

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2022/0686
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<b>Responsible Officer:</b>	Thomas Bershtein
<b>Land to be developed (Address):</b>	Lot 1 DP 224643, 13 Wurringulla Avenue ELVINA BAY NSW 2105
<b>Proposed Development:</b>	Modification of Development Consent DA2020/0150 granted for Alterations and additions to a dwelling house
<b>Zoning:</b>	C3 Environmental Management
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	Yes
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Christopher Douglas Freeburn
<b>Applicant:</b>	Christopher Douglas Freeburn

<b>Application Lodged:</b>	19/12/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	28/12/2022 to 25/01/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The proposed modification involves the following internal and external alterations to the original approved plans:

- New external stair added to eastern side of existing deck
- Configuration of bathroom modified and bathtub added
- Bedroom 3 changed to laundry
- Bedroom 4 renamed to bedroom 3
- Existing window on eastern wall of laundry changed to external door with sidelight
- Built in robe added to bedroom 2
- Window added to south-west corner of bedroom 2
- North-west section of living room extended to square off room
- Gable roof extended over squared off section of living room
- Window added to western wall of living room

- Existing western external wall demolished to create small deck within footprint of existing dwelling
- Kitchen layout changed to U-shape
- Previous laundry renamed to pantry
- Gable window added eastern wall of bedroom 1
- Gable window added to upper level sitting room

## 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 - 4.3 Height of buildings  
 Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation  
 Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils  
 Pittwater Local Environmental Plan 2014 - 7.10 Essential services  
 Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy  
 Pittwater 21 Development Control Plan - D8.6 Side and rear building line

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 224643 , 13 Warringulla Avenue ELVINA BAY NSW 2105
<b>Detailed Site Description:</b>	<p>The subject site consists of 1 allotment located on the midway point of Warringulla Avenue.</p> <p>The site is trapezoidal in shape with a combined frontage of 22.6m along Warringulla Avenue and a depths of 34m and 35.9m along the northern and southern boundaries respectively. The site has a surveyed area of 696.1m<sup>2</sup>.</p>

The site is located within the C3 Environmental Management zone and accommodates a two storey dwelling house, tanks and some landscaping amidst a heavily vegetated setting.

The site is sloping, with an approximated 8m cross fall from the northern corner to the southern corner.

The site is located within a heavily vegetated bushland setting, containing a mix of native and exotic plant species.

**Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by similar one and two storey dwelling houses of similar architectural style. Surrounding development is heavily defined by their locations within a heavily vegetated bushland setting.

Map:



**SITE HISTORY**

A search of Council’s records has revealed that there are no recent or relevant applications for this site other than the original development consent proposed to be modified (DA2020/0150).

The land has been used for residential purposes for an extended period of time.

**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 DA2020/0150, 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><b>Yes</b></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 works involve minor external changes to an existing dwelling house where works are predominantly to be conducted above ground level. Excavation works are not proposed as a part of the modified plans and as such, the changes are deemed present a negligible to minor environmental impact on the site and the surrounding 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 consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2020/0150 for the following reasons:</p> <p>The modified proposal does not involve substantial increases to the building footprint. The changes proposed are internal reconfigurations of the original development application and the site retains use as a residential dwelling. The proposal is therefore considered to not be materially different and constituting "substantially the same development" as required under s4.55(1A).</p>
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,	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.

Section 4.55(1A) - Other Modifications	Comments
<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>(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.</p>	<p>No submissions were received in relation to this application.</p>

#### 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
<p>Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument</p>	<p>See discussion on “Environmental Planning Instruments” in this report.</p>
<p>Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument</p>	<p>There are no current draft environmental planning instruments.</p>
<p>Section 4.15 (1) (a)(iii) – Provisions of any development control plan</p>	<p>Pittwater 21 Development Control Plan applies to this proposal.</p>
<p>Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement</p>	<p>None applicable.</p>
<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&amp;A Regulation 2021)</p>	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;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&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62</u> and/or 64 of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
<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) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah/Manly/Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</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 &amp; 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

## BUSHFIRE PRONE LAND

The site is within a fire zone as per Council bushfire mapping. Bushfire reporting supplied with the original development application rates the level of risk at BAL 19. The applicant has supplied a letter

from bushfire consultants associated with the previous development application confirming that modified proposal does not extend the footprint of the building towards the hazard area and therefore does not change the determination of the original report or the recommendations from the NSW Rural Fire Service. The modified proposal is not considered to increase the risk or likelihood of bushfire on site on that basis.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 28/12/2022 to 25/01/2023 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 of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Environmental Health (unsewered lands)	<p><b>Supported - Subject to a condition being imposed</b></p> <p>Environmental Health has reviewed the proposed modification and finds that it reduces the number of bedrooms thereby reducing the equivalent population of the dwelling and providing a better environmental outcome and more sustainable development. As the approval to operate for the wastewater system has lapsed and there is an increase in the building footprint a precautionary condition is to be applied requiring the owner to obtain an approval to operate prior to the release of the occupation certificate.</p>
Landscape Officer	<p>The application is to modify development consent DA2020/0150 including an extension to the living room and gable roof, in close proximity to an existing tree indicated on the Survey. It is noted however that the existing tree is located within 2 metres of the existing dwelling, such that the 2 metre exemption rule applies and no Council consent is required for management or removal of this tree. Landscape Referral raise no objections therefore.</p>
NECC (Coast and Catchments)	<p>This modification was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Coastal Management Act 2016;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.10 &amp; 2.12);</li> <li>• Relevant LEP and DCP clauses.</li> </ul> <p>The proposal is therefore supported.</p>
NECC (Development Engineering)	<p>No objections to approval subject to conditions as recommended.</p>
NECC (Riparian Lands and Creeks)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>- Supplied plans and reports;</li> <li>- Coastal Management Act 2016;</li> <li>- State Environmental Planning Policy (Resilience and Hazards) 2021;</li> <li>- Relevant LEP and DCP clauses; and</li> <li>- Northern Beaches Council Water management for development policy.</li> </ul>

Internal Referral Body	Comments
	<p><i>Riparian</i> The site is near to Pittwater Estuary and as such the development must not significantly impact on the biophysical, hydrological or ecological integrity of Pittwater Estuary, or the quantity and quality of surface and ground water flows that it receives.</p> <p><i>Sediment Management</i> Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p>

External Referral Body	Comments
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage. 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>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</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. A367317\_02, dated 21 November 2022). A condition has been included in the recommendation of this report requiring



compliance with the commitments indicated in the BASIX Certificate.

## **SEPP (Resilience and Hazards) 2021**

### **Chapter 2 – Coastal Management**

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

#### **Division 3 Coastal environment area**

##### **2.10 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 proposal includes alterations that are largely internal which will require no excavation or drainage works on the site. External alterations and additions are proposed to the building facade along with the construction of a staircase, however these are considered minor and will not meaningfully expand the building footprint. It is considered that the nature and scale of works is sufficiently minor and distant from the foreshore area to ensure the integrity of coastal ecosystems are maintained. Additionally, the site is remote and doesn't not adjoining public open space or identified heritage items, as per Council records. As such, the proposal satisfies s2.10 of the Coastal Management SEPP.

- 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 subsection (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:

The proposal is sited an appropriate distance from the front boundary (11.4m) which further avoid the risk of adverse impacts from works affecting the nearby coastal environment, including all of the matters addressed in s2.10(1). Further, the dwelling is elevated above ground level and avoids the need for earthworks that may impact the integrity of natural or heritage items located within the allotment.

**Division 4 Coastal use area**

**2.11 Development on land within the coastal use area**

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
  - 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
    - ii) platform for members of the public, including persons with a disability,
    - iii) overshadowing, wind funnelling and the loss of views from public places to
    - iv) foreshores,
    - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
  - b) is satisfied that:
    - i) the development is designed, sited and will be managed to avoid an adverse
    - ii) impact referred to in paragraph (a), or
    - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or 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 proposal does not include any works that would impact access to the foreshore area or beach. Further, the proposal does not include changes to building height or substantial changes to the envelope along both the northern and southern boundaries. It is therefore considered that the proposal avoids visual amenity and overshadowing impacts to public spaces or adjoining dwellings.

**Division 5 General**

**2.12 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:

The proposal involves above-ground works that are not considered to increase the risk of coastal hazards on the allotment, or for adjoining and surrounding allotments.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (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**

<b>Development Standard</b>	<b>Requirement</b>	<b>Approved</b>	<b>Proposed</b>	<b>% Variation</b>	<b>Complies</b>
Height of Buildings:	8.5m	8.9m (existing - new works under 8.5m)	no change	N/A	Yes

#### **Compliance Assessment**

<b>Clause</b>	<b>Compliance with Requirements</b>
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
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

#### **Detailed Assessment**

##### **4.3 Height of buildings**

The existing structure is 8.9m in height and presents a technical non-compliance with the 8.5m height of buildings standard in the PLEP. The works proposed in the modification are all below the maximum

height standard and as such are compliant with the controls.

### 5.10 Heritage conservation

The proposal does not include any demolition or excavation works that may disturb, damage or destroy any heritage items in the area. Additionally, Council records indicate that the allotment does not coincide with any identified Aboriginal potential sites. This has been verified by the Aboriginal Heritage Office who have not raised concerns about potential Indigenous heritage items on site. It is deemed that the proposal complies with s5.10 of the PLEP and can be supported, subject to conditions requiring works to stop if Aboriginal Heritage items are found.

### 7.1 Acid sulfate soils

The site contains Acid Sulfate Soil Class 5 according to Council records. The modified proposal does not include any excavation works and therefore will not disturb acid sulfate soils on site.

### 7.10 Essential services

The site is unsewered land and has been assessed by Council's Environmental Health officer who raised no objection on the grounds of essential service provision. The proposal has been supported subject to conditions. It is considered that the modified proposal reduces the intensity of land use and presents a lower strain on the services available on site.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	12.7m	11.4m	Yes
Rear building line	6.5m	6.8m	unaltered	Yes
Side building line	2.5m	N: 4.9m	3.5m	Yes
	1m	S: 0.4m	unaltered	No
Building envelope	3.5m	N: Within envelope	Within envelope	Yes
	3.5m	S: Within envelope	unaltered	Yes
Landscaped area	50%	no change to existing	unaltered	Yes

NOTE: original DA figures differ due to alternate measurement approach. Modification measurements calculated via straight line to boundaries.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.8 Lower Western Foreshores and Scotland Island 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

Clause	Compliance with Requirements	Consistency Aims/Objectives
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	No	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
D8.1 Character as viewed from a public place	Yes	Yes
D8.2 Scenic protection - General	Yes	Yes
D8.3 Building colours and materials	Yes	Yes
D8.5 Front building line	Yes	Yes
D8.6 Side and rear building line	Yes	Yes
D8.8 Building envelope	Yes	Yes
D8.10 Fences	Yes	Yes
D8.12 Companion animals	Yes	Yes
D8.13 Stormwater overflow	Yes	Yes
D8.14 Parking management	Yes	Yes
D8.15 Site disturbance	Yes	Yes

### Detailed Assessment

#### **C1.6 Acoustic Privacy**

Clause C1.6 of the PDCP requires that acoustic privacy be preserved by the spatial separation between bedrooms and living areas, private open space and the like. The proposed development places Bedroom 3 adjacent to both the living room and external deck, presenting a technical non-compliance with the control. The relevant outcome to be satisfied requires the substantial containment of noise within each dwelling and to ensure that noise impacts from any communal or private open space are limited. It is considered that the proposal includes the maximum separation of bedrooms from living areas possible on the site given the spatial constraints on the site. Further separation would require expansion of the building footprint and may cause additional scale and bulk incompatible with the bushland setting.

#### **D8.6 Side and rear building line**

There is a technical non-compliance due to the closeness of the structure to the southern side boundary. The setback from the southern side boundary is 0.4m and this presents a 56% variation on

the control, however the structure is existing and no further reductions in the setback are proposed. It is therefore considered compliant with clause D8.6 of the PDCP.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2022**

Section 7.12 contributions were levied on the Development Application.

## **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

## **RECOMMENDATION**

THAT Council as the consent authority grant approval to Modification Application No. Mod2022/0686 for Modification of Development Consent DA2020/0150 granted for Alterations and additions to a

dwelling house on land at Lot 1 DP 224643, 13 Warringulla Avenue, ELVINA BAY, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Dwg. 1107, Sheet 1	27/11/2022	Shimdesign
Dwg. 1107, Sheet 2	27/11/2022	Shimdesign
Dwg. 1107, Sheet 3	27/11/2022	Shimdesign
Dwg. 1107, Sheet 4	27/11/2022	Shimdesign
Dwg. 1107, Sheet 5	27/11/2022	Shimdesign

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**



**Thomas Bershtein, Planner**

The application is determined on 14/02/2023, under the delegated authority of:



**Steven Findlay, Manager Development Assessments**