

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2022/0460
----------------------------	--------------

Responsible Officer:	Stephanie Gelder
Land to be developed (Address):	Lot 51 DP 740538, 1772 Pittwater Road BAYVIEW NSW 2104
Proposed Development:	Modification of Development Consent DA2020/0014 granted for Demolition works and construction of a dwelling house including a swimming pool
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Georgina Elizabeth Torrens Andrew William Bursill
Applicant:	Sean Clive Gartner

Application Lodged:	28/09/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	10/10/2022 to 24/10/2022
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposed modifications works to DA2020/0014 comprise of the following:

- Removal of the drainage channel to the property conditioned in the approval DA2020/0014 – Condition 7, and new kerb and guttering to the road reserve;
- Alterations to internal floor plans and room configurations;
- Alterations and additions to windows and skylights;
- Alteration to internal floor levels;
- Alterations to the landscaping works;
- Relocation of internal car lift;
- Revised entry gate design and increased setback of vehicular entry gate; and
- Retention of the existing swimming pool in lieu of a new pool as approved.

APPLICATION HISTORY

Following the preliminary assessment of the application, Council requested additional information on 17 November 2022 in relation to Council's Development Engineer Comments in regards to the drainage channel, an amended BASIX Certificate to reflect the proposed changes to windows, Clause 4.3 Height of Buildings of Pittwater Local Environmental Plan 2014, and Clause C1.5 Visual Privacy of Pittwater 21 Development Control Plan in relation to retention of privacy screens. Subsequently, the applicant provided amended Master Plans, an amended BASIX Certificate, an amended NatHERS Certificate, and amended Stormwater Plans.

Council requested additional information on 10 January 2023 in relation to Council's Development Engineer Comments in regards to the drainage channel, and in relation to D4.10 Landscaped Area - Environmentally Sensitive Land of Pittwater 21 Development Control Plan. Council's Development Engineer raised further concern surrounding the proposed amendments to Condition 7, and the proposed new kerb and guttering. Upon the review of amended Stormwater Plans, further information was still required. As the applicant, already received an opportunity to provide amendments to detail the proposed new kerb and guttering to the road reserve, a further opportunity was not provided under this current application. As such, due to the complexity of the stormwater issues, the applicant advised that they would remove the proposed stormwater changes from this current application.

Overall, the amended plans constitute a reduced environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan (CPP).

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

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

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D4.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 51 DP 740538 , 1772 Pittwater Road BAYVIEW NSW 2104
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Pittwater Road.</p> <p>The site is irregular in shape with a frontage of 17.40m along Pittwater Road and a depth of 43.67m. The site has a surveyed area of 717m².</p> <p>The site is located within the C4 Environmental Living zone from PLEP 2014 and accommodates a dwelling house currently under construction as approved under DA2020/0014, and an existing swimming pool.</p> <p>The site slopes from the front southern boundary downwards to the rear northern boundary over approximately 9 metres.</p> <p>The site contains lawn areas, and gardens. There are no details of any threatened species on the subject site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one and two storey dwelling houses varying in architectural style and design. The site directly abuts the Pittwater waterway to the north-east, and the site obtains direct access to Pittwater.</p>

Map:



SITE HISTORY

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

0734/95

Building Application for Erection of Additions.
Approved on 1 November 1995.

0333/97

Building Application for Erection of Jetty, Ramp and Pontoon.
Approved on 28 October 1997.

N0120/07

Development Application for Construction of a new in-ground swimming pool.
Approved on 12 June 2007.

CC0364/07

Construction Certificate for Construction of a new in-ground swimming pool.
Approved on 2 July 2007.

Occupation Certificate for Construction of a new in-ground swimming pool.
Approved on 16 October 2009.

DA2020/0014

Development Application for Demolition works and construction of a dwelling house including a swimming pool.
Approved on 11 May 2020.

DA2020/0424

Development Application for Alterations and additions to existing jetty consisting of a new mooring pen.
Approved on 5 June 2020.

CC2022/0822

Construction Certificate for Demolition works and construction of a dwelling house including a swimming pool.
Approved on 8 August 2022 by External Certifier.

DA2022/1506

Development Application for Construction of a boatshed.
Currently Under Assessment.

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 DA2020/0014, 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"> • It is considered that the proposed modified works are of minimal environmental impact. • The proposed modified works retain the maximum height of buildings as approved. • The proposed built form controls are largely unchanged, with the increase of landscaped area, presenting an improved environmental impact. • The proposal includes the retention of the existing swimming pool, resulting in a reduced environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2020/0014 for the following reasons:</p> <ul style="list-style-type: none"> • The consent authority cannot be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2020/0014.
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.</p>

Section 4.55(1A) - Other Modifications	Comments
development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	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	There are no current draft environmental planning instruments.
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 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to Council's Development Engineer Comments in regards to the drainage channel, an amended BASIX Certificate to reflect the proposed changes to windows, Clause 4.3 Height of Buildings of Pittwater Local Environmental Plan 2014, and Clause C1.5 Visual</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>Privacy in relation to retention of privacy screens. Subsequently, the applicant provided amended Master Plans, an amended BASIX Certificate, an amended NatHERS Certificate, and Stormwater Plans.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62</u> and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 10/10/2022 to 24/10/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Ian Fraser McManamey	1778 Pittwater Road BAYVIEW NSW 2104

The following issues were raised in the submissions:

- **Privacy Screens**
- **Foreshore Building Line**

The above issues are addressed as follows:

- **Privacy Screens**

The submissions raised concerns that on the proposed windows W17 and 18a (now window W11 and W12a on the amended Master Plans), do not provide for continuous privacy.

Comment:

Amended Master Plans were received, that updated W17 to W11 and W18a to W12a, that includes an external privacy screen in replacement of the initially proposed external blind. As such, the updated plans included a privacy screen for the length of W11. As detailed under Clause C1.5 Visual Privacy of Pittwater 21 Development Control Plan, a condition has been recommended for the privacy screen to be installed for the entire length of the outermost northern edge of Windows W11 and W12a located off the living room as shown on the approved plans. As recommended via condition, the proposal will ensure appropriate privacy to the site to north.

- **Foreshore Building Line**

The submission raised concern that the proposed window 18a/b (now window 12b on the amended Master Plans), that was previously an operable louvred window as approved under DA2020/0014 will result in changes to dwelling in relation to the foreshore building line. Concern is raised that the alteration of this window from operable to fixed will result in changes from a balcony to a room, and that the building will now extend forward of the foreshore building line.

Comment:

The proposed alteration of approved window W14 as detailed on the Stamped Plans of DA2020/0014 as an operable window, to a fixed window under the proposed modifications (window 12b) does not alter the location, and or building footprint as approved. As such, the proposal does not result in any changes to use of the rooms, as it was not previously approved as a balcony, but a living room. In summary, the proposed change to the window does not result in changes to the location of the dwelling house in regards to the foreshore building line.

Concluding Comment:

In summary, the concerns raised have been addressed and do not warrant the refusal of the proposed modification application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The application is for modification to development consent DA2020/0014. The modifications proposed do not impact the landscape outcome under the development consent, and protection of the existing street tree identified in the Arboricultural Impact Assessment prepared by Urban Forestry as T2 - Lemon Scented Gum remains necessary and condition 34 of the development consent DA2020/0014 is updated by amendment as required under this modification.</p> <p>The Architectural Plans and Landscape Plans submitted for this modification application are co-ordinated such that development consent DA2020/0014 Condition 10. Amendments to the approved plans, may be removed.</p> <p>Updated Landscape Plans submitted with the modification application do not include items raised in condition 38. Landscape works completion, and thus the condition intent shall remain. Additionally, the the condition shall be included to nominate that only landscape works within the site boundaries are to be approved, as the updated Landscape Plans include works within the road reserve verge that require a minor encroachments application (ie. for proposed screening hedge).</p>
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against the following applicable biodiversity controls:</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Resilience and Hazards) 2021 - Clause 2.10 Development on land within the coastal environment area • Pittwater LEP 2014 - Clause 7.6 Biodiversity • Pittwater 21 DCP - Clause B4.7 Pittwater Spotted Gum Endangered Ecological Community / Clause B4.22 Preservation of Trees and Bushland Vegetation <p>The proposal is unlikely to impact upon native vegetation or wildlife habitat.</p>
NECC (Coast and Catchments)	<p>SUPPORTED WITH CONDITIONS</p> <p>The modification application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Resilience & Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p>

Internal Referral Body	Comments
	<p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this modification DA.</p> <p>Comment:</p> <p>On internal assessment , the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H. As such, it is considered that the modification application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>Estuarine Risk Management The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p> <p>On internal assessment and as assessed in the submitted Updated Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 8 September 2022, the ground floor level for the proposed additions and alterations is above the applicable EPL for the site. The proposed modification are therefore able to satisfy the relevant estuarine risk management requirements of P21 DCP.</p>

Internal Referral Body	Comments
	<p>Development on Foreshore Area</p> <p>A large section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area.</p> <p>The modification DA proposes to retain the existing swimming pool and no other major works proposed on the foreshores area and hence, the modification DA does not require to satisfy the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.</p>
NECC (Development Engineering)	<p>The proposal seeks to modify the Consent conditions of DA2020/0014 to delete the requirement for a drainage channel through the site via providing kerb and guttering along Pittwater Road such that the overland flow is directed to the Council stormwater system.</p> <p>Based on the Overland Flow Civil Works Plan & Detailing prepared by Barrenjoey Consulting Engineers, the proposed kerb and gutter works are only across No 1772 and No 1770 Pittwater Rd. This is insufficient as it will concentrate overland flow directly into the property at 1768 Pittwater Rd.</p> <p>Any proposed kerb and gutter system will need to connect directly into the Council stormwater system outside No 1762 Pittwater Rd. Council's stormwater Asset Engineer has provided the following options to that can be investigated:</p> <ul style="list-style-type: none"> Constructing a new stormwater kerb inlet and pipeline outside of number 1768 Pittwater Road, Bayview which then connects to the existing stormwater system located to the east outside of 1762 Pittwater Road, Bayview; or Extending the proposed kerb and gutter to the stormwater pit outside 1762 Pittwater Road, Bayview. The kerb and gutter will need to connect into the existing kerb inlet pit (SPP54339). All downstream properties are low-lying properties, and as such all driveway crests along the extent of kerb works will need to match the Reduced Levels of the new Kerb and Gutter. <p>Either option will require overland flow modeling to demonstrate that there will be no adverse flooding impacts to adjoining properties. Additionally Hydraulic Modelling for the proposed and existing stormwater system will need to be completed demonstrating that there will be no adverse impacts upstream and downstream.</p> <p>Concurrence from Council's Road Asset team will be required regarding the alignment of the proposed kerb and gutter works. Additionally Councils Landscape team will be required to provide</p>

Internal Referral Body	Comments
	<p>comments on the potential impacts on all street trees.</p> <p>Amended plans and modeling are to be submitted prior to further assessment.</p> <p><i>Note to Planner: It is considered that comments from Road Asset team and Landscape team should be sought based on the above advice prior to requesting additional information.</i></p> <p>Additional Information Provided on 7/12/2022 Council's Stormwater Engineer has provided the following comments regarding the proposal to extend the kerb and gutter up to the exiting driveway of No 1768:</p> <ul style="list-style-type: none"> • The proposal concentrates the surface flows from the road to the nature strip towards the property boundary and relies on the property boundary wall to direct the runoff to the existing Council pit and cannot be supported as any blockage of the pit is likely to cause flooding to private properties. • Connecting to the stormwater system located outside the downstream property at 1762 Pittwater Road is not an ideal solution as the property is located at a sag, and the properties has no driveway crest meaning that water will overtop and flow towards the property if the pit blocks. • Additionally, during the site inspection, the pits were observed as being completely full of leaf litter which means they will be prone to blockage which is likely going to result with localised flooding if flows are concentrated to this point, and subsequent flooding to the property at 1762 Pittwater Road. <p>Any proposed kerb and gutter system will need to connect directly into a stormwater system with adequate capacity. If the applicant proposes to connect into the existing system, hydraulic studies will need to be completed for the existing system which demonstrates that the system can cope with the additional flows without causing adverse impacts upstream and downstream.</p> <p>If any new stormwater assets are proposed, they will need to be designed in accordance with Council's Water Management for Development Policy and AUS-SPEC #1. The Applicant shall provide amended plans to address the above comments prior to Development Engineering finalising the assessment.</p> <p>Amended Plans Provided on 6/2/2023 The amended plans have deleted the proposed changes to the previously approved drainage channel and hence conditions provided in Consent DA2020/0014 are to remain. Other proposed modifications do not require additional conditions. No objections to approval.</p>

NFCC (Rinarian Lands and

Internal Referral Body	Comments
Creeks)	<p>Supported subject to conditions. This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016; • State Environmental Planning Policy (Resilience and Hazards) 2021; • Relevant LEP and DCP clauses; and • Northern Beaches Water Management for Development Policy <p>The site abuts Pittwater estuary and as such the development must not significantly impact on the biophysical, hydrological or ecological integrity of the estuary, or the quantity and quality of surface and ground water flows that it receives. Appropriate sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established. The application meets the requirements of the relevant Environmental Planning Instruments and policies relating to waterways, riparian areas, and groundwater.</p>
Road Reserve	<p>The proposed kerb and gutter and associated driveway adjustments are supported in principle however the scope of works is considered insufficient and further details will need to be provided as part of an Application for Civil Works (eg dimensioning details to ensure lane widths meet the required road design geometric requirements, cross sections, kerb long section, driveway long sections, etc). The footpath must be 1.5m wide and the kerb height to Council's standard, that is, 150mm.</p> <p>The k&g collects, concentrates and then discharges runoff in an uncontrolled manner across the footpath. The subsequent runoff then relies on a private boundary wall to direct runoff to an existing open watercourse. This method of roadway stormwater management is not acceptable to Council.</p> <p>The stormwater flowing in the gutter must be collected with a stormwater inlet pit and directed into the piped drainage network that runs across Pittwater Road at the sag point.</p> <p>Subject to Council's Stormwater Engineering Team agreement, this will require extension of the kerb and gutter across the frontage of 1768 and 1762 and the provision of a inlet pit at the low point.</p> <p>The Development Engineering Team to determine if amended plan is required and provide the required consent conditions.</p> <p><u>Planner Comment</u> As previously outlined within this report, the proposed changes to the drainage channel are no longer included as part of this application. Therefore, the comments by Council's Road Reserve are no longer relevant as there are no proposed changes to the existing kerb and gutter.</p>

External Referral Body	Comments
Aboriginal Heritage Office	<p>Development Application No. Mod2022/0460 Description: Modification of Development Consent DA2020/0014 granted for Demolition works and construction of a dwelling house including a swimming pool Address: 1772 Pittwater Road BAYVIEW</p> <p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should anything thought to be Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office be contacted. In line with our normal advice for sandy areas, the Aboriginal Heritage Office recommends that the development conditions should provide for stop work provisions (unexpected discovery protocol) in the unlikely event that human remains are uncovered. Should human remains be uncovered, works must cease and the NSW Police must be contacted.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.1361059S dated 07

December 2022). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No.0008276917-02 dated 07 December 2022).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	92

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

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

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

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - f) Aboriginal cultural heritage, practices and places,
 - g) the use of the surf zone.

Comment:

The subject site is located within land identified as "coastal environment area". The proposed modification works are not likely to result in an adverse impact to items listed under Clause 2.10(1)(a-g) inclusive.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or

- b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The proposed modification works have been appropriately designed, sited, and managed to avoid any adverse impacts to items listed under Clause 2.10(1)(a-g) inclusive.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock
 - ii) platform for members of the public, including persons with a disability,
 - iii) overshadowing, wind funnelling and the loss of views from public places to
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an adverse
 - ii) impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The subject site is located within land identified as "coastal use area". The proposed modification works are not likely to cause any adverse impacts to items listed under Clause 2.11(a)(i-v) inclusive. The proposed modification works have been designed, sited, and managed to avoid any adverse impacts, and have taken into consideration the surrounding coastal and built environment, and the bulk, scale and size of the proposal.

Division 5 General

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

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

Comment:

The proposed modification works are not likely to cause an increased risk of coastal hazards on the

subject site or adjoining sites.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

There is no certified coastal management program that is applicable to the land.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.3m	unaltered	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

7.8 Limited development on foreshore area

Under Clause 7.8 Limited Development on Foreshore Area, development consent must not be granted for development on land in the foreshore area except for the following purposes:

- *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
- *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

Comment:

The proposed modification application does not alter the location of rebuilding of the building contained partly within the foreshore area, and as such will not result in the footprint of the building extending further into the foreshore area. The retention of the existing swimming pool is an exception, and therefore is supportable.

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

- *the development will contribute to achieving the objectives for the zone in which the land is located, and*
- *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- *the development will not cause environmental harm such as:*
 - *pollution or siltation of the waterway, or*
 - *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
 - *an adverse effect on drainage patterns, or*
 - *the removal or disturbance of remnant riparian vegetation, and*
- *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
- *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.*

Comment:

The proposed development is consistent with the objectives of the C4 Environmental Living zone. The appearance of the proposed development is compatible with the surrounding area. The proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats, drainage patterns or remnant riparian vegetation.

The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway. The proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. The proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

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

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*
- *public access to link with existing or proposed open space,*
- *public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- *public access to be located above mean high water mark,*
- *the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment:

The proposed development will retain continuous public access to and along the foreshore. The proposed development does not impact upon any public access. The proposed development is acceptable in relation to the foreshore character and the existing environmental conditions.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	10m	Level 2 - 9.4m-10m Level 1 - existing sub floor retaining wall 2.3m; proposed car lift approx 2.7m; bathroom 8.6m; and powder room 8.2m (*Note all structures are below ground) Ground Level - 14m	unaltered unaltered 11.2m unaltered unaltered unaltered	N/A N/A Yes N/A N/A N/A
Side building line	1m - 2.5m	Ground Level - eastern boundary 0.85m to 8.7m Ground Level - western boundary 2.4m to 3.3m First Floor - eastern boundary 1.5m to 2.5m First Floor - western boundary 1.38m to 3.3m Second floor - eastern boundary Second floor - western boundary	unaltered unaltered unaltered unaltered unaltered	N/A N/A N/A N/A N/A
Building envelope	3.5m	Eastern envelope - Three areas of envelope breach: 1m - 2.4m in height for a length of 7.1m, 2.1m - 2.6m in height for a length of	unaltered	N/A

		4.1m and 1.4m - 1.8m in height for a length of 4.1m		
	3.5m	Western envelope - Two areas of envelope breach: 0.3m - 1m in height for a length of 6.4m (this relates to the eaves) and 0.8m - 0.2m in height for a length of 3.9m	unaltered	N/A
Landscaped area	60%	47.9% (343.9m ²)* *Includes 6% impervious areas	Soft Landscaping: 40.64% (291.4m ²) Impervious Areas: 6% (43.02m ²) Total: 46.64% (334.42m ²)	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.4 Church Point and Bayview Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D4.1 Character as viewed from a public place	Yes	Yes
D4.3 Building colours and materials	Yes	Yes
D4.5 Front building line	Yes	Yes
D4.6 Side and rear building line	N/A	N/A
D4.8 Building envelope	N/A	N/A
D4.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D4.11 Fences - General	Yes	Yes
D4.14 Scenic Protection Category One Areas	Yes	Yes
D15.12 Development seaward of mean high water mark	Yes	Yes
D15.14 Minimum frontage for waterfront development	Yes	Yes

Detailed Assessment

C1.5 Visual Privacy

A submission was received in relation to visual privacy, specifically in relation to the proposed privacy measures along windows W17 and W18a, that proposed an external blind to window 17 only. Subsequently, the applicant provided amended plans, that included a privacy screen along the outer edge of windows W17 (now W11 on the amended plans). However, the proposed privacy screen does not include the length of window W18a (now W12a as detailed on the amended plans).

Therefore, a condition has been recommended for the privacy screen is to be erected for the entire length of the outermost northern edge of Windows W11 and W12a located off the living room as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

As amended via condition, the proposal will ensure appropriate privacy to the adjoining site to the north.

D4.10 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

The proposal as modified provides a total of 46.64% (334.42m²) of landscaped area inclusive of 6% of impervious areas. The proposal, as approved included a numerical calculation of 47.9% (343.9m²), and as such a merit assessment was undertaken detailing support of the proposed landscaped area.

However, a review of the landscaped area as approved, results in the inability to accurately verify the calculations to obtain the numerical landscaped area as approved. A review of the approved Landscaped area, results in a total of 46.02% (330.02m²) of landscaped area inclusive of 6% of impervious areas.

Therefore, the proposal as modified presents a net increase to the total landscaped area. A detailed

assessment against the outcomes of the control has been undertaken, and in this instance the proposal as modified is supportable.

Merit consideration

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

Comment:

The proposal as modified is consistent in achieving the desired future character of the Church Point and Bayview Locality.

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

Comment:

The proposal as modified will ensure appropriately minimisation of bulk and scale. It is important to note, that the proposal as modified is largely unchanged in relation to the approved built form of the dwelling house.

- ***A reasonable level of amenity and solar access is provided and maintained.***

Comment:

The proposal as modified will continue to ensure a reasonable level of amenity and solar access is provided and maintained for residents, and adjoining residents.

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

Comment:

The proposal as modified includes the retention and enhancement of vegetation to assist with visually reducing the built form.

- ***Conservation of natural vegetation and biodiversity.***

Comment:

The proposal as modified is not likely to remove any significant natural vegetation or impact any protected species.

- ***Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.***

Comment:

The proposal as modified will ensure stormwater runoff is reduced through the provision of pervious surfaces to prevent soil erosion, and siltation of natural drainage channels.

- ***To preserve and enhance the rural and bushland character of the area.***

Comment:

The proposal as modified will not impact upon the rural and bushland character of the area.

- ***Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.***

Comment:

The proposal as modified ensures soft surfaces are maximised to provide infiltration to the water

table, minimisation of run-off, and assist with stormwater management.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2022/0460

for Modification of Development Consent DA2020/0014 granted for Demolition works and construction of a dwelling house including a swimming pool on land at Lot 51 DP 740538, 1772 Pittwater Road, BAYVIEW, 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
Site Plan - A01	3 February 2023	No Author
Ground Floor Plan - A02	3 February 2023	No Author
Level 1 Plan - A03	3 February 2023	No Author
Level 2 Plan - A04	3 February 2023	No Author
Roof Plan - A05	3 February 2023	No Author
Elevations (West & South) - A201	3 February 2023	No Author
Elevations (East & Street) - A202	3 February 2023	No Author
Elevation (North) - A203	3 February 2023	No Author
Section A - A301	3 February 2023	No Author
Section C - A302	3 February 2023	No Author
Driveway Section - A303	3 February 2023	No Author

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (No.1361059S)	7 December 2022	Integreco Consulting Pty Ltd
Estuarine Report	8 September 2022	Horton Coastal Engineering
Geotechnical Report	7 September 2022	White Geotechnical Report
NatHERS Certificate (No.0008276917-02)	7 December 2022	Integreco Consulting Pty Ltd

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape Plan, Planting Plan and Plant Schedule, Issue A	3 February 2023	Sym Studio

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

approved plans.

B. Add Condition 1B - Compliance with Other Department, Authority or Service Requirements to read as follows:

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Aboriginal Heritage Office	Referral - Aboriginal Heritage Office - 1772 Pittwater Road Bayview	6 October 2022

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

C. Add Condition 1C - No Approval for Boat Shed to read as follows:

No approval is granted or implied under this Modification Application for construction of a boat shed as annotated by purple clouding on the approved plans.

A separate approval is required for the works clouded in purple relating to the Construction of a Boat Shed.

Reason: To ensure compliance with the terms of this consent.

D. Add Condition 7A - Privacy Screen to read as follows:

A privacy screen is to be erected for the entire length of the outermost northern edge of Windows W11 and W12a located off the living room as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: In order to maintain privacy to the adjoining / nearby property.

E. Modify Condition 19 - Estuarine Planning Level Requirements to read as follows:

An Estuarine Planning Level (EPL) of 3.30m AHD has been adopted for the subject site and shall be applied to all modifications proposed below this level as follows:

- All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 3.30m AHD or waterproofed to this level; and
- The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 3.30m AHD.
- All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 3.30m AHD. All exterior power supplies (including electrical fittings, outlets and switches) shall be located at or above 3.30m AHD to avoid the likelihood of contact with

splashing waves and spray.

Reason: To ensure aspect of the development are built at the appropriate level

F. Modify Condition 20 - Compliance with Estuarine Risk Management Report to read as follows:

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd dated 20 December 2019 and the Updated Estuarine Risk Management Report also prepared by Horton Coastal Engineering Pty. Ltd dated 8 September 2022 and these recommendations are to be incorporated into construction plans.

Reason: To minimise potential hazards associated with development in an estuarine habitat.

G. Modify Condition 27 - Installation and Maintenance of Sediment and Erosion Controls to read as follows:

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

H. Add Condition 28A - Wildlife Protection to read as follows:

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

I. Modify Condition 34 - Project Arborist to read as follows:

A Project Arborist with AQF minimum Level 5 qualification in arboriculture/horticulture is to be appointed to supervise and certify tree protection measures for the existing street tree identified as T2 to be retained and protected, requiring site attendance during excavation and construction works of any works within the tree protection zone of T2, in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, and the recommendations of the Arboricultural Impact Assessment prepared by Urban Forestry Australia dated November 2019.

This shall include supervision, acceptance of the works and certification of tree sensitive work in the vicinity of the existing street tree identified as T2, under Section 5.0 Recommendations,

- i) actions and recommendations as listed under 5.2 Minimising Impacts on Trees to be Retained,
- ii) actions and recommendations as listed under 5.3 Tree Protection,

The Arborist shall submit certification that the works described in the above sections have been correctly installed and adhered to during the construction period.

The tree protection measures specified in this clause must:

- iii) be in place before work commences on the site, and
- iv) be maintained in good condition during the construction period, and
- v) remain in place for the duration of the construction works.

The Certifier or a Project Arborist AQF Level 5 must ensure that:

- vi) the activities listed in section 4.2 of AS4970- 2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and
- vii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.

Reason: to ensure tree protection is provided and maintained.

J. Modify Condition 38 - Landscape Works Completion to read as follows:

Landscape works are to be implemented in accordance with the approved Landscape Plans, with the addition of the following condition:

- i) proposed landscape works are approved only within the site boundaries,
- ii) one native tree in the front yard and one native tree in the rear yard planted at 75 litre container size minimum, selected from the Pittwater Spotted Gum Forest association, shall be provided to enhance the landscape setting and soften the built form,
- ii) all tree planting within the site shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree locations may otherwise be positioned to minimise any significant loss of views, and shall be planted at least 4-5 metres from buildings,

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

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

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

Signed



Stephanie Gelder, Planner

The application is determined on 09/02/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments