

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2020/0356
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<b>Responsible Officer:</b>	Catriona Shirley
<b>Land to be developed (Address):</b>	Lot 100 DP 509808, 981 Barrenjoey Road PALM BEACH NSW 2108
<b>Proposed Development:</b>	Modification of Development Consent DA2020/0130 granted for alterations and additions to a dwelling house
<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>	Morris Symonds
<b>Applicant:</b>	Architects INK

<b>Application Lodged:</b>	11/08/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	20/08/2020 to 03/09/2020
<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 modification application seeks approval to amended Development Application (DA2020/0130) at No. 981 Barrenjoey Road, Palm Beach.

The modified works are as follows:

#### Upper Floor Plan

- Modified pedestrian path with steps on compacted fill to match existing footpath alignment level within the road reserve connecting with a suspended pedestrian walk-way bridge with steps within the site.
- Reduced window sizes
- Ensuite layout altered
- Elliptical louvres deleted and horizontal sunshade added

- Depth of balcony increased by 200mm

## Ground Floor Plan

- New air conditioning plant location
- Kitchen window altered
- Infill existing window
- External motorised louvres deleted and horizontal sunshade added

## Lower ground floor

- Laundry/store size increased
- Bed 5/guest suite size decreased
- New lower ground level of RL 13.15 to accommodate additional guest suit 6
- New windows servicing guest suit 6

## Roof and Site Plan

- Flat profile operable glass skylights to ensuite 2 and 3 added

The application also seeks to delete part 7 of Condition No.9 which reads as follows:

### **9. Submission Roads Act Application for Civil Works in the Public Road**

*The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.*

*The application is to include four (4) copies of Civil Engineering plans for the design of vehicular access which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:*

- 1. The width and location of the access driveway at the road must be designed in accordance with section 3.2 of Australian/New Zealand Standard AS/NZS 2890.1:2004 Parking facilities - Off-street car parking.*
- 2. The vehicular Crossing/driveway within the public road shall be in plain concrete.*
- 3. The provision of normal low vehicle crossing profile generally in accordance with Northern Beaches Council Drawing No A4-3330/3 and specifications.*
- 4. Safety devices must be installed on the proposed driveway in accordance with AS/NZS 2890.1: 2004.*
- 5. The driveway be designed such that there is no load imposed on the existing retaining wall supporting the road. Alternative, the design must either replace existing retaining wall to maintain support of road to extend structural design life to 100 years.*
- 6. The crossing slab between the kerb & gutter/road shoulder and the existing internal retaining wall/pier must be generally matching existing ground level.*
- 7. Pedestrian access shall be incorporated within the driveway and any steps required shall be located within the private property.*
- 8. Longitudinal cross sectional survey detail must be provided with the design, showing existing and proposed levels and must be commenced from the centerline of the road.*
- 9. Structural details of the driveway retaining wall, piers and slab designed by a structural engineer.*

*10. The application is to include a geotechnical report that is prepared by an appropriately qualified Geotechnical Engineer to assess the existing retaining wall and the related area between the retaining to the property boundary along Barrenjoey Road. The report must include a full assessment of the existing retaining wall including the stability assessment of the wall.*

*11. Any proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation.*

*12. The provision of appropriate protection for the retaining wall during and after completion of construction works*

*The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.*

*An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate*

*Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.*

It is considered that the provision of the design amendments to construct a new separate pedestrian walk-way bridge connecting with a pedestrian path at-grade within the road reserve will provide a more appropriate outcome, ensuring greater safety and more convenient access, while maintaining the existing vegetation and screened outlook within the Barrenjoey Road road reserve. As a result part 7 of Condition Number 9 is no longer required as a condition of consent.

## **ASSESSMENT INTRODUCTION**

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

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

## **SUMMARY OF ASSESSMENT ISSUES**

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

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

Pittwater 21 Development Control Plan - A4.12 Palm Beach Locality

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways  
 Pittwater 21 Development Control Plan - D12.1 Character as viewed from a public place  
 Pittwater 21 Development Control Plan - D12.3 Building colours and materials  
 Pittwater 21 Development Control Plan - D12.5 Front building line

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 100 DP 509808 , 981 Barrenjoey Road PALM BEACH NSW 2108
<b>Detailed Site Description:</b>	<p>The site is legally described as Lot 100 in Deposited Plan 509808, and known as No. 981 Barrenjoey Road, Palm Beach. The site is located within the E4 Environmental Living Zone as per the Pittwater Development Control Plan 2014.</p> <p>The site is irregular shaped allotment with a site area of 1,075sqm. The sites angled north-eastern frontage to Barrenjoey Road measures 36.7m. The south-eastern side boundary measures 31m and the north-western side boundary measures 33.5m in length. The site adjoins the Pittwater waterway of Careel Bay at the rear, with the rear south-western boundary of the site measured to the mean High Water Mark (HWM) of Careel Bay.</p> <p>The subject site displays significant sloping topography towards the Pittwater waterway at the rear of the site.</p> <p>The site currently contains a two storey residential dwelling house with vehicle access from Barrenjoey Road to a carport. The site also contains recreational facilities at the waterfront area adjoining Pittwater waterway. These include a swimming pool, boat house, ramp and jetty. The swimming pool and terrace area (located wholly below the high water mark) is held under an existing Crown Lands Lease.</p> <p>The site contains extensive landscaping, including canopy trees. Existing pathways, external access stairs and terraced landscaped lawn and garden areas are prevalent within the site from the Barrenjoey Road boundary, to the waterway are adjoining Pittwater.</p> <p>Surrounding sites consist of multi level, large dwelling houses, on steep sites within landscaped settings. Typically adjoining sites on the south-western side of Barrenjoey Road, that also slope steeply to the Pittwater waterway also contain boating and recreational structures such as jetties, ramps, pontoons, boat houses and inclinators for pedestrian access purposes to the waterfront.</p>

Map:





## SITE HISTORY

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

- Development Application **DA2020/0130** for the alterations and additions to a dwelling house was staff approved on the 4 June 2020.
- Development Application for **DA0360/981** for a seawall refurbishment was approved by Council on the 8 September 1994.
- Development Application for **DA0735/095** for a ramp pontoon and berthing area was approved on the 10 August 1995.

Pre-lodgement Meeting **PLM2019/0254** was held on the 3 December 2019 for the alterations and additions to a dwelling house, including an inclinor. Given the constraints of the site and the existing dwelling, it was agreed that a building height breach was unavoidable. However, it was recommended that further redesign be undertaken in order to minimise the extent of the building height limit breach, reduce bulk and scale to ensure reasonable opportunities for view sharing where maintained. A redesign of the carport to ensure that all car parking structures are located wholly within the subject site was also requested.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;

- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2020/0130, in full, with amendments detailed and assessed as follows:

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

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2020/0130 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The modification appropriately relates to the approved dwelling and low density residential land use of the site. The fundamental built form of the dwelling is to remain mostly consistent with that of the approved development.</li> <li>• The modification does not alter the approved building height or the fundamental built form of the dwelling. Additional excavation will not be seen from the public domain or adjacent properties. No additional amenity impact to neighbouring dwellings is expected.</li> </ul>
(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 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	Development Application DA2020/0130 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000,

Section 4.55 (2) - Other Modifications	Comments
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	Pittwater Local Environmental Plan 2011 and Pittwater 21 Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 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 (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)	<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.  <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.

Section 4.15 'Matters for Consideration'	Comments
	<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 condition in the original consent.</p> <p><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>
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) <b>Environmental Impact</b> 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) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.



A new Bush Fire Report was submitted with the modification application that included a certificate (prepared by Bushfire Planning & Design, dated 27 July 2020) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report dated 27 July 2020 will be applied to the modified works and will be included as conditions of consent.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 20/08/2020 to 03/09/2020 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)	The proposed development has been assessed against the SEPP (Coastal Management) - Coastal Environment Area, with particular reference to the policy objectives around protection of coastal vegetation. The modified proposal is in the same building footprint as the approved application. The submitted amended arborist assessment and landscape plan include appropriate provisions for retention of significant native trees, removal of exotic weeds and re-landscaping with appropriate species. The amended bushfire report has increased BAL for the proposed carport and does not impact vegetation. The proposal is compliant with relevant controls.
NECC (Coast and Catchments)	<p>The application for modification has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p><b>Coastal Management Act 2016</b> 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> 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</p>

Internal Referral Body	Comments
	<p>Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p><u>Comment:</u></p> <p>On internal assessment, the Modification 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> <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 2.79m 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 0.08m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m.</p> <p>On internal assessment, the ground level for the proposed additions and alterations is above the applicable EPL for the site.</p> <p>The proposed modification development is therefore able to satisfy the relevant estuarine risk management requirements of P21 DCP.</p>

Internal Referral Body	Comments
	<p><b>Development on Foreshore Area</b></p> <p>A large section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area.</p> <p>None of the proposed modifications are located on the foreshores area.</p>
NECC (Development Engineering)	No concerns or further conditions in regards to the proposed modified design changes.
NECC (Riparian Lands and Creeks)	The proposed modifications are not expected to impact water quality in any way, and there is no significant change to the waterfront land. The use of porous materials for the path is welcomed. The developer must ensure that the porous materials are not floatable, so they do not wash into the Pittwater waterway.
Road Reserve	As a result of the proposal to construct a new separate pedestrian walk-way bridge connecting with a pedestrian path at-grade within the road reserve, the outcome will ensuring greater safety and more convenient access, while maintaining the existing vegetation and screened outlook within the Barrenjoey Road road reserve. As a result part 7 of Condition Number 9 is no longer required. Condition 9 part 7, is to be modified to reflect the newly proposed and supported separate pedestrian bridge.
Road Reserve	Applicant seeking to construct at grade pathway, stairs and letterbox works on Council's road reserve. No objection in principle to stairs on ground provided any structural support is provided from within the property. The applicant will need to submit detailed design for review by Council as part of an application under Section 138 Roads Act 1993.

## 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. A365139\_02 dated 27 July 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. A365139\_02 dated 27 July 2020).

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

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

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

### SEPP (Infrastructure) 2007

#### Ausgrid

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

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

#### Comment:

The proposal was referred to Ausgrid as part of the original Development application. The response from Ausgrid stated 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.

## SEPP (Coastal Management) 2018

The modified proposal is considered to be consistent with the provisions of the CM SEPP, including the matters prescribed by clauses 13, 14 and 15 of this policy.

## 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	5.2m - 9.1m	No change	Yes

### Compliance Assessment

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

### Detailed Assessment

#### 7.2 Earthworks

A Geotechnical Addendum has been prepared by Asset Geotechnical Engineering Pty Ltd, dated 31 July 2020. This addendum report and its recommendations are included within the applied conditions of the modification to ensure there is no adverse impacts to the surrounding properties resulting from the proposals required additional excavation.

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

#### 7.7 Geotechnical hazards

A Geotechnical Addendum Report has been prepared by Asset Geotechnical Engineering Pty Ltd, dated 31 July 2020. This report and its recommendations are included within the applied modification



conditions to ensure there is no adverse impacts to the surrounding properties resulting from the modified proposal on sloping land.

## 7.8 Limited development on foreshore area

The modified proposal does not propose any design changes or additional works within the foreshore building line area of the site.

### Pittwater 21 Development Control Plan

#### Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	10m	0.0m - 2.6m Carport/Turning Circle 0.4m - 2.7m Roof of Boardway Entry 5.10m - 8.4m Dwelling House	No change	Yes
Rear building line	6.5m/Foreshore Building Line	10.3m Rear Terrace 12.08 Dwelling House 4.0m - 4.8m Inclinator 2.3m - 6m Decked path	No change	Yes
Side building line	2.5m (NW)	3.99m - 4.8m Dwelling House	No Change	Yes
	1m (SE)	2.5m Dwelling House	No Change	Yes
Building envelope	3.5m (NW)	No encroachment	No Change	Yes
	3.5m (SE)	Diminishing triangle encroachment up to 1.1m in height for a length of 1.5m	No Change	Yes
Landscaped area	60%	56% (603.3sqm)	No change	Yes

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	Yes	Yes
D12.6 Side and rear building line	Yes	Yes
D12.8 Building envelope	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

#### Detailed Assessment

#### **A4.12 Palm Beach Locality**

The development, as modified, continues to be consistent with the Desired Character statement of the Palm Beach Locality with exception of the additional third storey element of the dwelling.

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

The additional third storey element within the north-western pavilion continues to be consistent with the sloping topography, the south-eastern pavilion and the surrounding residential dwelling houses. Both neighbouring sites, No.985 and No. 977-979 Barenjoey Road contain three storey elements. The additional third storey element sits entirely within the existing north-western pavilion footprint, minimising any additional building height or amenity impacts.

In this regard, the built form will continue to sit comfortably with adjoining and surrounding two, three and four storey residential development. Also, consistent with adjoining development, the built form is located downslope in steep topography and therefore proposed landscaping, in conjunction with existing and required landscaping (as per conditioned in the DA) will assist to visually screen the bulk and scale of the built form and integrate the built form of the northern pavilion into the landscape.

On balance, the modified proposal continues to be considered consistent with the desired future character of the Palm Beach locality.

### C1.3 View Sharing

The proposed amendments to the existing dwelling have been sited generally within the footprint of the existing approved dwelling. As a result there are no additional impacts to any view lines enjoyed by the neighbours to either side.

The minor increase in the ground floor balcony does not cause any obstruction into any view lines of the north-west and south-eastern adjoining neighbours.

Dwellings on the opposite side of Barrenjoey Road, up the slope of the Barrenjoey escarpment have no impact to their current view line of Careel Bay as a result of the amendments due to the much high topography.

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.

### C1.5 Visual Privacy

The modified proposal includes the following changes that could impact the levels of visual privacy:

- **South-eastern elevation** - Infill existing window and addition of two windows
- **South-western elevation** - increase the upper balcony by 200mm, increase the windows to the master/retreat, and the inclusion of new windows on the lower ground floor to service guest suit 6.
- **North-western elevation** - window re-configuration on the upper floor servicing the master bedroom and additional windows servicing guest suit 6.
- **North-eastern elevation** - no change.

As the development includes balconies and windows which are situated within 9m of the side boundaries a merit assessment has been undertaken below.

The proposed development has been assessed against the relevant outcomes of this clause, as follows:

- ***Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.***

Comment:

The Upper Ground Floor additional balcony area and windows continue to be orientated towards the rear of the subject site to take advantage of the expansive Careel Bay water views, and are sufficiently setback from the property boundaries. These elements do not allow any additional unreasonable overlooking to the neighbouring sites private open space areas as they are not directly adjoining any of the neighbouring private open spaces areas and maintain the previously approved reasonable side setbacks.

The Ground Floor south-eastern elevation improves the potential for overlooking by removing the existing window, and providing two additional windows that are located in a more appropriate location to minimise privacy impacts to the south-eastern neighbouring site.

The Upper and Lower Ground Floor north-western elevation includes additional windows, and minor increase in the approved windows servicing the a parents retreat. It is anticipated that this room is not likely to be accommodated as regularly than the main living areas located on the Ground Level. As noted in the planning principle detailed in the Development Application, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time, therefore it is not considered privacy treatments are required. The new windows servicing the Lower Ground Floor guest suit 6 are located a sufficient distance from the north-western side setback, are located at ground level, and are screened by landscaping, thereby limiting any unreasonable privacy impacts. As a result privacy treatments are not considered to be required.

The modified proposal also includes the retention of existing landscaping and the inclusion of additional landscaping within the side setbacks of the subject site as per the DA. As a result, the existing and additional landscaping vegetation in conjunction with the proposed spatial distance are suitable in providing adequate privacy to the neighbouring sites.

As such, the development as modified by this proposal optimises privacy for both the subject site and adjacent sites through good design.

- ***A sense of territory and safety is provided for residents.***

Comment:

Given the above, an appropriate sense of territory and safety is retained for the residents of the subject site and adjacent sites as a result of the modified design changes.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / 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, subject to conditions, in this particular circumstance.

### **C1.19 Incline Passenger Lifts and Stairways**

The proposal amendments seek to provide for a separate pedestrian walk-way bridge with steps within the site boundaries connecting with a pedestrian path with steps on compacted fill which matches the existing footpath alignment level within the road reserve. The materials of the separate walkway are consistent with the natural materials requirement, and suitable landscaping will continue to help

screen the built form to Barrenjoey Road.

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.

### **D12.1 Character as viewed from a public place**

As a result of the application, the modified pedestrian entry path with new steps on compacted fill to match existing footpath alignment level within the road reserve, connects with a suspended pedestrian walk-way bridge with steps within the site. This amended entry design is consistent with other entry structures along this particularly steep stretch of Barrenjoey Road.

The amendment of the pedestrian pathway is compatible with the character of Barrenjoey Road, and will not detract from consistency with the outcomes of this development control.

The minor changes to the external elements of the built form such as window changes and additions, removal of louvered screens and addition of a new guest suit on the Lower Ground Floor will continue to present as a one storey dwelling house to the Barrenjoey Road streetview. The visual impact of the proposed works continues to be screened by the lower topography of the dwelling house, and existing hedging vegetation.

The visual impact will be lessened over time with the growth of the proposed landscaping, and ultimately, there will be a significant improvement in the presentation to Barrenjoey Road and the Palm Beach locality.

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.

### **D12.3 Building colours and materials**

The modification includes the removal of the following external building materials:

- **Upper Floor** - Elliptical louvres deleted and horizontal sunshade added
- **Ground Floor Plan** - External motorised louvres deleted and horizontal sunshade added

These changes to the out fabric of the building continue to demonstrate appropriate materials and colour palette.

The proposal continues to incorporate dark glazing and darker shade elements for the central linkway to assist in visually breaking the two pavilion forms in order to reduce the overall bulk and scale of the proposal. Whilst the use of differing materials for the elevations including masonry and metal clad walls is complimentary to the existing landscape.

The building colours and materials continue to complement and enhance the visual character in its location with the natural landscapes of Pittwater. The proposed colours and materials of the modified



development continue to harmonies with the natural environment and the visual prominence of the development is minimised.

The modified proposal therefore continues to satisfy the objectives for the development control.

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.

### **D12.5 Front building line**

The amended design provides a separate pedestrian walk-way bridge connecting with a pedestrian path at-grade within the road reserve. The siting of the proposed pedestrian walkway is consistent with a prescribed variation of D1.1 of P21 DCP which permits these types of built structures forward of the building line on steeply sloping sites. The pedestrian pathway is finished in materials that will blend with the natural surrounds, resulting in an attractive presentation to the Barrenjoey street.

The new path is a safer solution to provide pedestrian access to the site while maintaining the landscaping within the Barrenjoey Road road reserve.

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**

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

## **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. Mod2020/0356 for Modification of Development Consent DA2020/0130 granted for alterations and additions to a dwelling house on land at Lot 100 DP 509808,981 Barrenjoey Road, PALM BEACH, subject to the conditions printed below:

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

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

#### a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site and Upper Floor Plan 1922 1 of 8 Issue K	2 July 2020	Architects Ink
Ground Floor Plan 1922 2 of 8 Issue K	2 July 2020	Architects Ink
Lower Ground Floor Plan 1922 3 of 8 Issue K	2 July 2020	Architects Ink
South-West and North-East Elevations 1922 4 of 8 Issue K	2 July 2020	Architects Ink
North-West Elevation 1922 5 of 8 Issue K	2 July 2020	Architects Ink
South-East Elevations and Sections S1 1922 6 of 8 Issue K	2 July 2020	Architects Ink
Sections S2 & S3 1922 7 of 8 Issue K	2 July 2020	Architects Ink
Site and Upper Floor Plan 1922 8 of 8 Issue K	2 July 2020	Architects Ink

<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>
Arboricultural Impact Assessment	7 July 2020	Blue Gum Arborist
Bushfire Hazard Assessment	27 July 2020	Bushfire Planning and Design
Geotechnical Addendum	31 July 2020	Asset Geotechnical Engineering Pty Ltd

d) 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 9 Submission Roads Act Application for Civil Works in the Public Road to read as follows:**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of vehicular access which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1 and Council's Minor Works Policy. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. The width and location of the access driveway at the road must be designed in accordance with section 3.2 of Australian/New Zealand Standard AS/NZS 2890.1:2004 Parking facilities - Off-street car parking.
2. The width, location and grade of the pathway, stairs and letterbox works on Council's road reserve.
3. The vehicular Crossing/driveway within the public road shall be in plain concrete.
4. The provision of normal low vehicle crossing profile generally in accordance with Northern Beaches Council Drawing No A4-3330/3 and specifications.
5. Safety devices must be installed on the proposed driveway in accordance with AS/NZS 2890.1:2004.
6. The driveway be designed such that there is no load imposed on the existing retaining wall supporting the road. Alternative, the design must either replace existing retaining wall to maintain support of road to extend structural design life to 100 years.
7. The crossing slab between the kerb & gutter/road shoulder and the existing internal retaining wall/pier must be generally matching existing ground level.
8. Longitudinal cross sectional survey detail must be provided with the design, showing existing and proposed levels and must be commenced from the centerline of the road.
9. Structural details of the driveway retaining wall, piers and slab designed by a structural engineer.
10. The application is to include a geotechnical report that is prepared by an appropriately qualified Geotechnical Engineer to assess the existing retaining wall and the related area between the retaining to the property boundary along Barrenjoey Road. The report must include a full assessment of the existing retaining wall including the stability assessment of the wall.
11. Any proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation.
12. The provision of appropriate protection for the retaining wall during and after completion of construction works.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

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

**Signed**



**Catriona Shirley, Planner**

The application is determined on 02/11/2020, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**