

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

|                            |              |
|----------------------------|--------------|
| <b>Application Number:</b> | Mod2020/0085 |
|----------------------------|--------------|

|   |  |
|---|--|
| <b>Responsible Officer:</b>               | Nick Keeler  |
| <b>Land to be developed (Address):</b>    | Lot 6 DP 3632, 3 Riverview Road AVALON BEACH NSW 2107  |
| <b>Proposed Development:</b>              | Modification of Development Consent DA2018/1616 granted for alterations and additions to a dwelling house including alterations to an existing boathouse and swimming pool |
| <b>Zoning:</b>                            | E4 Environmental Living  |
| <b>Development Permissible:</b>           | Yes  |
| <b>Existing Use Rights:</b>               | No   |
| <b>Consent Authority:</b>                 | Northern Beaches Council   |
| <b>Land and Environment Court Action:</b> | No   |
| <b>Owner:</b>                             | Nicola Domazet   |
| <b>Applicant:</b>                         | Nicola Domazet   |

|                                  |   |
|----------------------------------|---|
| <b>Application Lodged:</b>       | 02/03/2020                              |
| <b>Integrated Development:</b>   | No                                      |
| <b>Designated Development:</b>   | No                                      |
| <b>State Reporting Category:</b> | Residential - Alterations and additions |
| <b>Notified:</b>                 | 11/03/2020 to 25/03/2020                |
| <b>Advertised:</b>               | Not Advertised                          |
| <b>Submissions Received:</b>     | 0                                       |
| <b>Clause 4.6 Variation:</b>     | Nil                                     |
| <b>Recommendation:</b>           | Approval                                |

### PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify development consent DA2018/1616 for Alterations and Additions to a dwelling house including alterations to an existing boathouse and swimming pool.

The modifications generally relate to conditions imposed on a past modification consent. Conditions 2A and 2B imposed on consent Mod2019/0485 are proposed to be removed. This application also includes the modification of the existing Level 4 Guesthouse. This proposal seeks to reconfigure the existing accommodation to a triple car garage. The existing carport and roof structure will remain and a new roof under the existing roof will be constructed that is to be connected to the existing rear wall.

### 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 - 5.7 Development below mean high water mark

Pittwater 21 Development Control Plan - D1.5 Building colours and materials

Pittwater 21 Development Control Plan - D1.11 Building envelope

Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land

## SITE DESCRIPTION

|                                   |  |
|-----------------------------------|--|
| <b>Property Description:</b>      | Lot 6 DP 3632 , 3 Riverview Road AVALON BEACH NSW 2107   |
| <b>Detailed Site Description:</b> | <p>The site is slightly irregular in shape, with a 27.74m wide frontage to Riverview Road, a maximum depth of 153.96m, and a total area of 4224m<sup>2</sup>. The site has a direct frontage to the Pittwater Waterway, with the Mean High Water Mark (MHW) acting to divide public and private land. The site contains an existing dwelling situated on the lower portion of the site, with a boat shed and boathouse within the foreshore area. The upper portion of the site is generally free of development with a number of existing significant canopy trees.</p> <p>The existing dwelling is identified as an item of local heritage significance. The site is located within the Coastal Zone, and is subject to estuarine and geotechnical hazards. The site is located within a low density residential area, and is surrounded by dwellings of varied age, character and architectural style.</p> <p>Works have commenced on site pursuant to DA2018/1616.</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:

Application **DA2018/1616** for Alterations and Additions to a dwelling house including alterations to an existing boathouse and swimming pool was approved on 22/03/2019 by Council staff under delegated authority.

Application **Mod2019/0485** for Modification of Development Consent DA2018/1616 granted for alterations and additions to a dwelling house including alterations to an existing boathouse and swimming pool was approved on 06/12/2019 by Council staff under delegated authority.

Pre-lodgement Meeting **PLM2020/0019** was held on 18/02/2020 to discuss Modification of Development Consent DA2018/1616 granted for alterations and additions to a dwelling house including alterations to an existing boathouse and swimming pool.

## 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 DA2018/1616, 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:

| <b>Section 4.55(1A) - Other Modifications</b>   | <b>Comments</b>  |
|---|--|
| <p>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:</p>  |  |
| <p>(a) it is satisfied that the proposed modification is of minimal environmental impact, and</p>   | <p><b>Yes</b></p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p>Most elements of the modification relate to internal changes.<br/>The modified external elements will not cause any additional environmental impact to the site or nearby properties.</p>  |
| <p>(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</p>  | <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 DA2018/1616 for the following reasons:</p> <p>The proposed use of the site remains the same as approved.<br/>The proposed modification does not substantially alter the approved built form.<br/>Additional elements are contained within the approved building footprint.</p> |
| <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, Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control Plan.</p>  |
| <p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p>   | <p>See discussion on “Notification &amp; Submissions Received” in this report.</p>   |

## Section 4.15 Assessment



In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

| Section 4.15 'Matters for Consideration'  | Comments  |
|---|---|
| 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)(iiia) – 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&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;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&amp;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&amp;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&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a</p> |

| Section 4.15 'Matters for Consideration'  | Comments   |
|---|--|
|   | <p>condition in the original consent.<br/> <u>Clause 98</u> of the EP&amp;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> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>  |
| <p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p> | <p><b>(i) Environmental Impact</b><br/> 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><b>(ii) Social Impact</b><br/> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b><br/> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| <p>Section 4.15 (1) (c) – the suitability of the site for the development</p>   | <p>The site is considered suitable for the proposed development.</p>   |
| <p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>   | <p>See discussion on “Notification &amp; Submissions Received” in this report.</p>   |
| <p>Section 4.15 (1) (e) – the public interest</p>   | <p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>   |

## EXISTING USE RIGHTS

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 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

| Internal Referral Body           | Comments   |
|----------------------------------|--|
| NECC (Bushland and Biodiversity) | <p>The proposed modification is within the existing development footprint and will not result in further impact to biodiversity values of the site. No further conditions are proposed.</p>  |
| NECC (Coast and Catchments)      | <p>The modification application to modify conditions of consent has been assessed in consideration of the:.</p> <ul style="list-style-type: none"> <li>• Pittwater 21 Development Control Plan</li> <li>• Pittwater Local Environmental Plan 2014</li> <li>• Pittwater Estuary Mapping of Sea Level Rise Impact Study (Cardno 2015)</li> <li>• Coastal Management Act 2016</li> <li>• State Environmental Planning Policy (Coastal Management) 2018</li> <li>• Notice of Determination on Mod2019/0485 dated 9 December 2019</li> <li>• Notice of Determination on DA2018/1616 dated 22 March 2019</li> </ul> <p><b>Coastal Management Act 2016</b><br/>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.</p> <p>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><b>State Environmental Planning Policy (Coastal Management) 2018</b><br/>As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> |

| Internal Referral Body | Comments   |
|------------------------|--|
|                        | <p><b>Pittwater LEP 2014 and Pittwater 21 DCP</b></p> <p>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><b>Estuarine Risk Management</b></p> <p>In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.76m AHD would apply at the subject site. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.07m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m.</p> <p>The ground floor level for the proposed boatshed is below the EPL of RL 2.76m AHD for the site.</p> <p>The proposed development is therefore subject to conditions to satisfy the relevant estuarine risk management requirements of P21 DCP.</p> <p><b>Proposed Modifications sought on Notice of Determination on Mod2019/0485 dated 9 December 2019</b></p> <p>This modification application seeks the following amendments, among others, relevant to boatshed to the current consent:</p> <p>Removal of B. New Condition 2A 'Amendments to the Modification Approved Plans' of DA Determination Mod2019/0485 dated 09.12.19:</p> <ul style="list-style-type: none"> <li>- The proposed internal dividing wall within the ground floor of the boatshed is to be removed from all plans</li> </ul> <p>It was agreed that the modified proposed internal dividing walls within the ground floor of the boatshed were acceptable. The proposed</p> |



| Internal Referral Body   | Comments   |                   |                                   |   |                                    |  |
|--|--|-------------------|-----------------------------------|---|------------------------------------|--|
|  | <p>plans have clearly marked that the area was to be used as storage only, This is acceptable.</p> <p>- The proposed replacement of the doors to the western facade of the ground floor of the boatshed is to be removed from all plans<br/>Clarifications presented in the Statement of Environmental Effects are acceptable</p> <p>- The proposed bathroom on Level 1 of the boatshed is to be removed from all plans<br/>It was clarified that the property had a pre-existing bathroom in the boathouse at L1 and relocation of said bathroom was also consented to in the development determination DA2018/1616 dated 22.03.19. It was also clarified that the new location will provide increased amenity, ventilation and natural light. It will also remain within the existing building footprint. As such the consent condition can be deleted.</p> <p>All the three boatshed/boathouse related amendments to consent are supported.</p>   |                   |                                   |   |                                    |  |
| NECC (Development Engineering)   | The proposed modifications do not alter the original assessment of the application by Development Engineering. No objection to approval with no additional or modified conditions of consent recommended.  |                   |                                   |   |                                    |  |
| Strategic and Place Planning (Heritage Officer)  | <table border="1"> <thead> <tr> <th data-bbox="518 1176 1436 1218">HERITAGE COMMENTS</th> </tr> </thead> <tbody> <tr> <td data-bbox="518 1218 1436 1261">Discussion of reason for referral</td> </tr> <tr> <td data-bbox="518 1261 1436 1429"> <p>The proposal has been referred to Heritage as the subject property is a heritage item:</p> <p><b>Little House (Yoorami) - 3 Riverview Road, Avalon Beach</b></p> </td> </tr> <tr> <th data-bbox="518 1429 1436 1471">Details of heritage items affected</th> </tr> <tr> <td data-bbox="518 1471 1436 2128"> <p>Details of the item as contained within the Pittwater heritage inventory is as follows:</p> <p><u>Statement of significance:</u><br/>Little House (Yoorami) at 3 Riverview Road, Clareville, built c1965 to a design by the architect Douglas Snelling, has historic and aesthetic significance as an early example of Late Twentieth-Century Sydney Regional architecture showing direct influences by Frank Lloyd Wright. Typical modernist features include: horizontal emphasis in the structure, free asymmetrical massing, flat roof, clerestory windows, timber deck, exposed structure, retention and adaptation to the natural setting and use of natural materials.</p> <p><u>Physical description:</u><br/>The house is located on a terraced sloped site covered with large rocks, trees and ferns with scenic views over Pittwater. The view from the street is screened by luxuriant vegetation creating a natural bush setting. It is not possible to see it from the public domain.</p> </td> </tr> </tbody> </table> | HERITAGE COMMENTS | Discussion of reason for referral | <p>The proposal has been referred to Heritage as the subject property is a heritage item:</p> <p><b>Little House (Yoorami) - 3 Riverview Road, Avalon Beach</b></p> | Details of heritage items affected | <p>Details of the item as contained within the Pittwater heritage inventory is as follows:</p> <p><u>Statement of significance:</u><br/>Little House (Yoorami) at 3 Riverview Road, Clareville, built c1965 to a design by the architect Douglas Snelling, has historic and aesthetic significance as an early example of Late Twentieth-Century Sydney Regional architecture showing direct influences by Frank Lloyd Wright. Typical modernist features include: horizontal emphasis in the structure, free asymmetrical massing, flat roof, clerestory windows, timber deck, exposed structure, retention and adaptation to the natural setting and use of natural materials.</p> <p><u>Physical description:</u><br/>The house is located on a terraced sloped site covered with large rocks, trees and ferns with scenic views over Pittwater. The view from the street is screened by luxuriant vegetation creating a natural bush setting. It is not possible to see it from the public domain.</p> |
| HERITAGE COMMENTS  |  |                   |                                   |   |                                    |  |
| Discussion of reason for referral  |  |                   |                                   |   |                                    |  |
| <p>The proposal has been referred to Heritage as the subject property is a heritage item:</p> <p><b>Little House (Yoorami) - 3 Riverview Road, Avalon Beach</b></p>  |  |                   |                                   |   |                                    |  |
| Details of heritage items affected   |  |                   |                                   |   |                                    |  |
| <p>Details of the item as contained within the Pittwater heritage inventory is as follows:</p> <p><u>Statement of significance:</u><br/>Little House (Yoorami) at 3 Riverview Road, Clareville, built c1965 to a design by the architect Douglas Snelling, has historic and aesthetic significance as an early example of Late Twentieth-Century Sydney Regional architecture showing direct influences by Frank Lloyd Wright. Typical modernist features include: horizontal emphasis in the structure, free asymmetrical massing, flat roof, clerestory windows, timber deck, exposed structure, retention and adaptation to the natural setting and use of natural materials.</p> <p><u>Physical description:</u><br/>The house is located on a terraced sloped site covered with large rocks, trees and ferns with scenic views over Pittwater. The view from the street is screened by luxuriant vegetation creating a natural bush setting. It is not possible to see it from the public domain.</p> |  |                   |                                   |   |                                    |  |

| Internal Referral Body | Comments   |            |
|------------------------|--|------------|
|                        | <p>The house is a one-storey, skillion roof building organised around a central patio with a pool. A little stream of water runs below the house that is gently adapted on the sandstone rocks facing the water. The property has four double bedrooms, five bathrooms, a billiard room, cellar, commercial kitchen, in-ground pool and guest/staff accommodation. It also includes boating facilities with a two-storey boat house, landing ramp, slipway and deepwater jetty with two mooring pens.</p>  |            |
|                        | <p><b>Other relevant heritage listings</b></p>   |            |
|                        | <p>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</p>  | <p>No</p>  |
|                        | <p>Australian Heritage Register</p>  | <p>No</p>  |
|                        | <p>NSW State Heritage Register</p>   | <p>No</p>  |
|                        | <p>National Trust of Aust (NSW) Register</p>   | <p>No</p>  |
|                        | <p>RAIA Register of 20th Century Buildings of Significance</p>   | <p>Yes</p> |
|                        | <p>Other</p>   | <p>N/A</p> |
|                        | <p><b>Consideration of Application</b></p>   |            |
|                        | <p>The application seeks to make a number of changes to the approved plans. The key change for Heritage is the conversion of the guest suite into a garage and its linkage to the house. Additionally the application seeks to modify heritage conditions on the pool, entrance foyer, external soffits and external brickwork. The application was referred to an external heritage advisor for comment given their involvement in the previous applications.</p> <p>The advisor noted that the statement provided with the application was helpful and detailed the productive discussions between the applicants and Heritage. They went on to note that the proposed garage and link to the dwelling was considered to be tolerable and of minor impact. It would also not challenge the core significance of the house.</p> <p>However the advisor raised concerns with the proposed treatment to the external brickwork. They noted that a proposed treatment option including rendering had been discussed at length with the applicants but they would recommend against any change. They were of the opinion that it would significantly change the presentation of the house and would not be within general conservation principles. They additionally noted the aesthetic change would also impact upon the understanding of the design and choices of the original architect and client. Thus Heritage will</p> |            |

| Internal Referral Body | Comments   |
|------------------------|--|
|                        | <p>recommend the retention of the condition that the external face brickwork be retained as is.</p> <p>With regards to the other conditions, council staff, the external heritage advisor and the applicants met prior to the lodgement of this application to discuss them. Heritage was satisfied by the explanations provided by the applicants and thus is happy to remove the heritage conditions regarding the pool and its apron, the entrance foyer changes and the soffit painting.</p> <p>Therefore Heritage recommends approval with the retention of one condition.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No<br/>           Has a CMP been provided? No<br/>           Is a Heritage Impact Statement required? No - provided with initial application<br/>           Has a Heritage Impact Statement been provided? No - provided with initial application</p> <p><b>Further Comments</b></p> <p>COMPLETED BY: Brendan Gavin, Principal Planner</p> <p>DATE: 30 March 2020</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. A329719\_04 dated 21 April 2020).

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.

**SEPP (Coastal Management) 2018**

Refer to Coast & Catchments referral comments for CM SEPP assessment.

**Pittwater Local Environmental Plan 2014**

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

Principal Development Standards

| Development Standard | Requirement | Approved | Proposed | % Variation | Complies |
|----------------------|-------------|----------|----------|-------------|----------|
|                      |             |          |          |             |          |

|                      |      |      |           |     |     |
|----------------------|------|------|-----------|-----|-----|
| Height of Buildings: | 8.5m | 6.9m | Unaltered | N/A | Yes |
|----------------------|------|------|-----------|-----|-----|

Compliance Assessment

| Clause                                     | Compliance with Requirements |
|--|------------------------------|
| 4.3 Height of buildings                    | Yes                          |
| 5.7 Development below mean high water mark | No                           |
| 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

**5.7 Development below mean high water mark**

The architectural plans include works below MHWM, however owners consent from Crown Lands for these works has not been provided by the applicant. Some elements of the proposal seek to include land below MHWM as part of the application. The existing consent contains a condition to not authorise any works beyond the boundaries of the site. This condition will remain applicable in relation to the subject modification application. The condition is to be amended to allow works on land below MHWM to be authorised once owners consent from Crown Lands is obtained.

**Pittwater 21 Development Control Plan**

Built Form Controls

| Built Form Control  | Requirement | Approved         | Proposed  | Complies    |
|---------------------|-------------|------------------|-----------|-------------|
| Front building line | 6.5m        | 97m              | Unaltered | Yes         |
| Rear building line  | FSBL        | FSBL             | Unaltered | Yes         |
| Side building line  | 2.5m        | 2.06m            | Unaltered | Yes         |
|                     | 1m          | 0.317m           | Unaltered | As approved |
| Building envelope   | 3.5m        | Within envelope  | Unaltered | Yes         |
|                     | 3.5m        | Outside envelope | Unaltered | As approved |
| Landscaped area     | 60%         | 50.4%            | Unaltered | As approved |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--------|------------------------------|-----------------------------|
|        |                              |                             |



| Clause  | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A4.1 Avalon Beach Locality  | Yes                          | Yes                         |
| B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014 | 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                         |
| B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community   | Yes                          | Yes                         |
| B8.1 Construction and Demolition - Excavation and Landfill  | Yes                          | Yes                         |
| B8.2 Construction and Demolition - Erosion and Sediment Management  | Yes                          | Yes                         |
| C1.1 Landscaping  | Yes                          | No                          |
| 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                         |
| C1.14 Separately Accessible Structures  | Yes                          | Yes                         |
| D1.1 Character as viewed from a public place  | Yes                          | Yes                         |
| D1.5 Building colours and materials   | No                           | No                          |
| 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  | No                           | Yes                         |
| D1.16 Fences - Flora and Fauna Conservation Areas   | Yes                          | Yes                         |
| D1.17 Construction, Retaining walls, terracing and undercroft areas   | Yes                          | Yes                         |
| D1.20 Scenic Protection Category One Areas  | Yes                          | Yes                         |

#### Detailed Assessment

##### **D1.5 Building colours and materials**

The modification application seeks to remove the condition prohibiting the painting of external brickwork. The applicant proposes to finish the external brickwork in an earthy green tone utilising a lime bagged render.

The proposed treatment of the brickwork is considered to be antipathetic to the heritage significance of the dwelling. As such, removal of the condition is not supported.

### **D1.11 Building envelope**

No change to the approved building envelope encroachment is proposed in this modification.

### **D1.14 Landscaped Area - Environmentally Sensitive Land**

No change to the approved landscaped area variation is proposed in this modification.

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

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

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

### **POLICY CONTROLS**

#### **Northern Beaches Section 7.12 Contributions Plan 2019**

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. Mod2020/0085 for Modification of Development Consent DA2018/1616 granted for alterations and additions to a dwelling house including alterations to an existing boathouse and swimming pool on land at Lot 6 DP 3632,3 Riverview Road, AVALON BEACH, subject to the conditions printed below:

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

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

#### a) Modification Approved Plans

| <b>Architectural Plans - Endorsed with Council's stamp</b> |              |                     |
|--|--------------|---------------------|
| <b>Drawing No.</b>   | <b>Dated</b> | <b>Prepared By</b>  |
| DA003 Revision K   | 2 March 2020 | Smart Design Studio |
| DA100 Revision F   | 2 March 2020 | Smart Design Studio |
| DA101 Revision H   | 2 March 2020 | Smart Design Studio |
| DA102 Revision I   | 2 March 2020 | Smart Design Studio |
| DA103 Revision F   | 2 March 2020 | Smart Design Studio |
| DA104 Revision F   | 2 March 2020 | Smart Design Studio |
| DA300 Revision G   | 2 March 2020 | Smart Design Studio |
| DA301 Revision I   | 2 March 2020 | Smart Design Studio |
| DA302 Revision J   | 2 March 2020 | Smart Design Studio |
| DA400 Revision H   | 2 March 2020 | Smart Design Studio |

| <b>Reports / Documentation – All recommendations and requirements contained within:</b> |               |                           |
|---|---------------|---------------------------|
| <b>Report No. / Page No. / Section No.</b>  | <b>Dated</b>  | <b>Prepared By</b>        |
| BASIX Certificate No. A329719_04  | 21 April 2020 | Delisle Hunt Wood Pty Ltd |

#### 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. 2B 'Clarification of Approved Modifications and Use of Structures' to read as follows:

For the avoidance of doubt, this consent does not authorise:

- the use of any part of the two storey boathouse/boatshed for dwelling, or secondary dwelling purposes, or

- the painting of external brickwork in any form or colour, or
- any works on adjoining properties or below MHWM. Works below MHWM may only be authorised once consent from NSW Department of Planning, Industry and Environment - Crown Lands is obtained.

Reason: To ensure the work is carried out in accordance with the determination of Council and to minimise impacts upon the heritage significance of the development.

**C. Delete Condition No. 2A 'Amendments to the Modification Approved Plans'.**

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

**Signed**



**Nick Keeler, Principal Planner**

The application is determined on 23/04/2020, under the delegated authority of:



**Matthew Edmonds, Manager Development Assessments**