

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2022/0606
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<b>Responsible Officer:</b>	Grace Facer
<b>Land to be developed (Address):</b>	Lot 19 DP 236667, 61 B Wandeen Road CLAREVILLE NSW 2107
<b>Proposed Development:</b>	Modification of Development Consent DA2021/2671 granted for Alterations and additions to a dwelling house including a swimming pool
<b>Zoning:</b>	C4 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>	Mark Lindsay Tyrrell Emma Louisa Lynch
<b>Applicant:</b>	Mark Lindsay Tyrrell

<b>Application Lodged:</b>	04/11/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	11/11/2022 to 25/11/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks consent for modifications to the approved development consent under DA2021/2671.

Specifically, the proposal comprises of the following works:

- Increased setback to south-eastern side boundary from 1m to 2.2m to the workshop on Ground Floor
- Balcony on Ground Floor reduced in size
- External wall to rumpus room pushed north 270mm on Ground Floor
- Setback to north-western side boundary decreased in part to 1m with 2.5m retained at the southern/rear end on Lower Ground Floor where outdoor area is located

- Changes to staircases to yard below on Lower Ground Floor
- New screened deck under workshop for storage on Lower Ground Floor
- Highlight window added and change to window below on northern elevation
- Steel structure to pool deck and reduction in pool size
- Increase in glazed area to stair/living area on southern elevation
- Minor internal changes on Ground Floor and Lower Ground Floor to change layout of the rumpus room, ensuite and walk in robe.
- Minor excavation at the rear of the dwelling for crane operation during construction and landscape wall to be demolished

## 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 - 7.7 Geotechnical hazards  
 Pittwater 21 Development Control Plan - D3.7 Side and rear building line  
 Pittwater 21 Development Control Plan - D3.9 Building envelope

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 19 DP 236667 , 61 B Wandeen Road CLAREVILLE NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the northern side of Wandeen Road. The site has a surveyed area of 1044m<sup>2</sup>.</p> <p>The site is irregular in shape and substantially setback from the street with a shared accessway located between 61 and 63 Wandeen Road.</p>

The site is located within the C4 Environmental Living zone and accommodates a dwelling house and carport.

The site has a slope from the rear to the front of the property, with a steep topography dropping approximately 10m to the south-west of the site. The site is also relatively densely vegetated.

### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by residential development of varying architectural styles and designs.

Map:



### **SITE HISTORY**

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

#### **DA2021/2671**

Alterations and additions to a dwelling house including a swimming pool  
Approved on 22 February 2022

#### **DA2018/1635**

Alterations and additions to the existing dwelling  
Approved on 27 February 2019

### **Application History**

Following the preliminary assessment of the application and referral to Council's Bushland and Biodiversity Officer, it was found that the proposed excavation of up to 1.5 metres in relation to the

proposed parking bay would take place in a BV Map mapped area effectively triggering the requirement of a BDAR and entry into the BOS. Additionally, Council's Development Engineer advised that the proposed parking bay off the existing shared driveway is not supported as this portion of the site is a right of way which precludes any parking of vehicles in accordance with the Conveyancing Act. In response, the applicant submitted amended plans that removed the proposed parking bay, which satisfied Development Engineering's requirements and demonstrated that the remaining proposed works will not impact the BV Map area and therefore will not trigger entry into the BOS.

The amended plans also involved minor amendments to the carport, in response to the submission received from the adjoining property. The amended plans were sent to the submitter who was given the opportunity to provide further comment. The minor changes to the plans did not alter the environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan (CPP).

## 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 DA2021/2671, 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 consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2021/2671 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposed modifications will not result in any significant</li> </ul>



Section 4.55 (2) - Other Modifications	Comments
	<p>changes to the previously approved building footprint</p> <ul style="list-style-type: none"> <li>• Considering the relatively minor nature of the proposed works, the modifications are not anticipated to result in any adverse impacts to the amenity of adjoining or surrounding properties</li> <li>• From the streetscape, the proposal will present as substantially the same development as previously approved</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 DA2021/2671 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,  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.	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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amendments to the Plans - Master Set. Subsequently, the applicant provided the requested information.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 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 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition 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><b>(i) Environmental Impact</b></p> <p>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>

Section 4.15 'Matters for Consideration'	Comments
	<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 not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 11/11/2022 to 25/11/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Andrew James Wolski	8 Georgia Lee Place CLAREVILLE NSW 2107
Mr Andrew James Wolski	61D Wandeen Road CLAREVILLE NSW 2107

The following issues were raised in the submission:

- Spatial Separation between Dwellings

The above issues are addressed as follows:

- **Spatial Separation between Dwellings**

The submission raised concerns that the carport looks increasingly like a garage and is positioned close to the boundary of the south-eastern adjoining neighbour. In particular, the submission notes that "one of the primary reasons why I wanted the eastern side of the carport

to remain open was for ease of maintenance. All sorts of detritus, mainly from from overhanging trees, fall or is blown into that space and for sanitary reasons, the detritus must be regularly cleared and hence space to carry out this task is vitally important."

Comment:

The applicant submitted amended plans, which reduced the length of the wall adjoining No.61D Wandeen Road. The proposed brick blade walls were also replaced with columns and a timber panel only on the southern end to maintain privacy screening. Notably, no changes have been proposed to the setback from the side building line previously approved under DA2021/2671, therefore adequate spatial separation between buildings is maintained.

## REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>The modifications to the original proposal have been assessed against the following provisions:</p> <ul style="list-style-type: none"> <li>• NSW Biodiversity Conservation Act 2016 (BC Act)</li> <li>• Pittwater LEP 2014 - cl. 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP - cl. B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor</li> </ul> <p>Portions of the site are identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offset Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR).</p> <p>The plans submitted with the application indicate that excavation of up to 1.5 metres will take place in a BV Map mapped area effectively triggering the requirement of a BDAR and entry into the BOS.</p> <p>Additionally, no Arborist report has been submitted with the application to determine whether the proposed works will have an impact on significant trees within the BV Map.</p> <p>Alternatives are proposed to avoid triggering the BOS:</p> <ol style="list-style-type: none"> <li>1. Alter the design to delete works taking place within the BV Map area.</li> <li>2. A review of the BV Map can be requested by the customer at <a href="https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/about-the-biodiversity-offsets-scheme/when-does-bos-apply/biodiversity-values-map/biodiversity-values-map-review">https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/about-the-biodiversity-offsets-scheme/when-does-bos-apply/biodiversity-values-map/biodiversity-values-map-review</a></li> </ol> <p>AMENDED COMMENTS ADDED ON 13/12/2022 AFTER REMOVAL OF THE PARKING BAY FROM PLANS SUBMITTED ON 03/11/2022</p>



Internal Referral Body	Comments
	<p>The modifications to the original proposal have been assessed against the following provisions:</p> <ul style="list-style-type: none"> <li>• NSW Biodiversity Conservation Act 2016 (BC Act)</li> <li>• Pittwater LEP 2014 - cl. 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP - cl. B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor</li> </ul> <p>Portions of the site are identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offset Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). However, the submitted plans and documentation indicate that the proposed works will not impact the BV Map area and therefore will not trigger entry into the BOS.</p> <p>A site visit was conducted to review potential impacts of the newly proposed plans on 07/12/2022 and found that no native vegetation will be impacted by the plans proposed on 13/12/2022. No native vegetation or fauna habitat would be impacted, the development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p>
NECC (Development Engineering)	<p>The proposed modification to include a parking bay off the existing shared driveway is not supported as this portion of the site is a right of way which precludes any parking of vehicles in accordance with the Conveyancing Act. The proposed parking bay must be deleted from the plans prior to any approval of the application.</p> <p>Development Engineering cannot support the proposal due to proposed parking contrary to Conveyancing Act.</p> <p><b>Amended plans received 13/12/2022</b></p> <p>The proposed parking area within the right of way has been deleted on all plans which is acceptable. The demolition plan indicates an area of proposed excavation for a crane during construction. As this area is also located within the right of way the use of this portion of the site other than for access cannot be supported and the plans must be amended to delete the proposal.</p> <p>Provided the plans are amended to suit the above, Development Engineering support the proposal with no additional or modified conditions of consent.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021,	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the

External Referral Body	Comments
s2.48	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 and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

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

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

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

### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No.A428186\_05 dated 19 October 2022).

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	% Variation	Complies
Height of Buildings:	8.5m	7.0m	Unaltered	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	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

#### **7.7 Geotechnical hazards**

Under Clause 7.7 Geotechnical Hazards, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

- (a) site layout, including access,
- (b) the development's design and construction methods,
- (c) the amount of cut and fill that will be required for the development,
- (d) waste water management, stormwater and drainage across the land,
- (e) the geotechnical constraints of the site,
- (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Development consent must not be granted to development on land to which this clause applies unless:  
(a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and

(b) the consent authority is satisfied that:

(i) the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or

(ii) if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or

(iii) if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.

Comment:

The proposed development is supported by a geotechnical risk assessment that demonstrates all geotechnical risks have been taken into account. The application has also been reviewed by Council's Development Engineer, who is supportive of the proposal. As such, Council can be satisfied that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

**Pittwater 21 Development Control Plan**

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Rear building line	6.5m	2.5m - 14m	1m - 14m	Part complies
Side building line	2.5m (West)	5.1m	Unaltered	Yes
	1m (East)	0m (proposed roof to existing carport) 0.5m (bin storage) 1m (workshop)	0m (proposed roof to existing carport) 0.5m (bin storage) 2.2m (workshop) - setback increased by 1.2m	As approved
Building envelope	3.5m (East)	Outside envelope	Outside Envelope	As approved
	3.5m (West)	Within Envelope	Unaltered	Yes
Landscaped area	60% (626m <sup>2</sup> )	60% (629m <sup>2</sup> )	60.3% (630.3m <sup>2</sup> )	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.3 Bilgola Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
D3.1 Character as viewed from a public place	Yes	Yes
D3.3 Building colours and materials	Yes	Yes
D3.7 Side and rear building line	No	Yes
D3.9 Building envelope	No	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes

#### Detailed Assessment

#### **D3.7 Side and rear building line**

##### Description of non-compliance

Clause D3.7 Side and rear building line of the Pittwater DCP requires development to be setback 2.5 metres from one side boundary and 1.0 metres from the other side, and 6.5 metres from the rear boundary.

As approved under DA2021/2671, the carport presents a nil setback to the eastern side boundary, whilst the bin storage is setback 0.5m from this side, resulting in variations to the control. The proposed modifications to the workshop on the Ground Floor Level result in a setback of 2.2m to the eastern side boundary, which results in a 1.2m increase to the previously proposed 1m setback. In this regard, the proposed modification works that constitute this application are compliant with the eastern side boundary setback control, and the outcomes of the original merit assessment in relation to the non-compliant setbacks for the carport and the bin storage area are maintained.



Furthermore, under DA2021/2671, a varied rear setback of 2.5m to 14m was approved, which only part complies with the prescribed 6.5m control. The proposed modifications to the outdoor area on the Lower Ground Floor result in further encroachment into the rear setback, decreased in part to 1m with 2.5m retained at the southern/rear end of the outdoor area.

### Merit Consideration

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

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

#### Comment

The development will retain the two-storey appearance of the dwelling house with surrounding landscaping to achieve the desired future character of the locality. Notably, the minor encroachment into the rear setback is not anticipated to result in any detrimental changes to the previously approved built form.

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

#### Comment

The irregular lot shape and subdivision pattern necessitate varied setbacks in this instance. There is adequate spatial separation and existing vegetation between dwellings to soften the built form of the proposal. Furthermore, the proposed changes to the bulk and scale of the built form are minimal and will not detract from the residential character of the area or impact upon the amenity of adjoining properties.

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

#### Comment

The proposal maintains a compliant building height and sufficient stepping with the topography of the land. As such, it is not anticipated that there will be any unreasonable impacts on views.

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

#### Comment

The proposed modifications largely maintain the existing building footprint and the open and articulated nature of the dwelling house is considered to encourage suitable view sharing.

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

#### Comment

The proposed development is well separated from adjoining properties and heavy vegetation on the subject site provides further landscape screening. This maintains a reasonable level of privacy, amenity and solar access within the development site and to neighbouring and surrounding properties.

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

#### Comment

Existing landscaping, in addition to proposed planting incorporated in the original development application, provides for an attractive visual outcome within the streetscape.

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

Comment

The proposed additions generally maintain the setbacks of the existing dwelling and respond appropriately to the constraints of the subject site.

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

Comment

The proposal does not require the removal of any significant vegetation and maintains a compliant landscaped area that will visually reduce the built form.

- ***To ensure a landscaped buffer between commercial and residential zones is established.***

Comment

The site is not located adjacent to a commercial zone, therefore this objective is not relevant for this application.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **D3.9 Building envelope**

The proposed modification works do not alter the building envelope non-compliance previously approved under DA2021/2671. Therefore, the outcomes of the original consent are maintained and a detailed merit assessment is not required in this instance.

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

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

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

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

### **POLICY CONTROLS**

#### **Northern Beaches Section 7.12 Contributions Plan 2022**

Section 7.12 contributions were levied on the Development Application.

### **CONCLUSION**

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

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

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2022/0606 for Modification of Development Consent DA2021/2671 granted for Alterations and additions to a dwelling house including a swimming pool on land at Lot 19 DP 236667, 61 B Wandeen Road, CLAREVILLE, subject to the conditions printed below:

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

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

#### a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan - Drawing No.A-S4.55-001 Revision C	14 December 2022	Chrofi
Demolition Roof Plan - Drawing No.A-S4.55-004 Revision C	14 December 2022	Chrofi
Demolition Plan Ground - Drawing No.A-S4.55-005 Revision C	14 December 2022	Chrofi

Demolition Plan Lower Ground - Drawing No.A-S4.55-006 Revision C	14 December 2022	Chrofi
Roof Plan - Drawing No.A-S4.55-101 Revision C	14 December 2022	Chrofi
Ground Floor Plan - Drawing No.A-S4.55-102 Revision C	14 December 2022	Chrofi
Lower Ground Floor Plan - Drawing No.A-S4.55-103 Revision C	14 December 2022	Chrofi
E-01 North Elevation - Drawing No.A-S4.55-201 Revision C	14 December 2022	Chrofi
E-02 East Elevation - Drawing No.A-S4.55-202 Revision C	14 December 2022	Chrofi
E-03 South Elevation - Drawing No.A-S4.55-203 Revision C	14 December 2022	Chrofi
E-04 West Elevation - Drawing No.A-S4.55-204 Revision C	14 December 2022	Chrofi
S-01 Section - Drawing No.A-S4.55-301 Revision C	14 December 2022	Chrofi
S-02 Section - Drawing No.A-S4.55-302 Revision C	14 December 2022	Chrofi
Material & Finishes Schedule - Drawing No.A-S4.55-601 Revision C	14 December 2022	Chrofi

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate No.A428186_05	19 October 2022	ECOMODE Design
Geotechnical Report	7 October 2022	White Geotechnical Group

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

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

<b>Waste Management Plan</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	26 October 2022	Chrofi

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

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

**Signed**



**Grace Facer, Planner**

The application is determined on 21/12/2022, under the delegated authority of:



**Steven Findlay, Manager Development Assessments**