

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2022/0154
Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 1 DP 27540, 23 Wollombi Road BILGOLA PLATEAU NSW 2107
Proposed Development:	Modification of Development Consent DA2019/0972 granted for Alterations and additions to a dwelling house
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Jean-Francois Dyoniziak Maria Dyoniziak
Applicant:	Rama Architects Pty Ltd
Application Lodged:	05/04/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	15/04/2022 to 29/04/2022
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

Modification of Development Consent DA2019/0972. The proposed changes include;

Ground floor:

- Addition of BBQ bench in front courtyard,
- Addition of seating and open shade structure in pool area,
- Installation of green roof over carport.

First floor:

- Approved roof adjoining master bedroom to be converted to a green roof.

Roof plan:

- Installation of solar panels at maximum 10-degree angle.

Landscaping works:

- Relocate approved canopy tree from front courtyard to the rear garden.

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 21 Development Control Plan - C1.1 Landscaping

Pittwater 21 Development Control Plan - D3.6 Front building line

Pittwater 21 Development Control Plan - D3.11 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 1 DP 27540 , 23 Wollombi Road BILGOLA PLATEAU NSW 2107
Detailed Site Description:	<p>The subject site consists of one allotment located on the eastern side of Wollombi Road.</p> <p>The site is irregular in shape with a frontage of 33.905m along Wollombi Road and a depth of 39.67m. The</p>

site has a surveyed area of 703m².

The site is located within the C4 Environmental Living zone and accommodates an existing dwelling.

The site slopes 10.9m from front (south-west) to rear (north-east).

The site contains no significant trees, however a number are located within the adjoining road reserve.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by detached dwelling houses.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

DA2019/0972

Development application for alterations and additions to the existing dwelling approved under delegation on 23 December 2019.

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 DA2019/0972, in full, with amendments detailed and assessed as follows:

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

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> • The changes largely relate to minor landscaping works and internal alterations, • The proposal as conditioned maintains general compliance with the approved built form.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/0972 for the following reasons:</p> <ul style="list-style-type: none"> • The works are considered to be of a minimal environmental impact.
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require, 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>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.</p>

Section 4.55(1A) - Other Modifications	Comments
(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 (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. No additional information was requested in this case.</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>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>

Section 4.15 'Matters for Consideration'	Comments
	Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The applicant has provided a covering letter from Bushfire Planning Services Pty Limited 21 March 2022, which indicates that the revised proposal does not adversely affect the results of the original bushfire assessment.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 15/04/2022 to 29/04/2022 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 1 submission/s from:

Name:	Address:
Will Osmond	24 Wollombi Road BILGOLA PLATEAU NSW 2107

The following issues were raised in the submissions:

- **Views**

The above issues are addressed as follows:

- **Views**

The submissions raised no objections with the modification, however, requested further clarification regarding whether the proposed solar panels and relocated canopy tree would impact on No. 24 Wollombi Road's views.

Comment:

The concerned solar panels do not protrude above the approved parapet, as they proposed at a minimal angle of 10 degrees. However, imposed conditions will ensure that no approval is granted for the installation of solar panels under this application, as the applicant has provided inadequate information in support of the height breach. The modified landscaping works include relocating the approved canopy tree from the subject site's north-west corner to the rear (eastern) boundary. It must be noted that the proposal does not seek to modify the approved canopy tree species and will therefore have no impact on views. Overall, the changes proposed under this modification will not result in the loss of views.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The application is for modification to development consent DA2019/0972, including alteration to the previously located canopy tree in proximity to the Pool area to be located in the rear garden where suitable soil depth is found, and alteration of the carport roof from metal sheet roof to a green roof structure.</p> <p>No concerns are raised in regard to the location of the proposed canopy tree at the rear of the property in proximity to the public Reserve. The proposed green roof structure is represented sectionally in drawing DA-401 and conditions shall be imposed regarding waterproofing, drainage, soil depth and planting, as well as structural certification.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</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 (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 who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018).

An assessment SEPP Coastal Management (2018) was included with the original application.

The modified development is substantially the same development as previously approved and is considered to be of a minimal environmental impact. In this regard, no further assessment, beyond that

already conducted in the report for DA2019/0972, is required.

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:	8.0m	7.995m	*8.2m	N/A	Yes

*Refer to Part 4.3 of this report for further explanation.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
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 proposed modification seeks consent for the installation of solar panels, which protrude above the 8.0m height limit. However, the submitted Statement of Modification does not include an assessment against CI 4.3 of PLEP. As such, imposed conditions will ensure that no approval is granted for the installation of solar panels under this application.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	0m (Carport) 6.5m (Dwelling)	0m (Shade structure)	No
Rear building line	26.5m from front boundary	26.1m	Unaltered	N/A
Side building line	N: 2.5m	3.043m	Unaltered	N/A

	SE: 1.0m	1.544m	Unaltered	N/A
Building envelope	N: 3.5m	Outside envelope	Unaltered	N/A
	SE: 3.5m	Outside envelope	Unaltered	N/A
Landscaped area	60% 421.8m2	28.8% 202.5m2	Unaltered	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.3 Bilgola Locality	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.2 Flora and Fauna Conservation Category 1 and Wildlife Corridor	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	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	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
D3.1 Character as viewed from a public place	Yes	Yes
D3.3 Building colours and materials	Yes	Yes
D3.6 Front building line	No	Yes
D3.7 Side and rear building line	Yes	Yes
D3.9 Building envelope	Yes	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D3.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D3.15 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.1 Landscaping

Council's Landscape Officer raised no objection to the modified landscaping works.

D3.6 Front building line

Description of non-compliance

The proposed shade structure is non-compliant with the front building line control, being located within the front setback with a 0m setback.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *Achieve the desired future character of the Locality.*

Comment:

The proposed development is consistent with the desired future character of the locality.

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

Comment:

The proposed shade structure is located at ground level and will not impact any views or vistas.

- *The amenity of residential development adjoining a main road is maintained.*

Comment:

The subject site does not adjoin a main road.

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

Comment:

The proposed shade structure is lightweight and will not give rise to any adverse building bulk. Notwithstanding, adequate vegetation is maintained within the front setback of the site to reduce the visual impact of the development. In addition, the dense landscaping in the road reserve is retained, which will further assist in moderating the built form.

- *Vehicle manoeuvring in a forward direction is facilitated.*

Comment:

The proposal does not include any modifications to the approved parking arrangement.

- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*

Comment:

The bulk and appearance of the shade structure is minimised through its open design and low profile flat roof. Despite the front setback non-compliance, the proposal will not unreasonably impact the streetscape or natural environment.

- *To encourage attractive street frontages and improve pedestrian amenity.*

Comment:

The proposed shade structure is partially obscured from the street frontage by existing vegetation. The proposal also includes additional landscaped area and planting within the front setback which will improve the street frontage.

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

Comment:

The proposal maintains an appropriate scale and relationship with the surrounding area.

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.

D3.11 Landscaped Area - Environmentally Sensitive Land

The modification does not alter the approved landscaped area of the proposed development. As such, the outcomes of the original assessment and consistency with the control objectives are maintained.

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

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. Mod2022/0154 for Modification of Development Consent DA2019/0972 granted for Alterations and additions to a dwelling house on land at Lot 1 DP 27540,23 Wollombi Road, BILGOLA PLATEAU, subject to the conditions printed below:

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

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By

DA-001 Site Plan	03 March 2022	Daniel Raymond Architect
DA-100 Lower Ground Floor	03 March 2022	Daniel Raymond Architect
DA-101 Ground Floor	03 March 2022	Daniel Raymond Architect
DA-102 First Floor	03 March 2022	Daniel Raymond Architect
DA-300 North Elevation	03 March 2022	Daniel Raymond Architect
DA-301 East Elevation	03 March 2022	Daniel Raymond Architect
DA-302 South-East Elevation, West Elevation	03 March 2022	Daniel Raymond Architect
DA-400 Section X	03 March 2022	Daniel Raymond Architect
DA-401 Section Y	03 March 2022	Daniel Raymond Architect

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Covering Letter	21 March 2022	Bushfire Planning Services Pty Limited
Geotechnical Covering Letter	09 March 2022	White Geotechnical Group

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
DA-500 Landscape Plan	03 March 2022	Daniel Raymond Architect

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

B. Add Condition No. 6A - Solar Panels, to read as follows:

No approval is granted under this Development Consent for the installation solar panels. A separate Development Application for any solar panels (other than exempt and those permitted under Complying Development) must be submitted for the approval prior to the installation any such structures.

Reason: Ensure compliance with this consent.

C. Add Condition No.22A - Green Roof Landscape Works, to read as follows:

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all green roof areas, over which soil

and planting is being provided.

Landscape treatment details shall also be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule. The following soil depths are required to support groundcover and low height accent planting: 300mm.

Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

D. Modify Condition No.31 - Landscape Works, to read as follows:

Landscaping is to be implemented in accordance with the Landscape Plan DA-500, issue A, dated 03.03.2022, as prepared by Daniel Raymond Architect.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the landscape plans, and any relevant condition of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

E. Delete Condition No.49 - Plant equipment.

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

Signed



Kye Miles, Planner

The application is determined on 16/06/2022, under the delegated authority of:



Phil Lane, Acting Development Assessment Manager