

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

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

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP

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

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2018/0387 for Modification of Development Consent N0272/16 granted for demolition of existing dwelling house and construction of a new dwelling house and swimming pool on land at Lot 46 DP 13620,967 Barrenjoey Road, PALM BEACH, subject to the conditions printed below:

A. Add Condition No.1A - 'Approved Plans and supporting Documentation' to read as follows:

a) The development must be carried out in compliance (except as amended by any other condition of consent) with the plans and documents listed on the Notice to Applicant of Determination of a Development Application relating to N0272/16, as modified by the following:

| Modified Plans - Endorsed with Council's stamp | | |
|---|-----------------|--------------------------------|
| Drawing No. | Dated | Prepared By |
| A-101 Site Plan | 26 October 2018 | Blue Sky Building Designs |
| A-101A Site Plan (Enlarged) | 26 October 2018 | Blue Sky Building Designs |
| A-102 Ground Floor | 26 October 2018 | Blue Sky Building Designs |
| A-103 First Floor & Section A | 26 October 2018 | Blue Sky Building Designs |
| A-104 South & East Elevation | 26 October 2018 | Blue Sky Building Designs |
| A-105 North Elevation | 26 October 2018 | Blue Sky Building Designs |
| A-106 West Elevation | 26 October 2018 | Blue Sky Building Designs |
| A-107 Ground Section | 26 October 2018 | Blue Sky Building Designs |
| A-108 Sediment Control Plan | 26 October 2018 | Blue Sky Building Designs |
| 01 - Landscape Plan (Amended) | January 2019 | Tanya Wood Landscape Architect |
| 01 - Landscape Plan - Entry (Amended) | January 2019 | Tanya Wood Landscape Architect |
| 01 - Landscape Plan - Rear (Amended) | January 2019 | Tanya Wood Landscape Architect |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|--------------|--------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |

| | | |
|-------------------------------------|--------------|---|
| BASIX Certificate: 944001S | 19 July 2018 | Certified Energy |
| NatHers Certificate: 0002949576-01 | 19 July 2018 | Certified Energy |
| Bushfire Report: 160070C | 2 July 2018 | Building Code & Bushfire Hazard Solutions |
| Geotechnical Risk Management Report | 25 June 2018 | Douglas Partners Pty Ltd |

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.

B. Add condition B.12 to read as follows:

This consent does not authorise the 'Section 96 Proposed Storage with Green Roof' shown within the foreshore area on the Modified Plans.

Reason: The proposed storage structure is not permitted **within** the foreshore area.

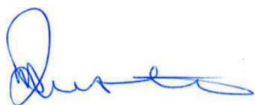
C. Add Condition C.12 to read as follows:

Prior to the issue of the construction certificate, the Modified Plans are to be amended to demonstrate the deletion of the 'Section 96 Proposed Storage with Green Roof' within the foreshore area.

Reason: The proposed storage structure is not permitted **within** the foreshore area.

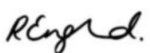
In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Megan Surtees, Planner

The application is determined on 21/02/2019, under the delegated authority of:



Rebecca Englund, Acting Development Assessment Manager