

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2025/0197
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Responsible Officer:	Brittany Harrison
Land to be developed (Address):	Lot 346 DP 16362, 7 Rock Bath Road PALM BEACH NSW 2108
Proposed Development:	Modification of Development Consent DA2020/0335 granted for Construction of a new dwelling and swimming pool.
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Maurice Anthony Patten

Application Lodged:	05/05/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	15/05/2025 to 29/05/2025
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

This Section 4.55 (1a) Modification Application seeks to amend Development Application No.DA2020/0335 and subsequent Modifications in the following ways:

Site Plan

- Addition to width of awning (vergola) to cover existing concrete terrace with stone finish.
- Alteration to height of approved Sandstone wall, reduction in height by 475mm from RL 86.54 to new height of RL 86.065 for improved view.
- Uniform stone cladding to engineered block wall.
- Deletion of approved spiral staircase.
- Addition of Hydronic heat pumps and small water tanks for hot water now to be located where the original pool heat pumps as located in DA2020/0335.
- Align step to match with lower steps.

Ground Floor Plan

- As above.
- Automated shade screens to contractors specification.
- Black butt timber finish to all posts, fascias and soffits to be Charred timber.
- Automated shade screens.
- Retaining wall height to Increase by 260mm from 79.32 to 79.58 to assist in earth retention and overland Flood path to engineering Specification

Level One

- Addition to width of awning (vergola).
- Automated & manual adjustable screens to replace bifold BAL 12.5 screens.
- Alteration to height of approved stone chimney reinstatement.
- Change of primary bedroom sliding glass door panels with glass balustrade in front to multi paneled glass wall with operable panels.
- The level one terrace chimney flue to be hidden and taken to the west wall.
- Automated shade screens to replace bifold BAL 12.5 microlouvres.
- Alteration of internal wall and door to primary suite.
- Deletion of window to hall.
- Deletion of internal hall wall.

Other

- Removal of BAL 12.5 bush fire compliant screens to windows to as site is now no longer in bush fire prone land
- Location of water tank relocated to underground location and as approved in DA 2023/0904

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 - Zone C4 Environmental Living
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy
 Pittwater 21 Development Control Plan - D12.5 Front building line
 Pittwater 21 Development Control Plan - D12.6 Side and rear building line
 Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 346 DP 16362 , 7 Rock Bath Road PALM BEACH NSW 2108
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Rock Bath Road.</p> <p>The site is irregular in shape with an angled frontage of 31.095m along Rock Bath Road and a maximum depth of 41.905m. The site has a surveyed area of 800.7m².</p> <p>The site is located within the C4 Environmental Living zone pursuant to the <i>Pittwater Local Environmental Plan 2014</i> (PLEP 2014). The site is currently under construction.</p> <p>The site has a northerly orientation and is located on a slope of 8.19 metres (or 19.85%), falling from the rear boundary line toward the north corner of the subject site.</p> <p>The site is not known to have any threatened species.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by residential dwellings within a landscaped setting.</p>

Map:



SITE HISTORY

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

BC0095/03

This building certificate sought consent for a two (2) storey brick residence with a tile roof and a timber garage. This certificate was provided on 10 June 2003.

N0177/04

This development application sought consent for demolition of the existing pool and garage and construction of a new swimming pool and garage. This application was refused on 3 August 2004. A Class 1 Appeal was brought against Council for the refusal of the application. The NSW Land and Environment Court granted approval for this development application

DA2018/2029

This development application sought consent for alterations and additions to a dwelling house, including a swimming pool. This application was approved, subject to conditions, on 20 May 2019. A Construction Certificate (CC2019/1008) and Notice of Commencement (NOC2019/1155) was provided to Council on 19 September 2019.

Mod2019/0515

This modification application sought to modify DA2018/2029. Council requested the Applicant withdraw the application on 12 February 2020. The Applicant withdrew the application on 25 February 2020.

DA2020/0335

This development application sought consent for the construction of a new dwelling and swimming pool. This application was approved, subject to conditions, on 18 May 2020. A Construction Certificate (CC2020/0666) and Notice of Commencement (NOC2020/0772) was provided to Council on 14 July 2020 and 13 July 2020, respectively.

Mod2021/0149

This modification application sought to modify DA2023/0335. This application was approved, subject to

conditions, on 4 May 2021.

Mod2021/0979

This modification application sought to modify DA2023/0335. This application was approved, subject to conditions, on 18 February 2022.

DA2023/0904

This Development Application sought consent for the alterations and additions to a dwelling house including a lift. Approved, subject to conditions on the 27 October 2023.

Mod2025/0197 - Current Application

The Applicant was advised via a Request for Further Information Letter dated 3 June 2025 that the following had already taken place on site prior to approval:

- Retaining wall height to Increase by 260mm from 79.32 to 79.58
- Alteration of internal wall and door to primary suite

The Applicant advised that these works were removed and this was confirmed at a site inspection on 24 June 2025. These works can now be assessed under this application, as they are no longer "retrospective".

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 **DA2020/0335**, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - 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 proposed modification is of minimal environmental impact, and	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:

Section 4.55(1A) - Other Modifications	Comments
	<ul style="list-style-type: none"> The proposed modifications relate to minor amendments such as the deletion of structures, changes in internal walls, changes to windows/doors, external materials, alterations to the chimney flue, reduction in wall height, addition of shade screening and extension of Vergola. The works are considered to be primarily aesthetic alterations or relate to a reduction in BAL level, as the site is no longer located within Bushfire Prone Land. The overall setbacks, landscaping, height of building and presence of the dwelling will not alter from previous approval and no adverse impacts in amenity or environmentally shall occur.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	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 DA2020/0335 for the following reasons discussed above under part (a).
(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.	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 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development

the subject of the application.

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	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 Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed 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. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: 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	<p>(i) Environmental Impact</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
built environment and social and economic impacts in the locality	<p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 15/05/2025 to 29/05/2025 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
Environmental Health (Solid Fuel/Oil Heater)	<p><i>Supported, subject to additional conditions.</i></p> <p><u>General Comments</u> The plans provided with the proposal note a wood burning fireplace and flue to be included with the dwelling house proposed modifications.</p> <p>The heater and associated flue appear to be appropriately sited.</p>
Landscape Officer	<p><i>Supported, subject to amended condition.</i></p> <p>The application is for modification to development consent DA2020/0335.</p>

Internal Referral Body	Comments
	<p>Under DA2020/0335 some amendments were conditioned for the landscape plans which were satisfied in CC2020/0666 drawings CC01 and CC02 by Wyer & Co dated 10/06/2020. The landscape plan included in this application has not captured the changes made in the aforementioned drawings and as such the requirements conditioned under DA2020/0335 (condition 14 Amended Landscape Plan) will be added to condition 24 Landscape Works Completion. Therefore, as part of this application condition 24 Landscape Works Completion will be amended. No other concerns are raised.</p>
NECC (Bushland and Biodiversity)	<p><i>Supported, subject to additional conditions.</i></p> <p>The modification application has been assessed for compliance against Pittwater 21 DCP cl. B4.3 Flora and Fauna Habitat Enhancement Category 2 Land.</p> <p>The proposed modifications do not increase impacts on biodiversity from that which was approved under Development Consent DA2020/0335. No earthworks are proposed as part of the modification.</p> <p>No objections in relation to biodiversity, subject to conditions.</p>
NECC (Development Engineering)	<p><i>Supported, subject to amended conditions.</i></p> <p><u>Comments - 6/06/2025</u></p> <p>Council's Development Engineer raises no objection to this proposal subject to replacing Condition 10 (Stormwater overland flowpath) and Condition 27 Certification of Stormwater overland flowpath by the conditions attached at the end of this referral letter.</p> <p>This proposal is for modification of DA2020/0335 for construction of a new dwelling.</p>
NECC (Riparian Lands and Creeks)	<p><i>Supported, no additional conditions required.</i></p> <p>This proposal is for modification of DA2020/0335 for construction of a new dwelling and swimming pool.</p> <p>Statement from structural engineer advised: Based on our review the modifications required, including the extension of the external pergola and adjustment of the external stair tread alignment, we are of the opinion that the modifications are unlikely to affect the original design for the stormwater management system, and no updates to the documentation are required.</p> <p>The site is not located on Waterways or Riparian Land</p> <p>The site is not located in a wetland area.</p> <p>The site is located within mapped Northern Beaches Council stormwater asset area. Pittwater DCP B5.15 requirements apply to the</p>

Internal Referral Body	Comments
	<p>site. Stormwater runoff must not cause downstream flooding and must have minimal environmental impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake and waterway or the like.</p> <p>The stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.</p>
Parks, reserves, beaches, foreshore	<p>Supported, no additional conditions required.</p> <p>Parks, Reserves and Foreshores raise no concerns.</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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1090239S_07 dated 9 April 2025).

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 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock
 - ii) platform for members of the public, including persons with a disability,

- iii) overshadowing, wind funnelling and the loss of views from public places to
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
- b) is satisfied that:
- i) the development is designed, sited and will be managed to avoid an adverse
 - ii) impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment

The proposed modifications will not result in adverse impact to paragraph (a) above.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (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	7.135m	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

Clause	Compliance with Requirements
7.2 Earthworks	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone C4 Environmental Living

The proposed modifications will not result in a greater environmental impact and it is considered that the proposal will maintain consistency with the outcomes of the C4 Environmental Living zone.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front Building Line	6.5m <i>North Boundary</i>	1.225m	Front Setbacks unaltered under the Modification	No (As Previously Approved)
Rear Building Line	6.5m <i>South Boundary</i>	1.0m - 4.1m	Unaltered	No (As Previously Approved)
Side Building Line	2.5m <i>West Boundary</i>	Bathroom - 1.6m Entry - 4.2m	Bathroom - Unaltered Entry: Unaltered* All other works under this Modification comply.	No (As Previously Approved) Yes
	1.0m <i>East Boundary</i>	1.0m	Unaltered	Yes
Building Envelope	3.5m <i>West Envelope</i>	Within Envelope	Envelope unaltered under this Modification	Yes
	3.5m <i>East Envelope</i>	Within Envelope	Envelope unaltered under this Modification	Yes
Landscaped Area	60.0%	37.7 % 302.2sqm	Approved under DA2023/0904 44.75% - (358.34m ²) Approved under Mod2021/0979 37.7% - (302.2m ²)	No (As Previously Approved)

*A lift and passageway was approved under DA2023/0904, that attaches to main entry.

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

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land	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
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
C1.25 Plant, Equipment Boxes and Lift Over-Run	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	No	Yes
D12.6 Side and rear building line	No	Yes
D12.8 Building envelope	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.5 Visual Privacy

The privacy levels as assessed under the previous related applications will not be reduced under this application but rather increased by the addition privacy/shade screens.

D12.5 Front building line

No alteration to the setbacks such as an increase in non-compliance will occur under this application. No further discussion is required.

D12.6 Side and rear building line

No alteration to the setbacks such as an increase in non-compliance will occur under this application. No further discussion is required.

D12.10 Landscaped Area - Environmentally Sensitive Land

The landscaping as previously approved and noted in the Built Form Table will not be altered under this Modification Application.

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 2024

Section 7.12 contributions were levied on the Development Application.

FIRE ZONE

The subject site is not located on land classified as Bushfire Prone.

The application is accompanied by a Bushfire Risk Assessment (Reference: 1468) dated 1 December 2024. the Assessment states that the following:

The revised [2020] BFPL map has been upgraded. The hazard to the north and north-east of the subject site has been downgraded from a category 1 hazard to a category 2 hazard and, as a result of the reduced risk to surrounding properties, the buffer zone has been reduced from 100m to 30m. This change excludes the subject site from the legislative requirements of building and development on Bushfire Prone Land.

The category of bushfire attack for the site is 'low' and in accordance with the legislative requirements for building and development on bushfire prone land there are no specific construction requirements recommended.

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. Mod2025/0197 for Modification of Development Consent DA2020/0335 granted for Construction of a new dwelling and swimming pool. on land at Lot 346 DP 16362,7 Rock Bath Road, PALM BEACH, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
Mod2025/0197 PAN - 521085	The date of this notice of determination.	<p>Modification of Development Consent DA2020/0335 granted for the construction of a new dwelling and swimming pool.</p> <p>A. Add Condition No.1B - Modification of Consent - Approved Plans and supporting documentation.</p> <p>B. Modify Condition No. 2 Compliance with Other Department, Authority or Service Requirements.</p> <p>C. Modify Condition No. 10 Stormwater overland flowpath</p> <p>D. Add Condition No. 16A No Clearing of Vegetation</p> <p>E. Add Condition No. 23A Wildlife Protection</p> <p>F. Add Condition No. 23B Protection of Habitat Features</p> <p>G. Modify Condition No. 24 Landscape works completion</p> <p>H. Modify Condition No. 27 Certification of Stormwater</p>

		<p>Overland Flowpath</p> <p>I. Add Condition No. 28A No Weeds Imported On To The Site</p> <p>J. Add Condition No. 28B Installation and certification of solid/fuel burning heater</p> <p>K. Add Condition No. 28C Installation of solid/fuel burning heaters</p> <p>L. Add Condition No. 30 Operation of solid fuel burning heaters</p> <p>M. Add Condition No. 31 Maintenance of solid fuel heaters</p>
Mod2021/0979 PAN - 178399	18 February 2022	<p>Modification of Development Consent DA2020/0335 granted for the construction of a new dwelling and swimming pool.</p> <p>A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation.</p> <p>B. Modify Condition 10 (Stormwater overland flowpath)</p> <p>C. Modify Condition 27 Certification of Stormwater overland flowpath</p>
Mod2021/0149 PAN - 79665	4 May 2021	<p>Modification of Development Consent DA2020/0335 granted for the construction of a new dwelling and swimming pool.</p> <p>A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation</p>

MODIFIED CONDITIONS

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

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA MOD 0100	Issue 6/F	Site Plan	PATTEN DESIGN Pty Ltd	11 February 2025
DA MOD 1100	Issue 6/F	Garage Level Floor Plan	PATTEN DESIGN Pty Ltd	11 February 2025
DA MOD 1101	Issue 6/F	Ground Floor Plan Part A	PATTEN DESIGN Pty Ltd	11 February 2025
DA MOD.1101.1	Issue 6/F	Ground Floor Plan Part B	PATTEN DESIGN Pty Ltd	6 November 2024
DA.MOD.1102	Issue 6/F	Level One Plan	PATTEN DESIGN Pty Ltd	14 February 2025
DA MOD.1103	Issue 6/F	Roof Plan	PATTEN DESIGN Pty Ltd	14 February 2025
DA MOD 2001	Issue 7/G	North Elevation	PATTEN DESIGN Pty Ltd	21 February 2025
DA MOD 2002	Issue 7/G	East Elevation	PATTEN DESIGN Pty Ltd	25 February 2025

DA MOD 2003	Issue 6/F	South Elevation	PATTEN DESIGN Pty Ltd	7 November 2024
DA MOD 2004	Issue 7/G	West Elevation	PATTEN DESIGN Pty Ltd	25 February 2025
MOD DA 3001	Issue 7/G	Section A	PATTEN DESIGN Pty Ltd	25 February 2025
CD.3002	Issue 6/F	Section B	PATTEN DESIGN Pty Ltd	25 February 2025
DA.MOD.3003	Issue 7/G	Section C	PATTEN DESIGN Pty Ltd	26 February 2025

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate No. 1090239S_07	-	Gradwell Consulting	9 April 2025
Bushfire Risk Assessment Reference: 1468	-	Planning for Bushfire Protection Pty Ltd	1 December 2024
Waste Management Plan	-	Patten Design Pty Ltd	3 April 2025

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

B. Modify Condition No. 2 Compliance with Other Department, Authority or Service Requirements to read as follows:

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Referral - Ausgrid	12 May 2025
Ausgrid	Response Ausgrid Referral	7 May 2020

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

C. Modify Condition No. 10 Stormwater overland flowpath to read as follows:

Engineering Plans in accordance with the report and engineering drawings prepared by Triaxial

Consulting dated 26/06/2023 for the provision of a stormwater management system and flood protection measures to manage the overland flow through the site.

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

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

D. Add Condition No. 16A No Clearing of Vegetation to read as follows:

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

E. Add Condition No. 23A Wildlife Protection to read as follows:

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife

F. Add Condition No. 23B Protection of Habitat Features to read as follows:

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

G. Modify Condition No. 24 Landscape works completion to read as follows:

a) Landscape works are to be implemented in accordance with the approved Landscape Plan(s), and inclusive of the following conditions:

- i) landscape works are to be contained within the legal property boundaries,
- ii) planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
- iii) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of AS2303 – Tree Stock for Landscape Use; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and located either within garden bed or within a prepared bed within lawn,
- iv) mass planting shall be installed in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- v) the road reserve landscape treatment shall consist of grass turfing only, with no planting beyond the property boundary,
- vi) all planting in front of the lower retaining wall near the front boundary shall consist of planting capable of attaining at least 1 metre in height at maturity,
- vii) all planting above the lower retaining wall near the front boundary shall consist of planting capable of attaining at least 1 metre in height at maturity,

- viii) all planting along the swimming pool edge wall shall consist of planting capable of attaining at least 1 metre in height at maturity,
- ix) the nominated Cheese Tree planting shall be planted individually into natural ground, and each tree shall be separated by at least 3 metres,
- x) where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone.

b) Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

H. Modify Condition No. 27 Certification of Stormwater Overland Flowpath to read as follows:

A suitably qualified Civil Engineer shall certify that the stormwater management system and flood protection measures to manage the overland flow through the site are completed and have been constructed in accordance with this consent and the approved Construction Certificate plans.

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

Reason: To ensure compliance of drainage works with Council 's specification for engineering works.

I. Add Condition No. 28A No Weeds Imported On To The Site to read as follows:

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

J. Add Condition No. 28B Installation and certification of solid/fuel burning heater to read as follows:

The solid fuel heater must be certified to comply with Australian Standards 4012 and 4013.

Provide to the Principal Certifier certification that the solid fuel heater has been installed by an appropriately experienced and qualified person, in accordance with the relevant provisions of AS2918 – Domestic Solid Fuel Burning Appliances – Installation.

Reason: To ensure the installation is completed in a legislatively compliant manner.

K. Add Condition No. 28C Installation of solid/fuel burning heaters to read as follows:

Installation work must be carried out by an appropriately experienced and qualified person and in accordance with the relevant provisions of AS2918 – Domestic Solid Fuel Burning Appliances – Installation

Reason: To ensure the installation is completed in a legislatively compliant manner.

L. Add Condition No. 30 Operation of solid fuel burning heaters to read as follows:

The owner/operator must take all practicable measures to prevent the likelihood of causing smoke and/or odour nuisances. Such measures must include:

- Using dry seasoned hardwood
- Storing wood in a dry well-ventilated place
- Having a hot and well oxygenated fire
- Ensuring that the chimney flue is clean
- Checking the chimney at different stages of the fire to see if there is any smoke
- Maintenance according to the manufacturer's specifications

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

M. Add Condition No. 31 Maintenance of solid fuel heaters to read as follows:

The owner/occupier shall ensure servicing of the heater is maintained according to the manufacturer's specifications.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

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

Signed



Brittany Harrison, Planner

The application is determined on 25/06/2025, under the delegated authority of:



Adam Richardson, Manager Development Assessments