

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0929
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Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot 12 DP 16029, 23 Grandview Drive NEWPORT NSW 2106
Proposed Development:	Modification of Development Consent DA410/15 granted for alterations and additions to a dwelling house
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Rodney Leslie Turnbull Marion Di Benedetto
Applicant:	Shorehouse Projects Pty Ltd

Application Lodged:	09/12/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	17/12/2021 to 22/01/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent to modify Development Application DA410/15 for alterations and additions to an existing dwelling with the following changes:

Lower Ground Floor:

Delete study and entry foyer and stairs,
Add terrace, kitchenette, office and WC.

Ground Floor:

Remove Bed 3 and replace with Kitchen,
Reconfigure internal stairs, dining and living,
Reduce size of entertaining deck,
Add laundry and entrance.

First Floor:

Delete living and decks,
Reconfigure Bed 1 with WIR and balcony,
Addition of Bed 2, Bed 3, Rumpus and bathroom.

External:

Delete double carport and retain existing parking onsite,
Delete swimming pool and landscaping.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures
Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)
Pittwater 21 Development Control Plan - D10.11 Building envelope (excluding Newport Commercial Centre)

SITE DESCRIPTION

Property Description:	Lot 12 DP 16029 , 23 Grandview Drive NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of one allotment located on the western side of Grandview Drive.</p> <p>The site is regular in shape with a frontage of 18.565m along Grandview Drive and a depth of 30.33m. The site has a surveyed area of 517.4m².</p>

The site is located within the C4 Environmental Living zone and accommodates a single storey dwelling with sub floor level below. The site has a open parking area at the front of the property which encroaches into the road reserve and is accessed via a very steep driveway.

The site has a substantial fall from the rear of the property to the street, with the reduced level at the rear at approximately RL54 and the frontage at a reduced level of approximately RL40.

The site has lawn area at the front and rear and native vegetation throughout the site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by one to three storey dwellings of varying architectural styles.

Site Inspection

A site inspection was undertaken 4 March 2022.

Map:



SITE HISTORY

Development Application N0410/15 was determined 4 March 2016.

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 N0410/15, in full, with amendments detailed and assessed as follows:

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

Section 4.55 (2) - Other Modifications	Comments
<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 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 N0410/15 for the following reasons:</p> <ul style="list-style-type: none"> • The modification does not alter land use and hence will not be different from the original consent. • The proposed changes to façade elements of proposed buildings, though altered, is generally the same as that approved. • The amended proposal is qualitatively the same development - characteristics will remain essentially and materially the same. That is, the site planning, use and functionality remains the same. The proposed dwelling and their location on the site remain the same. The discernible differences are associated with the altered façade treatment and roof form.
<p>(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to</p>	<p>Development Application N0410/15 did not require concurrence from the relevant Minister, public authority or approval body.</p>

Section 4.55 (2) - Other Modifications	Comments
the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

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 96 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 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to car parking within the road reserve, side boundary envelope and landscaping.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <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 17/12/2021 to 22/01/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p><u>Amended Plans Comment 25/05/2022</u> Amended plans deleting the potential impacts on existing trees are noted.</p> <p>No objections are now raised with regard to landscape issues subject to conditions.</p> <p><u>Original Comment</u> The proposed modification includes regrading of the existing driveway, widened parking area, extending into the road reserve, and tree removal.</p> <p>Councils Landscape Referral section has considered the application against the Pittwater Local Environmental Plan, and the following Pittwater 21 DCP controls: I B4.22 Preservation of Trees and Bushland Vegetation I C1.1 Landscaping I D10.13 Landscaped Area - Environmentally Sensitive Land I B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community Pittwater Local Environmental Plan (PLEP) I 7.6 Biodiversity Protection</p> <p>Comments from Council's Bushland and Biodiversity section concerning the environmental sensitivity of the land and the need for a BAM report to be provided are noted.</p> <p>In addition to the trees indicated for removal, it is likely that excavation will impact other trees adjacent to the driveway. An Arborist's Report prepared by a Consulting Arborist with minimum qualifications AQF Level 5 is required to identify all trees adjacent to the works and assess the impacts of the proposal, which, as referred to above, are likely to be greater than indicated on the plans.</p> <p>At this stage, the proposal is not supported with regard to landscape</p>

Internal Referral Body	Comments
	issues.
NECC (Bushland and Biodiversity)	<p>The modification seeks to relocate an approved construction footprint for a dwelling (N0410/15). Council's Natural Environment Unit - Biodiversity referral team have reviewed the modification for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) Biodiversity Conservation Regulation 2017 Pittwater Local Environmental Plan (PLEP)</p> <ul style="list-style-type: none"> • 7.6 Biodiversity Protection <p>Pittwater Development Control Plan (PDCP)</p> <ul style="list-style-type: none"> • B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community <p><u>Updated Recommendation - 13/05/2022</u> Amended architectural plans are submitted (Shorehouse Projects 2022) which include retention of all trees formerly proposed for removal in the front of the property.</p> <p>As the application now requires no native trees or vegetation to be removed as a result of proposed works which is supported by the architectural plans, the BOS is not triggered and the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p> <p><u>Original Recommendation - 22/12/2021</u> The site is located within the Department of Planning, Industry and Environment's (DPIE) Biodiversity Values mapping: https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BOSETMap</p> <p>Any additional or previously unapproved removal of native vegetation from within mapped areas will trigger the Biodiversity Offset Scheme (BOS).</p> <p>On review of the submitted Architectural Plans (Shorehouse Projects 2021) it is noted that the application seeks to remove native trees within the front of the property that were not approved under the original application (N0410/15) and that are located within DPIE's Biodiversity Values mapping.</p>

Internal Referral Body	Comments
	<p>The proposal must be accompanied by a Biodiversity Development Assessment Report (BDAR) prepared by an Accredited Assessor: https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor</p> <p>Alternatively, the applicant is encouraged to adopt a more sensitive design that allows retention of all native trees within the front of the property</p> <p>On receipt of the required BDAR or redesign, Council's Natural Environment Unit - Biodiversity can reassess the application.</p>
NECC (Development Engineering)	<p>The proposal includes a new driveway and parking area within the road reserve.</p> <p>Insufficient information has been provided with regard to the proposed access driveway. Additional Information required for assessment is as follows:</p> <ol style="list-style-type: none"> 1. The proposed parking area is within the road reserve and as such require comments and approval from Council's Road Asset team. 2. The Applicant shall provide engineering long-sections at both edges and centerline of the proposed access driveway from the shared driveway to the proposed parking area. 3. Turning paths shall be provided in accordance with AS2890 clearly demonstrating satisfactory maneuvering on-site and entry and exit to and from the parking area 4. The submitted Geotechnical report and forms are not current and does not assess the proposed new parking. As the proposed parking and driveway is located within the road reserve a geotechnical report and forms shall be submitted that assess the impact of the new development on the embankment and retaining wall in the road reserve. <p>The proposed application cannot be supported by Development Engineering due to lack of information to address:</p> <ul style="list-style-type: none"> • Vehicle access and parking for the development in accordance with clause B6 <p>Amended Plans Provided on 9/5/2022</p> <p>The amended plans proposes to retain the exiting access and parking area which is partially within the road reserve. However original approval for N0410/15 was for a parking facility located within the subject site. The Road asset teams concurrence is required to retain the existing parking arrangement before Development Engineering can provide approval.</p> <p>Review 24/5/2022</p> <p>The amended plans proposes no changes to the exiting access and parking area and no works are proposed within the road reserve.</p>

Internal Referral Body	Comments
	No objections to proposed works within the site.
Road Reserve	<p>The proposed parking structure and private parking is shown to encroach on the public road reserve. All parking must be located within the property boundary. The private use of the public road reserve and the construction of permanent structures such as car ports on the road reserve is not permissible as per Roads Act 1993 and Council policy.</p> <p>23/05/2022:</p> <p>The Mod proposes to amend DA N0410/15 which approved the relocation of the unauthorised parking on Council road reserve to within the property boundaries. The original mod proposed to formalise the existing parking area within the road reserve and so was rejected.</p> <p>Amended plans have now been submitted and has removed any works on the road reserve.</p> <p>The removal of the earlier provision of car parking hardstand on Council's road reserve is noted however the private use of Council's road reserve for parking remains. The use of same, is not a permitted use of public road reserve under the former Pittwater Council Streetscape Management Guidelines and may need to be referred to Compliance for removal or an alternate proposal for off street parking be submitted for parking within the property boundaries in conjunction with this DA.</p> <p>There shall be no works on the public road reserve without approval. Any works to improve driveway access will require separate approval from Council under the provisions of the Roads Act 1993.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A441637 dated 25 November 2021).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (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	Complies
Height of Buildings:	8.5m	8.1m	9.1m	No*
Special Height provisions	10m	N/A	9.1m	Yes

*Clause 4.3 (2D) allows for a maximum height of 10.0m subject to compliance with certain criteria which is discussed in detailed below.

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
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

4.3 Height of buildings

Clause 4.3 sets a height limit of 8.5m for the site.

Clause 4.3(2D) allows for the height to exceed 10m if:

- (a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and
- (b) the objectives of this clause are achieved, and
- (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and
- (d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.

Comment:

A small portion of the roof over the second floor deck area exceeds the 8.5m building height resulting in a maximum 9.1m building height, refer to image below. The building footprint is located in a slope that is in excess of 30 percent (being 36 percent) and the minor breach is acceptable in principle subject to the development being consistent with the objectives of the height

control which is discussed in detail below:

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality.

Comment:

The development by virtue of height and scale is generally consistent with the desired character of the Newport locality.

(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development.

Comment:

The height and scale of the development is generally compatible with other two storey dwellings in the surrounding area.

(c) to minimise any overshadowing of neighbouring properties.

Comment:

Shadow diagrams have been submitted which confirm that the development will not result in unreasonable overshadowing to neighbouring properties.

(d) to allow for the reasonable sharing of views.

Comment:

No submissions have been received and the location and height of the proposal will not result in unreasonable view loss from adjoining and surrounding properties.

(e) to encourage buildings that are designed to respond sensitively to the natural topography.

Comment:

The proposed development is located within the building footprint and does not require the removal of any canopy trees or vegetation and requires no significant excavation. The proposal will maintain the current topography of the site.

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

Comment

The amended design reduces the overall bulk and scale of the development and minimises the visual impact of the development on the natural environment, heritage conservation areas and heritage items.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	5.9m	Dwelling - 7.2m	Yes
Rear building line	6.5m	Complies	10.944m	Yes
Side building line	South - 2.5m	1.4m	2.3m	No
	North - 1m	Swimming pool 0.7-1m	First floor - 2.4m	Yes
Building envelope	3.5m	Outside envelope	Outside envelope	No
	3.5m	Outside envelope	Outside envelope	No
Landscaped area	60%	59%	62% (320.9.2m ²)	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
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
B8.6 Construction and Demolition - Traffic Management Plan	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
C1.14 Separately Accessible Structures	Yes	Yes
C1.23 Eaves	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	Yes
D10.11 Building envelope (excluding Newport Commercial Centre)	No	Yes
D10.13 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D10.18 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

Clause B6.3 of the Pittwater DCP requires a dwelling with two bedrooms of more to provide 2 off-street car parking spaces. The existing site has no compliant on site carparking and utilises a open parking space that encroaches into the Council Road Reserve.

The proposed development retains this parking arrangement and does not propose additional parking. However, the proposed development does not increase the site's density, so is acceptable in this regard.

The application has been reviewed by Councils Road and Assets team who have raised concern with the private use of Councils road reserve for parking. The use is not a permitted use of public road reserve under the former Pittwater Council Streetscape Management Guidelines and will need to be referred to Compliance for removal or an alternate proposal for off street parking be submitted for parking within the property boundaries. .

A condition will be included in the consent stating that no approval is given for parking on Councils road reserve to comply with Councils policies and the Roads Act 1993.

C1.14 Separately Accessible Structures

The proposed development includes a separately accessible Office within the Lower Level. The plans indicate that a kitchenette will be provided. A condition of consent has been included within this report to ensure that there are no cooking facilities in the kitchenette, to ensure compliance with the use of the space as only Office, rather than a secondary dwelling or separate habitation.

As conditioned, the proposed development can be supported on its merits.

D10.8 Side and rear building line (excluding Newport Commercial Centre)

Description of non-compliance

The control requires development to be setback 2.5m from one side boundary and 1m from the other side boundary. For the purpose of this assessment the 2.5m side building line is applied to the northern elevation, whilst the 1m side building line is applied to the southern elevation. The proposed dwelling house includes the following side setbacks:

Northern setback: 2.4m - complies with 1m requirement.

Southern setback: 2.3m - Does not meet the with 2.5m numerical requirement.

The proposed modification will be improving the non-compliance to both the north and south side boundaries approved under the development application.

Merit consideration

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

- *To achieve the desired future character of the Locality.*
Comment:
The proposed dwelling is consistent with the desired future character of the Newport Locality.
- *The bulk and scale of the built form is minimised.*
Comment:
The modified design will reduce the overall bulk and scale of the proposal from what was approved under the development application. A variety in finish materials and facade articulation

assist in reducing the visual dominance of the bulk and scale of the development. The proposal will also maintain the existing landscaping on the site which help to minimise the bulk and scale of the proposal when viewed from the street and adjoining properties.

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

Comment:

An examination of the site and the surrounds has confirmed that the proposed development will not obstruct any significant view lines from nearby private and public land.

- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

Comment:

As noted above, the proposed dwelling house will not obstruct significant views.

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

Comment:

The proposal ensures that adequate light, solar access and privacy is obtained between dwellings. The proposal complies with the requirements of the C1.4 Solar Access control and has been designed so that there are no unreasonable impacts on the adjoining or nearby properties. Adequate physical separation between the proposed development and habitable areas of the adjoining properties to protect privacy and amenity of the site and adjoining properties has been achieved.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape.*

Comment:

The proposal will maintain the existing landscaping on the site

- *Flexibility in the siting of buildings and access.*

Comment:

No unreasonable amenity impacts are considered likely to arise as a result of the proposal. The current access arrangement is to be improved therefore satisfying this outcome.

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

Comment:

Sufficient vegetation is retained and incorporated around the curtilage of the dwelling house to visually reduce the built form.

- *A landscaped buffer between commercial and residential zones is achieved.*

Comment:

The site does not adjoin a commercial zone.

Having regard to the above assessment, it is concluded that the outcomes of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

D10.11 Building envelope (excluding Newport Commercial Centre)

Description of non-compliance

The control requires a building envelope to be projected 45 degrees from a height of 3.5m above ground level at the side boundaries to the maximum building height.

The proposed first floor addition encroaches into the building envelope along the north and south elevation.

However, where the building footprint has a slope is situated on a slope over 16.7 degrees (i.e.; 30%), variation to this control will be considered on a merits basis. In this case, the building footprint of situated on a slope of 36%. As such, this variation applies to the proposed development.

Merit consideration

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

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

Comment:

The proposed works are not considered to impact upon the existing and desired streetscape character. While the proposal includes some numerically non-compliant built form elements, the bulk and scale of the development is considered to be reasonably managed to limit impact on other properties or the public domain given the geographical characteristics of the site and surrounds. Therefore it is considered the desired future character of the Newport locality will be achieved.

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

Comment:

The proposal will still have an appropriate scale when viewed from the street and adjoining properties given the non-compliant portions of the dwelling are appropriately set back from the front boundary. The proposed development compliments and enhances the existing and future built form of the locality. The development promotes a building scale and density that is below the surrounding tree canopy.

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

Comment:

The proposed development does not impact the natural environment as the additions are sited directly above the existing dwelling and will not increase the building footprint. This ensures that the existing landscaped area is maintained in order to preserve the spatial characteristics of the existing natural environment.

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

Comment:

As a result of the slope of the land the proposed first floor addition presents a considerable non-compliance with the north and south elevation, the remainder of the proposed development generally complies with the built form control requirements and is considered to appropriately respond to the geographical characteristics of the site. Variety in finish materials and facade articulation assist in reducing the visual dominance of the bulk and scale of the development. The proposed works are generally below the height of surrounding canopy trees. Existing vegetation is expected to soften the impact of the built form of the structure on adjacent properties and the public domain.

- *Equitable preservation of views and vistas to and/or from public/private places.*
Comment:
No views or vistas will be unreasonably impacted as a result of the proposed development.
- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*
Comment:
The proposal ensures that adequate light, solar access and privacy is obtained between dwellings. The proposal complies with the requirements of the C1.4 Solar Access control and has been designed so that there are no unreasonable impacts on the adjoining or nearby properties. Adequate physical separation between the proposed development and habitable areas of the adjoining properties to protect privacy and amenity of the site and adjoining properties has been achieved.
- *Vegetation is retained and enhanced to visually reduce the built form.*
Comment:
Existing vegetation on the site will assist in softening the proposed built form.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2021/0929 for Modification of Development Consent DA410/15 granted for alterations and additions to a dwelling house on land at Lot 12 DP 16029,23 Grandview Drive, NEWPORT, 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
A040 - Site Analysis	14/4/2022	Shorehouse Projects
A050 - Demolished Plan	14/4/2022	Shorehouse Projects
A100 - Demo and New - Roof	14/4/2022	Shorehouse Projects
A101 - Demo and New - First Floor	14/4/2022	Shorehouse Projects
A102 - Demo and New - Ground Floor	14/4/2022	Shorehouse Projects
A103 - Demo and New - Lower Level	14/4/2022	Shorehouse Projects
A106 - Lower Floor	14/4/2022	Shorehouse Projects
A105 - Ground Floor	14/4/2022	Shorehouse Projects
A104 - First Floor	14/4/2022	Shorehouse Projects
A107 - Roof Plan	14/4/2022	Shorehouse Projects

A201 - Elevations	14/4/2022	Shorehouse Projects
A202 - Elevations	14/4/2022	Shorehouse Projects
A210 - Elevations North and East	14/4/2022	Shorehouse Projects
A211 - Elevations South and West	14/4/2022	Shorehouse Projects
A301 - Sections	14/4/2022	Shorehouse Projects

Engineering Plans		
Drawing No.	Dated	Prepared By
SW100 - Stormwater Plan	10/11/2021	Crown Engineering
SW110 - Stormwater Details	10/11/2021	Crown Engineering

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate Certificate number: A441637	25 November 2021	Shorehouse Projects

c) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
A030 - Site Landscape	14/4/2022	Shorehouse Projects

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

B. Delete Condition B 12. Internal driveway finish.

C. Delete Condition B 14. Pool fencing is to be designed, located and maintained in accordance with the Swimming Pools Act 1992, Regulation and Australian Standard 1926.1-2012, Safety barriers for swimming pools.

D. Delete Condition B 15. A warning notice (resuscitation chart) and External Cardiac Compression Chart is to be affixed and maintained in a prominent location adjacent to the pool / spa.

E. Delete Condition B 18. The pool concourse, walkway or deck is to be a minimum 1 m clear of the boundary.

F. Add Condition B 20. No Approval for Car Parking on Council Road Reserve to read as follows:

B 20. No Approval for Car Parking on Council Road Reserve

No approval is granted for car parking within Councils Road Reserve. All parking must be located within the property boundary.

Reason: The private use of the public road reserve and the construction of permanent structures such

as car ports on the road reserve is not permissible as per Roads Act 1993 and Council policy.

G. Add Condition C13 Geotechnical Report to be satisfied prior to issue of a Construction Certificate, to read as follows:

C13. Geotechnical Report

The geotechnical report (prepared by Crozier - Geotechnical Consultants, dated July, 2015) referenced in the Notice of Determination for N0410/15 is to be updated to reference the approved modification plans. Any updated recommendations of the report are to be incorporated into the development.

Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Amended Construction Certificate.

Reason: Geotechnical safety.

H. Add Condition D19 Protection of Rock and Sites of Significance to read as follows:

D19. Protection of Rock and Sites of Significance

a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

b) Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

c) Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

I. Add Condition D20 Tree and Vegetation Protection to read as follows:

D20. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected including:
- i) all trees and vegetation within the site, excluding exempt trees and vegetation under the rele
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Tree
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retai
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultatio
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree p
 - vii) should either or all of v), vi) and vii) occur during site establishment and construction works
 - viii) any temporary access to or location of scaffolding within the tree protection zone of a prote
 - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on L
 - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree
 - xi) the tree protection measures specified in this clause must: i) be in place before work comm

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites do not occur within the tree protection zone of any tree and 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.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking or removal of any tree (s) is prohibited.

J. Add Condition E8. No cooking facilities in the Lower Level Kitchenette to read as follows:

The Lower Level Kitchenette is not to include any cooking facilities.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure the Lower Levels is not used as a Secondary Dwelling and meets the Controls for a Separately Accessible Structure.

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

Signed



Julie Edwards, Planner

The application is determined on 01/06/2022, under the delegated authority of:



Steven Findlay, Manager Development Assessments