

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0362
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Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot 102 DP 13760, 24 Wandeen Road CLAREVILLE NSW 2107
Proposed Development:	Modification of Development Consent DA2020/1163 granted for construction of a dwelling house including a swimming pool
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Krystal Ann Pszczonka
Applicant:	Rise Projects Pty Ltd

Application Lodged:	08/06/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	11/06/2021 to 25/06/2021
Advertised:	Not Advertised
Submissions Received:	14
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Executive Summary

The application seeks to modify DA2020/1163 which was approved by the Northern Beaches Local Planning Panel (NBLPP) on 3 February 2021.

The NBLPP was not satisfied that the applicant's designed provide sufficient privacy levels to the adjoining western neighbour. Subsequently, a specific condition (No.8) was imposed on the consent which required changes to the Ground Floor window openings on the western elevation.

This application seeks amendments to the approved design and to remove the specific privacy condition. As a result, the amended design proposes Ground Floor windows on the western elevation with clear glazing.

A review of the original privacy assessment was undertaken and the findings that the proposal would have an adverse impact to the western adjoining property is affirmed. The submission concerns in respect to privacy impacts (in the original assessment and in those received for this review application) are hence still valid.

The amended design has also been assessed against the planning controls of the Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control Plan. The additional built form/roofing on the First Floor creates a further building height non-compliance at 9.1m (RL42.997), however, this non-compliance is 1.0m less than the maximum building height of RL43.997. Whilst additional minor variations to the building height and building envelope are proposed, these variations are found to be consistent with the relevant controls objectives and requirements. In this regard, the built form will continue to be of a reasonable bulk and scale that will integrate into the landscape, and streetscape and will relate positively to adjoining and surrounding dwellings.

The notification of the application resulted in fourteen (14) submissions each objecting to the development.

The assessment concludes that the amended design is an appropriate modification to the original approval, and further conditions will ensure the amenity of the subject site is maintained without unreasonable impacts on the streetscape or neighbouring properties.

Accordingly, the application is referred back to the NBLPP with a re-affirmed recommendation for approval subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for design modifications to **DA2020/1163**, for the construction of a new dwelling house and swimming pool.

The modified works include the following:

Swimming Pool Level :

- Storage area below Rumpus Room
- Pool Storage Area under Stairs to Pool Area
- Deep Seat added to Swimming Pool
- Pool size increase 4.4mx4.3m (incorrectly noted on DA2020/1163 plans as 5.5m x 4.0m)

Lower Level (FFL 3.780):

- New sliding door to Bedroom 5
- New Paved area servicing Bedroom 5
- New fixed Louvered window to northern elevation Rumpus
- Window 3 on western elevation servicing Rumpus position adjusted
- New rear door on western elevation servicing Rumpus
- New retaining walls up to in height 0.9m in height
- Window 5 (W5) and Window 6 (W6) to be louvered/frosted/security mesh
- New garden shed 2.0mx3.0m servicing the new paved area adjoining Bedroom 5

Ground Level (FFL 36.8):

- Louvered privacy screen along east elevation in lieu of a solid wall
- Louvered privacy screen to the eastern elevation servicing the landing to the access stairs
- Front porch extended a further 1.5m
- Windows W9, W10 and W11 to be clear glazing (as a result of removing Condition No. 8)
- Window W25 servicing the master bedroom location adjusted
- Internal doors to service the garage
- New cellar added to under the internal stairs
- Privacy louvers added to windows W16 and W17 servicing the Kitchen
- Privacy louvers added to windows W18 servicing the Laundry
- New Solid Fuel Fireplace

First Floor (FFL 39.82):

- Two (2) new skylights
- Five (5) new solar panels
- Additional footprint to create new void area over the internal stairs
- New roofline over the additional void area
- New window openings W72 on the northern and western elevation servicing new void area
- Privacy louvers added to window W55 servicing the en-suite
- New windows on the norther elevation above W68 servicing the master bedroom

External

- Retaining wall to driveway rearranged
- Boulder retaining wall in rear yard
- Screening to the underside of the dwelling house on the north/eastern and western elevations

The application also seeks to remove Condition No. 8 applied by the Northern Beaches Local Planning Panel (NBLPP) to reduce the privacy impacts to the western adjoining subject site.

The condition to be removed reads as follows:

Condition No. 8 Amendments to the approved plans

The vertical window to the stairwell on the ground floor western elevation shall be opaque and all other windows on the ground floor level on the western elevation shall be opaque to a height of at least 1.6m (when measured from the finished floor level).

Amended plans are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: to protect the amenity of the adjoining property to the west

Consistent with the proposed removal of Condition No. 8 all window openings on the western elevation of the amended design display clear glazing.

Amended plans were received during the assessment process, however, there was no change to the proposed works or built form, rather additional information was provided on the submitted plans, for example additional shadow diagrams and corrections for the titles.

Consistent with the Northern Beaches Council Community Participation Plan, these plans were not

required to be re-notified.

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 - Zone E4 Environmental Living
Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards
Pittwater 21 Development Control Plan - A4.1 Avalon Beach Locality
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures
Pittwater 21 Development Control Plan - D1.1 Character as viewed from a public place
Pittwater 21 Development Control Plan - D1.11 Building envelope
Pittwater 21 Development Control Plan - D1.20 Scenic Protection Category One Areas

SITE DESCRIPTION

Property Description:	Lot 102 DP 13760 , 24 Wandeen Road CLAREVILLE NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Wandeen Road. The site is located within the E4 Environmental Living zone as mapped within the Pittwater Local Environment Plan 2014.</p> <p>The site is irregular in shape with a surveyed area of 853.6m². The frontage to Wandeen Road measures 19.4m with eastern and western side boundaries of 53.19m and</p>

59.13m respectively.

The site has a southerly orientation and is located on a considerable cross-fall slope between 33% and 50%. The site slopes from the south-eastern corner at the street frontage towards the rear north-west corner.

The site is currently under construction for a three storey dwelling house, with swimming pool with specific significant canopy trees retained onsite.

Surrounding sites consist of multi-storey dwelling houses, of varying ages, within a landscaped setting.

Map:



SITE HISTORY

A search of Council's records has revealed the following relevant Development Applications:

- Development Application **DA2020/1163** for the construction of a dwelling house including a swimming pool was approved by the Northern Beaches Local Planning Panel (NBLPP) on the 3 February 2021.

The minutes of the NBLPP meeting state:

*That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, approves Application No. **DA2020/1163** for construction of a dwelling house including a swimming pool at Lot 102 DP 13760, 24 Wandeen Road, Clareville subject to the conditions set out in the Assessment Report, subject to the following:*

1. The addition of the following condition:

Amendment to approved plans

The vertical window to the stairwell on the ground floor western elevation shall be opaque and all other windows on the ground floor level on the western elevation shall be opaque to a height

level of at least 1.6m (when measured from the finished floor level).

Amended plans are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: to protect the amenity of the adjoining property to the west.

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 DA2020/1163, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(2) - 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 of minimal environmental impact for the following reasons: The proposed changes maintain the approved use and do not alter the intent of the lot to be developed.</p> <p>The approved building height, and bulk and scale of the building remains generally consistent with the consent as approved. The minor amendments to the approved dwelling are not significantly altered, and the impacts are limited to a consideration of the associated layout addition of the void area over the first floor stairs. The design revisions are generally confined within the volume of the structure as originally approved with the physical appearance of the structure remaining consistent with the original approval.</p> <p>The amended design has not incorporated the privacy mitigation requirements required in condition 8 of the</p>

Section 4.55(2) - Other Modifications	Comments
	consent. This means that there remains adverse privacy impacts to the western neighbouring property. This issue is addressed via conditions to ensure the circumstances relating to the issuance of the original development consent are not compromised as a result of the proposed modifications.
(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 approved under DA2021/1163.
(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 concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

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 'Matters for Consideration'	Comments
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)(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>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to the additional built form changes, and an amended Arborist Report.</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 matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> 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><u>Clause 98</u> 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>

Section 4.15 'Matters for Consideration'	Comments
	(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.
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 from 11/06/2021 to 25/06/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 14 submission/s from:

Name:	Address:
Mr David Robert Evans	4 Wandeen Road CLAREVILLE NSW 2107
Kate Ponton	40 Bilwara Avenue BILGOLA PLATEAU NSW 2107
Mr Michael Anthony Henry	59 Dress Circle Road AVALON BEACH NSW 2107
Mr Terry Douglas Crawford	12 Wandeen Road CLAREVILLE NSW 2107
Mr Martin Maynard	203 Hudson Parade CLAREVILLE NSW 2107
Mr Nicholas Clark	3 Mia Place CLAREVILLE NSW 2107
Sarel Roets	22 Wandeen Road CLAREVILLE NSW 2107
Mrs Chelsey Baker	24 Old Barrenjoey Road AVALON BEACH NSW 2107
Ms Leigh McGaghey	Address Unknown
Clareville & Bilgola Plateau Residents Association	PO Box 292 AVALON BEACH NSW 2107
Mrs Katharine Dianne Stanning	26 Wandeen Road CLAREVILLE NSW 2107
Mr Arthur Rodman Bashford Mrs Margaret Dawn Bashford	19 Wandeen Road CLAREVILLE NSW 2107
Mrs Jocelyn Allen	36 Wandeen Road CLAREVILLE NSW 2107

Name:	Address:
Mr Paul Anthony Gregsonn	21 Wandeen Road CLAREVILLE NSW 2107

The following issues were raised in the submissions and each have been addressed below:

- **Building Height**
- **E4 Environmental Zone compatibility**
- **Undesirable precedent**
- **Bulk and Scale**
- **Tree Removal**
- **Privacy**
- **Pollution/Solar Panels**
- **Overshadowing**
- **Definition of Development**

The matters raised within the submissions are addressed as follows:

- ***Concern has been raised that the modified height of the dwelling house creates further a non-compliance that is higher than the approved building height.***

Comment:

The amended design to create a new void area on the First Floor has a maximum building height of 9.1m (RL42.997), 1.0m less than the overall building height of RL 43.997.

With respect to the permitted 8.5m building height referred to in the submission, the applicant seeks to rely upon a variation prescribed by 4.3(2D) of PLEP 2014, which provides that the height of buildings may reach up to 10m in height, subject to consistency with certain criteria.

The assessment of the criteria has also been considered elsewhere in this report (see Clause 4.3 - 'Height of Buildings').

In the consideration of the variation prescribed by 4.3(2D) of PLEP 2014 it was found that the additional works, and the development as a whole achieved consistency with the objectives of the clause and E4 Environmental Living zone, as well as demonstrating that overall variation continues to be considered as minor. As a result, there are sufficient environmental planning grounds to justify the variation and support the non-compliance.

This issue does not warrant refusal or further amendment of the application.

- ***Concern has been raised that the modified proposal is not consistent with the E4 Environmental Living zone, or compatible with the existing and future character of the area.***

Comment:

The subject site for the proposed dwelling house development is within the E4 Environmental Living zone (E4 zone) and dwelling houses are "Permitted with Consent" in the E4 zone under the Pittwater Local Environment Plan (PLEP) 2014. Therefore, there is no inconsistency between the proposed development and the PLEP in this case.

The proposal is limited to a single dwelling house, with 5 bedrooms, and a swimming pool. The

proposal generally complies with the requirements of the Pittwater 21 Development Control Plan to ensure it is of a scale and intensity that is compatible with the surrounding land use pattern of development.

In consideration of this issue, the amended proposal is regarded as satisfactory in terms of its design response that is not 'jarring' or out of character with the residential setting, and continues to provide appropriate landscape setbacks, external colours and materials, acceptable residential amenity and a visual impact that is consistent with various housing development adjacent and surrounding the site.

Therefore, the proposal (as conditioned) is a suitable and compatible for residential use for the site and this issue is not considered to warrant refusal of the application

- ***Concern that this dwelling house will create an undesirable precedent due to design proposed.***

Comment:

Dwelling house development is permissible with consent in the surrounding low density residential area under the Pittwater Local Environmental Plan (LEP) 2014. This includes the zone objectives and development standards and other controls to ensure a suitable and appropriate character, design, scale and density.

The amended proposal is considered to be consistent with the objectives for landscaped open space, front and side setbacks, including building envelope and height. The building incorporates variations in roof form and style, including articulation and materials used to provide a compatible style with the character (roof form, materials and general appearance).

Therefore, this issue has been addressed and does not warrant refusal of the application.

- ***Concern that the amended building bulk is excessive for the site and will adversely affect the surrounding amenity by being inconsistent with the pattern and scale of existing residential housing near the site.***

Comment:

This issue is specifically discussed in detail under the heading Clause 4.3 Height of Buildings of the PLEP and Part D1.11 Building Envelope of the P21DCP within this report. The proposal is considered acceptable in terms of its bulk and scale with the additional non-compliance satisfying the relevant requirements.

There is no change to the previously approved front, rear or side setbacks, nor the landscape areas. As a result, the bulk and scale of the proposal is considered to be consistent with the original consent and continues to be consistent with the surrounding residential character along Wandeen Road (visual catchment near the site) and when viewed from properties adjacent in Hudson Parade.

It is considered that the proposal continues to satisfy the P21 DCP design requirements including building bulk, landscaped open space and side and rear setbacks.

In summary, the proposal has addressed building bulk and scale considerations and does not create an unreasonable visual streetscape impact.

This issue has been addressed and does not warrant refusal of the application.

- ***Concern has been raised that the amended proposal will result in further tree removal.***

Comment:

Councils Landscape Advisors have reviewed the amended design and Arborist Report, and have not raised any issues. There is no change to the previous consent that required retention of specific canopy trees. The previously approved recommendations within the Arborist Report and the landscape design (L-01 - L-07 (inclusive)), Issue G, remains as previously conditioned.

The approved Landscape Plan provides for the retention of existing ground levels to preserve the existing native trees within the rear of the property and conditions of consent are imposed requiring ground levels to be maintained within the tree protection zone of trees.

Whilst a new sandstone retaining wall is proposed in close proximity to existing native trees such as T2 - Spotted Gum, T3 - Bangalay Gum, and T4 - Bangalay Gum, and neighbouring trees identified as N1 - Spotted Gum and N2 - unidentified tree, recommendations within the amended Arborist Report ensure that construction method of the proposed retaining wall will not impact the structural root zone of the native trees.

The proposal will continue to provide a mix of small and medium trees and mixed species that have a height commensurate with the landscape setbacks and are suitably spaced around the perimeter of the dwelling to provide a landscape setting.

In summary, it is considered that the amended Arborist Report combined with existing landscape plan will not create an unreasonable impact on the amenity of surrounding land, subject to additional and previous conditions as recommended.

This issue is not considered to warrant refusal of the application.

- ***Concern is raised by the removal of conditioned privacy mitigation design features and its impact on No. 22 Wandeen Road.***

Comment:

This issue is specifically discussed in detail under the heading Part C1.15 Privacy of the P21 DCP within this report. This issue has been considered to ensure no unreasonable privacy impacts arise in relation to surrounding land.

Additional louvered privacy screening are appropriately located for the Ground Floor alfresco area, and Ground Floor windows on the eastern elevation to ensure no unreasonable impact.

High use areas such as dining/living/kitchen on the Ground Floor and the First Floor stairway void areas have not been appropriately designed to maintain privacy to adjacent land with the principal outlook towards the west and private open space areas of No. 22 Wandeen Road.

The deletion of condition 8 is not supported.

- ***Concern has been raised in regards to the pollution of the solid fuel fireplace and the visual impact of the solar panels on No. 26 Wandeen Road.***

Comment:

The solid fuel fireplace has been assessed by Councils Environmental Health advisors who support the make and model and proposed flue height. A condition will be applied to ensure that the installation must be carried out in accordance with the relevant provisions of AS2918:2001, and that the system is compliant with all relevant legislation, including the Building Code of Australia, and Australian Standards to ensure the system operates in a legislatively compliant manner.

The solar panels are located on the First Floor roofline. The panels are located forward of the dwelling house at No. 26 Wandeen Road, and therefore it is not anticipated that the solar panels would create unreasonable amenity or visual impacts. However, a condition will be applied to the modified consent to ensure that the solar panels are mounted flat against the roof and not elevated in order to maintain view lines to the adjoining / nearby properties.

Therefore, this issue does not warrant refusal of the application.

- ***Concern has been raised that the amended design will have unreasonable impact on solar access.***

Comment:

The applicant has provided shadow diagrams which demonstrate compliance with Council's solar access requirements under Pittwater DCP 21 that apply to the site.

Overall, the amended design provides sufficient stepping/transition down the slope of the site to break-up the scale and mass of the building and assist in maintaining solar access/minimising the shadow cast from the building over neighbouring private properties. The property at No. 22 Wandeen Road and the subject site have northerly aspects and solar access to private open space areas will not be unreasonably affected by the proposal pursuant to Part C1.4 Solar Access of the P21 DCP.

In summary, the proposal is compliant and has been addressed to ensure no unreasonable overshadowing. Therefore, this issue does not warrant refusal of the application.

- ***Concern is raised that the modified proposal is for a multi-unit dwelling, not a dwelling house due to the incorrect heading title on the "Sheet Page" of the submitted plans.***

Comment:

The heading title of the "Sheet Page" was "Multi Dwelling" which was corrected by the applicant to display the correct heading of "Proposed Dwelling" which is consistent with approved dwelling house of development consent DA2020/1163.

The modified design makes no change to the intent of the use of the subject site. As detailed within this report, dwelling houses are a permissible form of development in this location. The scale of the amended development is considered acceptable in the context of the site and the developments general consistency with the relevant built form controls results in an reasonable form of development.

Therefore, this issue is not considered to warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	<p>General Comments</p> <p>Further information on the type of heater and flue details have been submitted which would be supported by Environmental Health for approval of the Kemlan Celestial 900 with fan inbuilt solid fuel heater subject to conditions and amended plans with the flue height at least 1 metre above the eaves of the neighbouring property.</p> <p>As a result, the application is approved subject to conditions.</p>

Internal Referral Body	Comments
	<p><u>Planner Comment:</u></p> <p>The proposed solid fuel heater flue is approximately 8.376m in height, and is shown to be located 1.126m above the eaves of No. 22 Wandeen Road, as represented in the submitted plan titled "Fire Place Flue Section", Drawing Number - 103.1.</p>
Landscape Officer	<p><u>Initial Comments</u></p> <p>The application is for modification of development consent DA2020/1163.</p> <p>The modification plans include the proposal to construct boulder retaining walls to the rear of the property and cut/fill to a maximum of 1 metre. These walls and associated cut or fill are located in close proximity to existing native trees within the site identified in the Arboricultural Impact Assessment submitted with DA2020/1163 as T2 - Spotted Gum, T3 - Bangalay Gum, and T4 - Bangalay Gum, and neighbouring trees identified as N1 - Spotted Gum and N2 - unidentified tree.</p> <p>The approved Landscape Plan provides for the retention of existing ground levels to preserve the existing native trees within the rear of the property and conditions of consent are imposed requiring ground levels to be maintained within the tree protection zone of trees.</p> <p>The proposed modification proposes sandstone block walling across the rear of the property in close proximity to existing trees, and Landscape Referral expressed initial concerns that the plans noted cut and fill as part of the sandstone block walling. The amended plans continue to shown the notation for "landscape block retaining wall to assist with cut/fill max. 1m high" and this proposal is not supported due to lack of detailed information on levels and the impact to the existing native trees in close proximity.</p> <p><u>Amended Comments</u></p> <p>An arborist report has been provided in support of the proposed sandstone block walling subject to the following recommendations: the walls are constructed and infilled in a manner which does not require soil cuts below existing grade, and excavation of soils below existing grade is not permitted; the location of retaining walls is kept outside the structural root zones of trees to be retained; and any soil infilling must not change the existing soil levels around the base of any tree except for replacing soil lost due to erosion.</p> <p>These recommendations are acceptable as no changes to existing ground levels will be permitted and the structural root zone area shall not support any sandstone block retaining. The placement of the sandstone block walling shall be placed onto a levelling bed of sand on top of the existing grades. It is advised that to reduce any soil erosion to existing grades this area of the landscape shall be</p>

Internal Referral Body	Comments
	<p>completed with approved works for garden bed planting and lawn in accordance with the approved Landscape Plan.</p> <p>Subject to additional conditions the modified design is supported.</p>
NECC (Bushland and Biodiversity)	<p>This application was previously assessed against relevant biodiversity planning controls, and it was concluded that a significant impact to biodiversity is unlikely and several impact mitigation requirements applied via conditions as part of the original development application DA2020/1163. Therefore, as no additional biodiversity impacts are considered likely, the modifications are recommended for approval without conditions.</p>
NECC (Development Engineering)	<p><u>Initial Comments 29 July 2021 & updated comments as a result of Amended plans August 2021</u></p> <p>No objections are raised to the proposed modification.</p> <p>No modification to Development Engineering conditions required.</p> <p>Existing Development Engineering conditions for DA2020/1163 are considered to still be relevant and adequate.</p> <p>The proposal is therefore supported.</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. 1135681S_04 and 21

May 2021). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 1135681S_04 and 21 May 2021).

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

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

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

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.

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	9.6m	9.1m (No change to maximum RL 43.997)	7.1% -	No* No**

**The proposed development continues to be non-compliant with the 8.5m maximum building height prescribed by clause 4.3(2) of PLEP 2014. However, The applicant seeks to rely upon a variation prescribed by 4.3 (2D) of PLEP 2014, which provides that the building may reach up to 10m in height, subject to consistency with certain criteria. The objectives of the height of buildings development standard, and relevant criteria are assessed within the 4.3 Height of buildings section of the report.*

***Maximum RL previously approved.*

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
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone E4 Environmental Living

The proposed modified works are consistent with the objectives of the E4 Environmental Living zone. The development will continue to have the appearance of a "low impact" residential dwelling house in a natural landscaped setting, integrated with the scenic landform and aesthetic values.

The additional void area over the first floor internal access stairs and associated roofing is not redibly visible from the Wandeen Road frontage, with the new dwelling house continuing to modernises and contributes to the Wandeen Road streetscape and reflect the predominant character of residential development in the immediate Wandeen Road area.

Overall, the proposal is consistent with the desired objectives and future character of the E4 Environmental Living zone.

4.3 Height of buildings

Height of Building

Pursuant to Clause 4.3, subclause 2D of the PLEP 2014, the maximum building height of consent **2020/1163** was approved at 9.6m, with a maximum overall building height of RL43.997.

The proposed First Floor amendments are also non-compliant with the 8.5m maximum building height prescribed by clause 4.3(2) of PLEP 2014, as follows:

- Maximum overall height of the roof line additional area of the First Floor is 8.0m - 9.1m (max. RL42.997)

Note: that whilst a chimney flue is proposed at a height of 8.376m, consistent with the Building Height

(or Height of Building) definition within the PLEP 2014 the flue is excluded from the assessment under building height.

The additional building height non-compliance is demonstrated in Figure 1 & Figure 2 below.

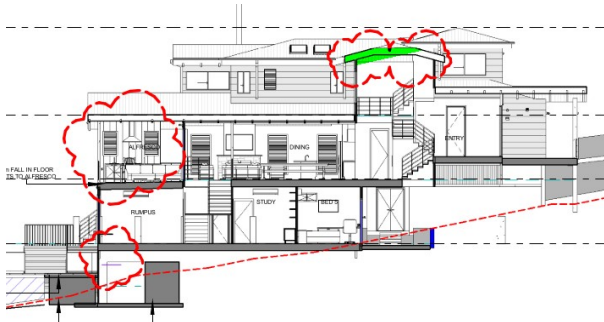


Figure 1: Extent of the additional building height non-compliance shown in green.



Figure 2: Extent of additional building height non-compliance circled in red (source: Rise Projects).

Whilst the maximum overall height of the dwelling house is was approved RL43.997. The maximum overall height of the new First Floor void area is lower at 9.1m or RL42.997.

The applicant continues to rely upon a variation prescribed by 4.3(2D) of PLEP 2014, which provides that the height of buildings may reach up to 10.0m in height, subject to consistency with certain criteria.

One of the relevant criteria is to ensure that the objectives of the clause are achieved. The objectives of the height of buildings development standard are considered as follows:

- *To ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality.*

Comment:

The proposal reflects the established built form character of the immediate Wandeem Road area where multi-level, variably stepped dwelling houses are prevalent, due to the steep topography of the land and difficulty with pedestrian and vehicular access. The proposed additional works to the First Floor have been designed to accommodate the steep slope of the site, while continuing to reflect the predominant character of residential development in the immediate Wandeem Road area.

The proposal is for a three (3) level level dwelling house, with the modified design to include an additional void area over the internal access stairs of the First Floor. It is the new void area/roof form that contributes to the additional non-compliance.

Although the design of the alterations is more contemporary and architecturally unique when compared to the more traditional style of surrounding dwelling houses and parking structures,

the residential nature of the development and the non-compliance, is considered to be consistent with the objectives of the zone and the urban context of the local area.

The amended development continues to satisfy this objective.

- *To ensure that buildings are compatible with the height and scale of surrounding and nearby development.*

Comment:

The development is located on the downward slope of the Wandeen Road which is characterised by undulating topography towards the Pittwater water area. This results in variable built forms along the road, such that there is an eclectic mix of height and scale in which to be compatible with.

Notwithstanding, the overall height of the development is below the 10m requirement, and is representative of a three (3) storey development when viewed from properties to the north, east and west, and a two (2) storey development when viewed from the upslope of Wandeen Road.

The non-compliance is located at the western edge of the roofline (demonstrated in figure 1 & 2 above) due to the topographical nature of the site.

The non-compliance is considered to be relatively minor and lower than the overall ridge line approved in the original consent. The additional area of non-compliance does not unreasonably conflict with the height and scale of surrounding and nearby development. In this context, the proposed overall height non-compliance is considered to be compatible.

The amended development continues to satisfy this objective.

- *To minimise any overshadowing of neighbouring properties.*

Comment:

The western roof element (where the additional building height protrusions occurs) do not contribute to any unreasonable overshadowing of adjoining properties.

The amended development continues to satisfy this objective.

- *To allow for the reasonable sharing of views.*

Comment:

It is acknowledged that the non-compliance along the western edge of the proposed roof does not impact the viewing angle from the properties to the east, No. 26 Wandeen Road due to the location on the western elevation of the proposed void area. The view lines established and identified within DA2020/1163 will remain intact.

The height non-compliance does not have an unreasonable impact upon the existing views from further up the escarpment to Wandeen Road due to the higher placement/vantage point of these properties.

The amended development continues to satisfy this objective.

- *To encourage buildings that are designed to respond sensitively to the natural topography.*

Comment:

The amended proposal makes no change to the minor volume of excavation under the footprint of the dwelling house. As a result, the proposal continues to present as a dwelling that has been sited to sympathetically follow the natural slope of the land.

The proposals additional void area on the first floor is a fairly minor area, and is not visually concernable when the dwelling house is viewed in its entirety. The proposal will continue to provide open style rear balcony areas, via varied setbacks continues to provided a "stepped" look when viewed from the sides and rear and the neighbouring properties.

The amended proposal continues to reflect the established built form character of the immediate Wandeen Road area where multi-level, variably stepped houses are prevalent, due to the steep topography of the land.

The development satisfies this objective.

- *To minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

Comment:

Despite the topographical constraints of the site, the developments design provides reasonable articulation, and visual interest and the additional First Floor area floor is sufficiently setback from the boundaries such that the visual impact of the additional area of the building will be appropriately managed.

All previously approved significant trees and proposed landscaping is to be retained as per the approved consent, and will continue to soften and filter the new built form. Therefore, the amended proposal will be sufficiently integrated into the existing landscaped setting.

The development satisfies this objective.

The remainder of the criteria prescribed by clause 4.3(2D) of PLEP 2014 have been considered, as follows:

- *The consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor.*

Comment:

The portions of the development that exceed the 8.5m building height plane are limited in height and depth, as demonstrated in Figure 1 and 2 above. The protrusions are reasonably described as minor.

The development satisfies this objective.

- *The building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%).*

Comment:

The footprint of the proposed dwelling house is sited on a slope of approximately 33 degrees to 50 degrees.

The development satisfies this objective.

- *The buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.*

Comment:

The amended proposal continues to display a minor volume of excavation that is not unreasonable in the context of the site.

The development satisfies this objective.

The amended proposal will continue to be consistent with the criteria of clause 4.3(2D) of PLEP 2014, and the application of the 9.1m variation is supported. As such, the proposed development is consistent with the maximum building height prescribed for the site.

7.2 Earthworks

A Geotechnical Assessment Addendum has been prepared by White Geotechnical Group, Reference No. J2913D, dated 2 August 2021. This addendum and its recommendations are included within the conditions to ensure there is no adverse impacts to the surrounding properties resulting from the proposals required additional excavation.

Accordingly, Councils Landscape and Biodiversity officers have concluded that the impact of the earthworks will not unreasonably impact or disrupt vegetation on the property.

7.6 Biodiversity protection

An amended Aborisit Report from Blues Bros Arboriculture, dated 26 July 2021 was received as part of the modification documentation to address the amended works, specifically in regards to the rear retaining walls. As a result, Councils Landscaping and Biodiversity officers have assessed the amended proposal and consider the impact of the development on the existing biodiversity to be reasonable, subject to conditions.

7.7 Geotechnical hazards

A Geotechnical Assessment Addendum has been prepared by White Geotechnical Group, Reference No. J2913D, dated 2 August 2021. This addendum and its recommendations are included within the conditions to ensure there is no adverse impacts to the surrounding properties resulting from the proposals required additional excavation.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	Dwelling: 9.0 - 14.0m	Dwelling: No Change	Yes
Rear building line	6.5m	Swimming Pool: 13.9 - 16.0m Dwelling: 20.7m - 24.1m	Swimming Pool: No Change Dwelling: No Change	Yes
Side building	2.5m (Western	Dwelling: 3.6m	Dwelling 3.6m (Void Area)	Yes

line	Boundary)	Swimming Pool: 3.6m	Swimming Pool: No Change	
	1m (Eastern Boundary)	Landing: 0.2m Dwelling Lower Ground: 3.0 - 7.2m Ground Floor: 2.0m Dwelling First Floor: 2.0m - 2.6m	Landing: No Change Dwelling Lower Ground: No Change Dwelling Ground Floor: No Change Dwelling First Floor: No Change	No* Yes Yes Yes
Building envelope	3.5m (Western Boundary)	Outside envelope: Nil - 0.2m for a distance of 0.8m Nil - 1.1m for a distance of 6.4m	Additional Encroachment for a height of 0.8m and length of 1.9m	No
	3.5m (Eastern Boundary)	Outside envelope: Nil - 0.5m for a distance of 3.1m Nil - 0.5m for a distance of 2.8m Nil - 1.5m for a distance of 6.4m	No Change	No*
Landscaped area	50%	57.6% (492.10m ²)	No change	No*

* Previously approved (DA2020/1163)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach 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
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5.15 Stormwater	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
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	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D1.20 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.1 Avalon Beach Locality

The development is consistent with the Desired Character statement of the Avalon Beach Locality with exception of the third storey element of the dwelling.

Specifically, the locality statement provides that the *"locality will remain primarily a low density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape"*.

However, the third storey element was approved in the previous consent, as it was determined that the three levels are consistent with the very sloping topography and the surrounding residential dwelling houses.

In this regard, the amended built form will continue to sit comfortably with adjoining and surrounding two, and three storey residential development. Also, consistent with adjoining development, the built form is located downslope in steep topography and therefore proposed landscaping, in conjunction with existing and required landscaping contained within previous consent will continue to assist to visually screen the bulk and scale of the amended built form and integrate the built form into the landscape.

On balance, the proposal is considered consistent with the desired future character of the Avalon Beach locality.

C1.5 Visual Privacy

Concern was raised by the Northern Beaches Local Planning Panel in the assessment of the original scheme in relation to the potential overlooking of adjoining properties. Overlooking was associated with the Ground Floor western window opening areas with regard to potential overlooking into No. 22

Wandeen Road existing private open space.

As a result, the Northern Beaches Local Planning Panel applied condition 8 that requires :
The vertical window to the stairwell on the ground floor western elevation shall be opaque and all other windows on the ground floor level on the western elevation shall be opaque to a height of at least 1.6m (when measured from the finished floor level).

The modified design seeks to delete this condition and the plans show that the window openings on the western elevation to be of clear glazing.

The amended development plans have made no attempt to further resolve overlooking of No. 22 Wandeen Road to the west of the existing site and the provision of clear glazing results in unacceptable privacy impacts. See Figure 3 below.

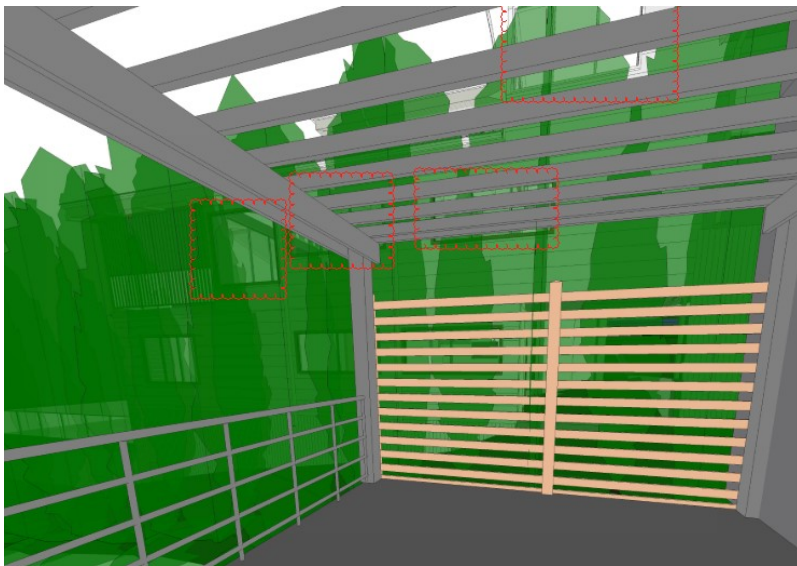


Figure 3: View lines from No. 22 Wandeen Road private open space area toward the window openings which are circled in red. (Source: Rise Projects)

It is acknowledged that the general orientation of properties along Wandeen Road have openings to capture the Pittwater waterway views towards the north and north-west. However, an absence of privacy screening devices in these areas so to maintain view lines across the side boundaries is not considered reasonable, nor satisfies the outcomes C1.5 Privacy control.

Therefore, the direct overlooking into the neighbouring private open space areas is not effectively mitigated by the additional landscaping along the western boundary, and no additional privacy mitigation measures have been incorporated into the amended design.

It is recognised that the amended design seeks to relieve existing privacy concerns by providing additional privacy screening, via external louvers to the eastern windows of W16, W17 and W18.

However, as there are no proposed design changes to minimise the potential privacy impacts from the western elevation window openings, there are no grounds to change the assessment and determination in relation to privacy impacts.

As a result, condition 8 will be retained and amended to reference the additional window, W72, to protect the amenity of the adjoining property to the west.

C1.14 Separately Accessible Structures

The applicant seeks to retain the existing floor plan on the lower ground floor, and introduce a paved recreational area servicing Bedroom 5.

Whilst the assessment report for the development consent detailed that during the assessment amended plans were submitted that removed the paved recreational area of the Lower Level to reduce the usability of the lower ground floor level as separate habitation, it is the current evaluation that the addition of the 8sqm paved area does not sufficiently indicate that this area is to physically provide for separate habitation.

Whilst external access is provided at two entry points on this level with access from the rumpus room to the lower deck alfresco area, and another access entry from the private alfresco area into Bedroom 5, the level contains no contains cooking facilities and is also freely internal accessed from the ground floor of the dwelling.

As such, the amended development does not readibly provide for separate habitation, nor is granted approval for separate habitation including a secondary dwelling or dual occupancy.

D1.1 Character as viewed from a public place

The amended development is of a consistent scale with the existing dwelling houses within the visual catchment of the site. Whilst the amended development has minor areas that exceeds the Building Height Development Standard of 8.5m within the PLEP and the Building Envelope built form controls prescribed by P21 DCP, overall, it can be said that the bulk and scale of the amended design does not exhibits excessive bulk, scale and mass and is consistent with the built form of low-density “detached” style housing in the surrounding area as shown below.



Figure 4: Amended development as viewed from the upslope of Wandeen Road (source: Rise Projects).



Figure 5: Amended development as viewed from the downslope of Wandeen Road (source: Rise Projects).

Additionally, the amended proposal is able to achieve consistency with the outcomes of this clause which aim to ensure that new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment and that buildings do not dominate the streetscape and are of a "human scale".

D1.11 Building envelope

Description of non-compliance

The amended development involves one minor area that protrudes beyond the required building envelope on the western elevation.

The side envelope breach area is as follows:

- West Elevation: up to 0.8m (height) and 1.9m (width).

The figure below shows the location and extent of the non-compliance.

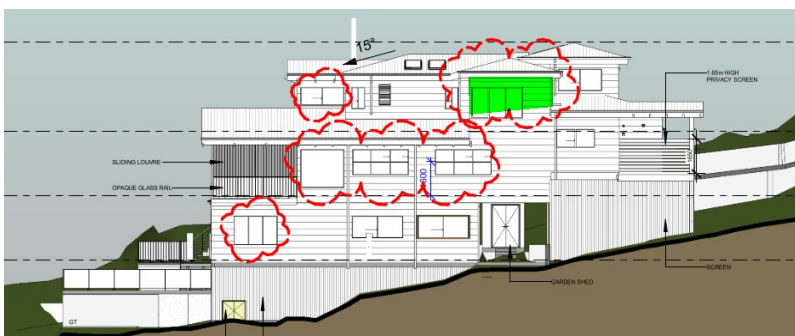


Figure 6: Extent of additional building envelope non-compliance on the western elevation shown in green.

As stated within the control "where the building footprint is situated on a slope over 16.7 degrees (ie; 30%), variation to this control will be considered on a merits basis".

Consequently, consideration of the proposed breach against the relevant outcomes of the control is provided below:

- *To achieve the desired future character of the Locality.*

Comment:

The non-compliance is significantly influenced by the sloping topography of the site, and the maintenance of the existing setbacks of the approved built form. The proposal is well articulated along side setbacks, with a varied roof line. The area of encroachment demonstrates consistency with the desired future character of the locality with the siting of the amended dwelling maintaining the landforms, landscapes and other features of the natural environment.

The amended proposal complies with this outcome.

- *To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*

Comment:

The amended area of development is situated predominately over the existing approved building footprint and does not alter the existing topography of the site. The minor encroachment is not visible predominate or "jarring" from the Wandeen Road frontage. The minor encroachment is considered satisfactory in regards to the design, scale, bulk and the height of the proposal.

Furthermore, the resultant built form will continue to respond to the natural land form of the site, with the encroachment area being below the height of the trees of the natural environment.

The proposal complies with this outcome.

- *To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*

Comment:

The facade of the dwelling on the west elevation is sufficiently modulated to respond aspect of the site and its steep slope. The resultant amended development is considered to be a sensitive design response in consideration of the natural characteristics of the site, with the retention of existing canopy trees and the enhancement of landscaping.

The proposal complies with this outcome.

- *The bulk and scale of the built form is minimised.*

Comment:

In light of the steep topography, the significant articulation along the western facade attempts to ensures the bulk and scale of this portion of the development has been minimised. The proposed resultant dwelling is of comparable building bulk and scale to existing and approved developments in the locality.

The proposal will continue to include adequate vegetation in order to screen the built form of the proposed development from the neighbouring sites, the Wandeen Road street view and from the Pittwater waterway.

The development complies with this outcome.

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

Comment:

The proposed development will not result in any significant view loss that would warrant refusal of the application.

The development complies with this outcome.

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

Comment:

There will be no adverse amenity impact in regard to privacy or solar access (subject to conditions) as a result of the proposed breach of the Building Envelope.

The development complies with this outcome.

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

Comment:

The amended dwelling design is sited in a manner that will continue to retain significant existing vegetation and enhance the future viability of the vegetation community that exists on the site.

The development complies with this outcome.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1.20 Scenic Protection Category One Areas

The property is located in a Scenic Protection Area Category One under Pittwater21 DCP. This requires all new development to minimise its visual impact on the natural environment when viewed from any waterway, road or public reserve.

The amended development is situated well back from the road reserve whilst not being sited in close proximity to the upper ridges, mitigating its visual presence. It can be said that the proposed development has been designed to minimise bulk and scale, and lessen the visual impact of the proposed development as viewed from Wandeen Road, or adjoining properties.

Overall, the proposal(as amended) is consistent with the desired future character of the Avalon Beach Locality and therefore, the Scenic Protection Area Category One requirements.

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 2021

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

This assessment has taken into consideration the revised plans, revised Statement of Environmental Effects, and other documentation supporting the application and public submissions.

The assessment of the proposed development against the provisions of PLEP 2014 found that the proposal does not comply with the 'Height of Buildings' Development Standard under the PLEP 2014 which permits a maximum building height of 8.5m within the E4 Environmental Management zone. However, the applicant continues to rely upon a variation prescribed by 4.3(2D) of PLEP 2014, which provides that the height of buildings may reach up to 10m in height, subject to consistency with certain criteria.

In this case, the additional non-compliance is located at the new void area, along the western edge of the roofline and wall plane of the First Floor level. Whilst the building height variation is to a maximum of 9.1m, the overall height of the additional void area is below the existing RL43.997. The non-compliance is largely unavoidable due to the steep slope of the site, minor in size and is supported.

In addition, the assessment of the amended development against the provisions of the P21 DCP has found that the proposal does not comply with the Building envelope. Given the constraints on the development by virtue of the steep topography and the presence of significant environmental features, some flexibility in applying these controls is necessary. There will not be any unreasonable amenity

impacts on adjoining properties and the proposal will be consistent with the vegetated character of Wandeen Street and the Locality.

The critical concerns relating to the privacy impacts as a result of the windows on the Ground Floor of the western elevation continues to create unacceptable and unreasonable privacy, and amenity impacts to the adjoining western property.

As a result, the previous condition applied by the NBLPP (condition 8) will be retained on the consent and modified to include the additional First Floor window on the western elevation.

Recommendation - Approval

In summary, the application is referred back to the NBLPP and is recommended for approval subject to amended and additional conditions.

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

RECOMMENDATION

THAT Northern Beaches Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2021/0362 for Modification of Development Consent DA2020/1163 granted for construction of a dwelling house including a swimming pool on land at Lot 102 DP 13760,24 Wandeen Road, CLAREVILLE, 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 with DA2020/1633 approved on the 3 February 2021 (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
Site Plans 1.0 Rev I	21/5/2021	Rise Projects
Driveway 1.1 Rev I	21/5/2021	Rise Projects
Driveway Gradient 1.2 Rev I	21/5/2021	Rise Projects
Driveway Cross-Section 1.3 Rev I	21/5/2021	Rise Projects
Fire Place Flue Section 103.1	Undated	Rise Projects
Retaining Wall Location 1.4 Rev I	21/5/2021	Rise Projects
Retaining Wall Location 1.5 Rev I	21/5/2021	Rise Projects
Gabion Wall Setout Plan 1.6 Rev I	21/5/2021	Rise Projects
Cut and Fill Plan 1.7 Rev I	21/5/2021	Rise Projects
Pier Layout Plan 1.8 Rev I	21/5/2021	Rise Projects
Pool Level Layout 1.9 Rev I	21/5/2021	Rise Projects

Lower Level Layout 2.0 Rev I	21/5/2021	Rise Projects
Ground Floor Layout 2.1 Rev I	21/5/2021	Rise Projects
First Floor Layout 2.2 Rev I	21/5/2021	Rise Projects
Roof Plan 2.3 Rev I	21/5/2021	Rise Projects
Elevations 3.01 Rev I	21/5/2021	Rise Projects
Elevations 2 3.2 Rev I	21/5/2021	Rise Projects
External Window Schedule 1 3.3 Rev I	21/5/2021	Rise Projects
External Window Schedule 2 3.4 Rev I	21/5/2021	Rise Projects
Window and Door Schedule 3.5 Rev I	21/5/2021	Rise Projects
Section 1 4.1 Rev I	21/5/2021	Rise Projects
Section 2 4.2 Rev I	21/5/2021	Rise Projects
Section Void 4.3 Rev I	21/5/2021	Rise Projects
Pool Level Slab Layout 5.1 Rev I	21/5/2021	Rise Projects
Lower Level Floor Slab Layout 5.2 Rev I	21/5/2021	Rise Projects
Ground Floor Slab Layout 5.3 Rev I	21/5/2021	Rise Projects
Driveway Slab Plan 5.4 Rev I	21/5/2021	Rise Projects
Skylight detail 9.3 Rev I	21/5/2021	Rise Projects
Skylight detail 9.4 Rev I	21/5/2021	Rise Projects
Fire Place and Flue Detail 9.6 Rev I	21/5/2021	Rise Projects
Pool details 9.7 Rev I	21/5/2021	Rise Projects
Pool Detail 9.8 Rev I	21/5/2021	Rise Projects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arborist Addendum	26/7/2021	Blues Bros Arboricultural
Geotechnical Addendum J2913D	2/8/2021	White Geoetchnical Group

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

B. Modify Condition No. 8 Amendments to the approved plans to read as follows:

The windows on the western elevation are to be treated as follows:

- Vertical window (W11) to the stairwell on the ground floor western elevation shall be opaque glazing and/or incorporate external fixed vertical privacy screening over the entire window
- Windows W9 & W10 on the western elevation shall be opaque to a height of at least 1.6m (when measured from the finished floor level) and/or incorporate external fixed vertical privacy screening over the entire window.
- Window W72 on the western elevation shall be opaque glazing and/or incorporate external fixed vertical privacy screening over the entire window.

Amended plans are to be submitted to the Certifying Authority for approval prior to the issue of the

Construction Certificate.

Reason: to protect the amenity of the adjoining property to the west.

C. Add Condition 19A Updated Plan Layout of Sandstone Block Walling

Amended Plans to indicate the alignment and extent of the sandstone block walling shall be issued to the Certifying Authority prior to the issue of a Construction Certificate to include the following details:

- i) retention of the existing natural ground levels as shown on the approved Landscape Plan issue G dated 17.12.2020, with no reduced or raised natural ground levels permitted,
- ii) the alignment shall not encroach upon the structural root zone (SRZ) of T2 *Corymbia maculata* (minimum 2.8m SRZ), T3 *Eucalyptus botryoides* (minimum 3.5m SRZ), and T4 *Eucalyptus botryoides* (minimum 2.2m SRZ),
- iii) notes shall be included that the sandstone block walling shall be placed upon natural ground levels on a coarse sand / cement levelling bed only.

Certification shall be provided to the Certifying Authority that these amendments have been documented.

Reason: Landscape amenity.

D. Add Condition 42A Installation of Solid/Fuel Burning Heaters to read as follows:

Installation work must be carried out by an appropriately experienced and qualified person and in accordance with the relevant provisions of AS2918:2001 – Domestic Solid Fuel Burning Appliances – Installation

Reason: To ensure the installation is completed in a legislatively compliant manner.

E. Add Condition 42B Certification of Solid Fuel Burning Heaters to read as follows:

A certificate from an appropriately qualified person indicating the system is compliant with all relevant legislation, Building Code of Australia, Australian Standards, Specifications and manufacturer requirements is to be submitted to Council prior to the operation of the solid fuel heater.

Reason: To ensure the system operates in a legislatively compliant manner.

F. Add Condition 42C Sandstone Block Retaining Wall to read as follows:

The sandstone block retaining walling shall be completed in layout in accordance with approved updated plan layout of sandstone block walling.

Advice is given that the completion of the works as approved under the Landscape Plan should be completed as soon as possible to prevent ongoing soil erosion from works or from surface runoff, as the proposed garden planting lawn will limit any erosion.

Certification shall be provided to the Certifying Authority that the works have been completed in accordance with the updated plan layout of sandstone block walling.

G. Add Condition 42D Solar Panels to read as follows:

The installation of any solar panels on the roof shall be mounted flat against the roof and not demonstrate an elevated mounting.

Reason: In order to maintain view lines to the adjoining / nearby properties.

Reason: Landscape amenity.

H. Add condition 46 Operation of Solid Fuel Burning Heaters to read as follows:

You are requested to take all practicable measures to prevent the likelihood of causing smoke and/or odour nuisances. Such measures should include:

- Using dry seasoned hardwood
- Storing wood in a dry well ventilated place
- Having a hot and well oxygenated fire
- Ensuring that the chimney flue is clean
- Checking the chimney at different stages of the fire to see if there is any smoke

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

I. Add Condition 47 Maintenance of Solid Fuel Burning Heaters to read as follows:

The owner/occupier shall ensure servicing of the heater is maintained according to the manufacturer's specifications.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

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

Signed

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

Rodney Piggott, Manager Development Assessments

Peter Robinson, Executive Manager Development Assessment