

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2022/0174
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Responsible Officer:	Brittany Harrison
Land to be developed (Address):	Lot 3 DP 29283, 87 Alexandra Crescent BAYVIEW NSW 2104
Proposed Development:	Modification of Development Consent DA2020/0820 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:	Arnaud Diemont Jane Louise Diemont
Applicant:	Lindsay Little & Associates Pty Ltd

Application Lodged:	21/04/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	02/05/2022 to 16/05/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

This Section 4.55(2) Modification application seeks to amend the previously approved DA2020/0820 in the following ways:

- Reduction and modification to the excavation under the dwelling house to accommodate for a walkway tunnel and internal lift;
- Addition of lift over-run to replace first floor extension;
- Deletion of the extension to the carport, lower ground level and first floor level;
- Replacement of the access stairway located to the front of the dwelling house; and
- Reduction to the originally approved carport structure, addition of garage doors and an extension to the existing driveway/crossover.

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 21 Development Control Plan - B6.7 Transport and Traffic Management
 Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill
 Pittwater 21 Development Control Plan - C1.24 Public Road Reserve - Landscaping and Infrastructure
 Pittwater 21 Development Control Plan - D4.3 Building colours and materials
 Pittwater 21 Development Control Plan - D4.5 Front building line
 Pittwater 21 Development Control Plan - D4.6 Side and rear building line
 Pittwater 21 Development Control Plan - D4.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 3 DP 29283 , 87 Alexandra Crescent BAYVIEW NSW 2104
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Alexandra Crescent at the end of the cul de-sac.</p> <p>The site is irregular in shape with a curved frontage of 14.745m along Alexandra Crescent and a depth of 27.335m along the western boundary and 35.91m along the eastern boundary. The site has a surveyed area of 696m².</p> <p>The site is located within the C4 Environmental Living zone under the Pittwater Local Environmental Plan 2014 and accommodates a two (2) storey dwelling house and carport.</p> <p>The site topography slopes steeply from the south to the</p>

north with an approximate fall by 14.0m. The site consists of retaining walls, native trees and various shrubs.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by one (1) and two (2) storey dwelling houses of various architectural designs with a landscaped setting.

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:

N0573/06

Development Application for the alterations and additions to the existing dwelling.
Determined on 26 October 2006 by Delegated Authority.

DA2020/0820

Development Application for the alterations and additions to a dwelling house.
Determined on 11 December 2020 by Delegated Authority.

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 **DA2020/0820**, 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 DA2020/0820 for the following reasons:</p> <ul style="list-style-type: none"> • The development consists of alterations to the existing carport structure, as per the original development consent but has reduced the overall building footprint. • The modification will still require excavation but rather reduce the overall extent of approved earthworks for a walkway tunnel not for the originally proposed extension to the carport and lower ground floor. Excavation is still required to accommodate a lift into the dwelling house, as per the original development consent. The overall extent of excavation has been reduced from approximately 355m² to approximately 282m². • The first floor extension to the south-eastern portion of the dwelling house has been deleted and will now accommodate for the lift over-run, which takes the form of a smaller roof to that of what was originally approved for the first floor extension. • Minor aesthetic changes to the development which will not significantly alter the overall appearance of the build, including stairway access replacement, and the addition of garage doors.
<p>(b) it has consulted with the relevant Minister, public authority or approval body (within the</p>	<p>Development Application DA2020/0820 did not require concurrence from the relevant Minister,</p>

Section 4.55 (2) - Other Modifications	Comments
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	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 2021, 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	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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed

Section 4.15 'Matters for Consideration'	Comments
Regulation 2021 (EP&A Regulation 2021)	<p>conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to Engineering Plans.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the	The site is considered suitable for the proposed

Section 4.15 'Matters for Consideration'	Comments
site for the development	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 02/05/2022 to 16/05/2022 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The application is for modification to development consent DA2020/0820, seeking to amend the garage footprint and excavate a tunnel to access the lift of the approved dwelling.</p> <p>It is noted the Arboricultural Impact Assessment (AIA) has been updated to reflect the applicants request for modification and as outlined in the AIA, T1 will be retained and protected. Condition 18, outlined in DA2020/0820, is amended as part of this modification and condition 25 remains as originally conditioned. Furthermore, additional conditions shall be imposed with this modification.</p> <p>There is an existing minor encroachment into the road reserve by the stairs adjacent to the carport. The modification involves additional works within the road verge including new stairs, landings and pathway, which is not supported. Applicants may apply for a separate Minor Encroachment within public road reserve for circumstances including the requirement for stairs and pathways providing pedestrian access to private property, and consideration of any public road reserve encroachment shall also seek support from Council's Road Reserve Referral Team.</p>
NECC (Bushland and Biodiversity)	The modification application has been assessed against the following applicable biodiversity provisions and legislation:

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • NSW Biodiversity Conservation Act 2016 (BC Act) • NSW Biodiversity Conservation Regulation 2017 (BC Reg) • Pittwater LEP Clause 7.6 - Biodiversity Protection • Pittwater DCP Clause B4.7 - Pittwater Spotted Gum Forest Endangered Ecological Community <p>Portions of the subject site have been added to the NSW Government's Biodiversity Values Map (BV Map) since consent was granted for the original development. Any impact to native vegetation within the BV Map area will trigger entry into the NSW Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). However, the submitted plans and documentation indicate that the modification will not result in impact to any native vegetation or wildlife habitat on the site, nor will it result in any impacts prescribed under Section 6.1 of the BC Reg. The modification therefore does not trigger entry into the BOS and is considered to be consistent with local controls. Subject to retention of existing biodiversity conditions, there are no objections to the modification.</p>
NECC (Development Engineering)	<p>The application involves modifications to the garage and a new tunnel walkway extending to an internal lift under the dwelling. The proposed extension of the driveway appears steep. The applicant shall provide engineering longsections along the edges and centerline of the driveway to the proposed carport to demonstrate compliance with AS2890.1.</p> <p><i>Note to Planner :The proposal also involves works within the road reserve including new stairs and pathway, which requires concurrence from Council's Road Asset team. Please refer to Road Asset team for comments.</i></p> <p>Review 29/8/2022</p> <p>The submitted sections are satisfactory subject to conditions. No objections to approval subject to the following amendments to Consent Conditions DA2020/0820:</p> <p>Amend Condition 11 as follows: Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans</p> <p>The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Whites Geotechnical Group Pty Ltd dated 13 July 2020, Preconstruction Meeting summary dated 24/9/2021 & Ground testing dated 20/10/2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction</p>

Internal Referral Body	Comments
	<p>Certificate. Reason: To ensure geotechnical risk is mitigated appropriately.</p> <p>Submission Roads Act Application for Civil Works in the Public Road</p> <p>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 driveway crossing, retaining wall and pedestrian access stairs and pathway 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:</p> <ol style="list-style-type: none"> 1. 6.5 metre wide driveway crossing in accordance with concept plans prepared by Lindsay Little & Associates, drawing no DS-01 A, dated 5/8/2022 and Northern Beaches Council specifications. 2. Retaining wall bordering the western side of the driveway 3. Details of the relocation of the pedestrian access stairs and pathway. 4. Engineering longsections along the edges and centerline of the proposed driveway to the proposed carport to demonstrate compliance with AS2890.1. <p>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.</p>
Road Reserve	No impact on existing road assets. If approval is granted, details of retaining wall reconstruction and widening of driveway and relocation of the stairs/path to be conditioned by Development Engineering as part of s138 application for Civil Works as per DA 2020/0820.

External Referral Body	Comments
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p>

External Referral Body	Comments
	<p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A378343_02 dated 24 February 2022).

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

SEPP (Resilience and Hazards) 2021

Chapter 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
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Principal Development Standards

Development Standard	Requirement	Approved	Proposed	Complies
Height of Buildings:	8.5m	7.6m	6.2m (Lift Overrun)	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
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

7.2 Earthworks

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land. It is noted that the development as to be modified significantly reduces the extent of excavation proposed.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction. It is noted that the extent of excavation is altered to the extent that it is reduced and centralised from that previously approved.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment: The development was referred to the Aboriginal Heritage Office who provided comments and conditions that have been included in the consent.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front Building Line	6.5m (Northern Boundary)	Nil	Nil (Exception of stairs - see referral from Road Reserve)	No (As previously approved)
Rear Building Line	6.5m (Southern Boundary)	7.9m	No Change	Yes

Side Building Line	2.5m (Eastern Boundary)	0.2m	No Change	No (As previously approved)
	1m (Western Boundary)	1.5m	3.7m	Yes
Building Envelope	3.5m (Eastern Elevation)	Within Envelope	Within Envelope	Yes
	3.5m (Western Elevation)	Within Envelope	Within Envelope	Yes
Landscaped Area	60% (417.6sqm)	48.1% (334.8m) 53.1% (370m ² - with allowable 6% variation)	No Change	No (As previously approved)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.4 Church Point and Bayview Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B5.15 Stormwater	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
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D4.1 Character as viewed from a public place	Yes	Yes
D4.2 Scenic protection - General	Yes	Yes
D4.3 Building colours and materials	Yes	Yes
D4.5 Front building line	No	Yes
D4.6 Side and rear building line	No	Yes
D4.8 Building envelope	Yes	Yes
D4.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D4.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

B6.7 Transport and Traffic Management

A condition of consent was included within the original development consent (DA2020/0820) for the applicant to submit a Construction Traffic Management Plan which is to be submitted to the Certifier prior to the issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

B8.1 Construction and Demolition - Excavation and Landfill

Control B8.1 stipulates that any excavation greater than 1.0 metre deep, the edge of which is closer to a site boundary or structure to be retained on the site, then the overall depth of the excavation must be accompanied by a Geotechnical Report and certified forms as set out in Council's Geotechnical Risk Management Policy in relation to potential impact of excavation on land stability.

The proposed excavation that consists of the lift shaft is situated within 6.6m from the eastern boundary, with a maximum depth of approximately 8.6m.

It is noted that the proposal has been appropriately accompanied by a Ground Testing Report to accompany the existing Geotechnical Report under DA2020/0820, with the subject site being mapped on the Geotechnical Hazard 1 Map under the Pittwater LEP 2014.

The proposed development is acceptable in relation to the relevant outcomes of this clause, as follows:

- **Site disturbance is minimised.**

Comment

The proposed development consists of excavation which is to take place under the existing dwelling house to accommodate a new tunnel walkway and lift shaft. The excavation provides for an increase of amenity to the residents of the subject site. The amount of excavation required for the modification works has been reduced compared to the previous approval under DA2020/0820. Therefore the proposal will minimise site disturbance as the lower ground floor extension has been deleted.

- **Excavation, landfill and construction not to have an adverse impact.**

Comment

The proposal is accompanied by an additional Ground Testing Report, which is to accompany the original Geotechnical Report under DA2020/0820. Relevant geotechnical conditions have been included under this modification consent and the original development consent (DA2020/0280) to mitigate any potential impacts to the land.

- **Excavation and landfill operations not to cause damage on the development or adjoining property.**

Comment

The carrying out of the development in accordance with the recommendations of the original Geotechnical Report and additional Ground Testing Report will ensure the adjoining properties are protected. To ensure any future damage to the adjoining properties is appropriately recorded, a Dilapidation Report prepared by a suitably qualified person prior to and post construction period was included in the original development consent (DA2020/0820).

Based on the above and the submitted Geotechnical Report, the proposal is considered to therefore meet the outcomes of the control and is supported on merit in this particular instance.

C1.24 Public Road Reserve - Landscaping and Infrastructure

The Applicant is to submit an application for approval for infrastructure works located within 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, as per the amended condition No. 13 - Submission Roads Act Application for Civil Works in the Public Road under this modification application.

D4.3 Building colours and materials

A detailed schedule of colours and materials was not submitted. Accordingly, a suitable condition of consent has been recommended to require the applicant to submit a schedule of colours and materials to the Certifier prior to the issue of a Construction Certificate. The external colours and materials are to compliment the existing dwelling house and be of low low reflective materials. Subject to compliance with this condition, the application will satisfy the requirements of this control.

D4.5 Front building line

Clause D4.5 Front building line requires a front setback of of 6.5m.

The subject site exhibits a previously approved non-compliant front setback of nil to the northern boundary. As the modified works will not further increase the numerical non-compliance, a detailed merit assessment is not required, in this instance.

D4.6 Side and rear building line

D4.6 Side and rear building line prescribes a side setback of 2.5m to one side and 1m to the other. For this assessment, the 2.5m side building line is applied to the eastern boundary and the 1m side building line applied to the western boundary.

The subject site exhibits a previously approved non-compliant side setback of 0.2m to the eastern boundary. As the modified works will not further increase the numerical non-compliance, a detailed merit assessment is not required, in this instance.

D4.10 Landscaped Area - Environmentally Sensitive Land

Clause D4.10 Landscaped Area - Environmentally Sensitive Land requires 60% of the subject site as landscaped open space.

The subject site exhibits a previously approved non-compliant landscaped area of 48.1%. As the modified works will not further increase the numerical non-compliance, a detailed merit assessment is not required, in this instance. The reduced level of excavation is considered to be an overall improvement, in that additional parts of the site will remain undisturbed.

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. Mod2022/0174 for Modification of Development Consent DA2020/0820 granted for alterations and additions to a dwelling house on land at Lot 3 DP 29283,87 Alexandra Crescent, BAYVIEW, subject to the conditions printed below:

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

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
EP-01B, Excavation Plan, Issue B	18 February 2022	Lindsay Little & Associates Pty Ltd.
DP-01B, Demolition Plan, Issue B	18 February 2022	Lindsay Little & Associates Pty Ltd.
A02B, Site Analysis Plan, Issue B	18 February 2022	Lindsay Little & Associates Pty Ltd.
A03B, Carport Plan, Issue B	18 February 2022	Lindsay Little & Associates Pty Ltd.
A04B, Lower Ground Floor Plan, Issue B	18 February 2022	Lindsay Little & Associates Pty Ltd.
A05B, Ground Floor Plan, Issue B	18 February 2022	Lindsay Little & Associates Pty Ltd.

A06B, First Floor Plan, Issue B	18 February 2022	Lindsay Little & Associates Pty Ltd.
A07B, North Elevation, Issue B	18 February 2022	Lindsay Little & Associates Pty Ltd.
A08B, West Elevation, Issue B	18 February 2022	Lindsay Little & Associates Pty Ltd.
A09B, South Elevation, Driveway Sections, Issue B	18 February 2022	Lindsay Little & Associates Pty Ltd.
A10B, East Elevation, Issue B	18 February 2022	Lindsay Little & Associates Pty Ltd.
A11B, Section A-A, Issue B	18 February 2022	Lindsay Little & Associates Pty Ltd.

Engineering Plans		
Drawing No.	Dated	Prepared By
DS-01 A, Driveway Long Sections, Issue A	5 August 2022	Lindsay Little & Associates Pty Ltd.
DS-02A, Driveway Plan, Issue A	2 August 2022	Lindsay Little & Associates Pty Ltd.

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (No. A378343_02)	24 February 2022	Leech Harmon Architects
Ground Testing Report (Ref. J2784B)	20 October 2021	White Geotechnical Group
Arboricultural Impact Assessment Report	30 March 2022	Urban Arbor Pty Ltd.

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

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

B. Amend Condition No. 11 - Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans to read as follows:

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Whites Geotechnical Group Pty Ltd dated 13 July 2020, Preconstruction Meeting summary dated 24/9/2021 & Ground testing dated 20/10/2021 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

C. Amend Condition No. 13 - 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 driveway crossing, retaining wall and pedestrian access stairs and pathway 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. 6.5 metre wide driveway crossing in accordance with concept plans prepared by Lindsay Little & Associates, drawing no DS-01 A, dated 5/8/2022 and Northern Beaches Council specifications.
2. Retaining wall bordering the western side of the driveway
3. Details of the relocation of the pedestrian access stairs and pathway.
4. Engineering long-sections along the edges and centerline of the proposed driveway to the proposed carport to demonstrate compliance with AS2890.1.

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.

D. Add Condition No. 15A - External Finishes to Roof to read as follows:

The external finish to the roof shall match the existing roof of the dwelling house or be of a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

E. Add Condition No. 15B - External Colours and Materials to read as follows:

The external finishes are to compliment the surrounding natural and built environment and be of low glare and low reflective materials and colours. A satisfactory specification which achieved this shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate in the form of a Schedule of Finishes.

Reason: To ensure the external colours and material comply with Council's requirements

F. Amend Condition No. 18 - Project Arborist to read as follows:

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, and the recommendations of the Arboricultural Impact Assessment.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:

- i) Temporary Irrigation to Tree 1 as listed in section 7.4,
- ii) All measures listed under section 8 Recommendations and section 9 Tree Protection Requirements

and specifically 9.2, 9.4, 9.5, 9.6, 9.8, 9.9, 9.10 and 9.14,

- iii) Certification by a Project Arborist to satisfy section 9 Tree Protection Requirements item 9.9,
- iv) Any landscaping works within the TPZ of existing trees to be retained.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

All tree protection measures specified must:

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

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

G. Add Condition No. 25A - Protection of Rock and Sites of Significance to read as follows:

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.

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

H. Add Condition 25B - Condition of Trees to read as follows:

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from the Project Arborist during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,

ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Project Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

I. Add Condition No. 29A - Condition of Retained Vegetation - Project Arborist to read as follows:

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

- i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

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

Signed



Brittany Harrison, Planner

The application is determined on 07/09/2022, under the delegated authority of:



Adam Richardson, Manager Development Assessments