

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

|                            |              |
|----------------------------|--------------|
| <b>Application Number:</b> | Mod2024/0037 |
|----------------------------|--------------|

|                                           |                                                                                                                                             |
|-------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Responsible Officer:</b>               | Olivia Ramage                                                                                                                               |
| <b>Land to be developed (Address):</b>    | Lot 53 DP 774017, 4 C Minkara Road BAYVIEW NSW 2104                                                                                         |
| <b>Proposed Development:</b>              | Modification of Development Consent DA2023/0900 granted for Alterations and additions to a dual occupancy including two garages and a pool. |
| <b>Zoning:</b>                            | RU2 Rural Landscape                                                                                                                         |
| <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>                             | Nina Claire Reynolds                                                                                                                        |
| <b>Applicant:</b>                         | The Trustee For Varley Family Trust                                                                                                         |

|                                  |                                  |
|----------------------------------|----------------------------------|
| <b>Application Lodged:</b>       | 15/02/2024                       |
| <b>Integrated Development:</b>   | No                               |
| <b>Designated Development:</b>   | No                               |
| <b>State Reporting Category:</b> | Refer to Development Application |
| <b>Notified:</b>                 | 22/02/2024 to 07/03/2024         |
| <b>Advertised:</b>               | Not Advertised                   |
| <b>Submissions Received:</b>     | 0                                |
| <b>Clause 4.6 Variation:</b>     | Nil                              |
| <b>Recommendation:</b>           | Approval                         |

### PROPOSED DEVELOPMENT IN DETAIL

The modification proposes the following changes to the approved development:

- Move the swimming pool 1.8m to the north-east.
- Increase the coping on the south-western side of the pool by 1.8m.
- Delete the path between the rear deck and pool.

### 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 21 Development Control Plan - D6.6 Side and rear building line

Pittwater 21 Development Control Plan - D6.8 Landscaped Area - Non Urban General

## SITE DESCRIPTION

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Property Description:</b>      | Lot 53 DP 774017 , 4 C Minkara Road BAYVIEW NSW 2104                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Detailed Site Description:</b> | <p>The subject site consists of one (1) allotment located on the eastern side of Minkara Road.</p> <p>The site is irregular in shape with a frontage of 62.155m along Minkara Road and a surveyed area of 7612.2m<sup>2</sup>.</p> <p>The site is located within the RU2 Rural Landscape Zone under the PLEP 2014. The site is currently occupied by a two storey dual occupancy development and a swimming pool in the rear yard. A detached outbuilding exists on the site which currently has consent for the use as a veterinary clinic.</p> <p>The site slopes down towards the south.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by low density residential development of varying sizes and styles.</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:

- **DA0527/90** - Development Application for Dual Occupancy Attached. Approved 25 January 1991.
- **N0245/00** - Development Application for Additions to existing dual occupancy. Approved 27 June 2000.
- **N1104/00** - Development Application for On-site wastewater treatment system. Approved 18 April 2001.
- **N0072/14** - Development Application for Alterations and additions to an existing dual occupancy, demolition and construction of an existing dual occupancy and the construction of a veterinary clinic. Approved 5 February 2015.
- **N0072/14/s96/1** - Modification to consent N0072/14 for Alterations and additions to an existing dual occupancy, demolition and construction of an existing dual occupancy and the construction of a veterinary clinic. Approved 30 June 2015.
- **N0072/14/s96/2** - Modification to consent N0072/14 for alterations and additions to an existing dual occupancy, demolition and construction of an existing dual occupancy and the construction of a veterinary clinic. Approved 29 June 2017.
- **N0072/14/s96/3** - Modification to consent N0072/14 for alterations and additions to an existing dual occupancy, demolition and construction of an existing dual occupancy and the construction of a veterinary clinic. Approved 30 November 2017.
- **Mod2018/0372** - Modification of Development Consent N0072/14 granted for the alterations and additions to an existing dual occupancy, demolition and construction of an existing dual occupancy and the construction of a veterinary clinic. Approved 15 November 2018.
- **Mod2019/0582** - Modification of Development Consent N0072/14 granted for the alterations and additions to an existing dual occupancy, demolition and construction of an existing dual occupancy and the construction of a veterinary clinic. Withdrawn on the 13 January 2020.
- **Mod2021/0373** - Modification of Development Consent N0072/14 granted for alterations and additions to an existing dual occupancy, demolition and construction of an existing dual

occupancy and the construction of a veterinary clinic. Approved 19 July 2021.

- **DA2023/0900** - Development Application for Alterations and additions to a dual occupancy including two garages and a pool. Approved 15 September 2023.

## 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 DA2023/0900, 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 DA2023/0900 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposal remains for alterations and additions to a dual occupancy including two garages and a pool.</li> <li>• The built form of the development remains the same.</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                      | Development Application DA2023/0900 did not require concurrence from the relevant Minister, public authority or approval body.                                                                                                                                                                                                                                                                                                                                                 |

| Section 4.55 (2) - Other Modifications                                                                                                                                                                                                                                                                                                                                            | Comments                                                                                                                                                                                                                         |
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| terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and                                                                                                                                                                            |                                                                                                                                                                                                                                  |
| (c) it has notified the application in accordance with:<br><br>(i) the regulations, if the regulations so require,<br><br>or<br><br>(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 4.55 (2) 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 'Matters for Consideration'                                                                                                                                           | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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 of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;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&amp;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&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</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 of 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 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) <b>Environmental Impact</b><br/>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b><br/>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><br/>The proposed development will not have a detrimental economic</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

| Section 4.15 'Matters for Consideration'                                               | Comments                                                                                                            |
|----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
|                                                                                        | impact on the locality considering the nature of the existing and proposed land use.                                |
| Section 4.15 (1) (c) – the suitability of the site for the development                 | The site is considered suitable for the proposed development.                                                       |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report.                                             |
| Section 4.15 (1) (e) – the public interest                                             | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the development application that included a certificate (prepared by Andrew Muirhead, dated 21 June 2023) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent. The applicant has provided an addendum with this modification stating that the recommendations within the previous Bushfire Assessment Report remain valid for the proposed modification.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 22/02/2024 to 07/03/2024 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<br>(Unsewered Lands) | <p><b>General Comments</b></p> <p>This application is seeking consent for modifications to approved DA2023/0900. One of the modifications includes slight adjustment location of the pool. A review of the Wastewater Report and proposed location of land application areas for wastewater, identifies that the relocation of the pool will not impact on the approved wastewater</p> |

| Internal Referral Body           | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                  | <p>system.</p> <p>Environmental Health recommends approval subject to wastewater conditions from DA2023/0900 remaining applicable.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Landscape Officer                | <p>The application is for modification to development consent DA2023/0900 including the reconfiguration of the pool paving and the removal of a pathway.</p> <p>Arboricultural information is submitted noting that the proposed pool, associated pathway for demolition and the amended pool paving is not located within the Tree Protection Zone of any retained tree and will not affect the existing recommendations in the Impact Assessment report approved under the development consent.</p> <p>Updated Landscape Plans prepared by Serenescapes and submitted as revision D reflect the proposed modifications, and no concerns are raised. All landscape conditions remain unaltered.</p>                            |
| NECC (Bushland and Biodiversity) | <p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> <li>• Biodiversity Conservation Act 2016 (BC Act)</li> <li>• Biodiversity Conservation Regulation 2017 (BC Reg)</li> <li>• Pittwater LEP 2014 cl. 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP cl. B4.18 Heathland/Woodland Vegetation</li> </ul> <p>The proposed modifications would not alter the recommendations and conditions of the original application (DA2023/0900). No additional removal of vegetation or impact to trees is being proposed.</p> <p>The development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p> |
| NECC (Development Engineering)   | <p>I have reviewed the Statement of Modification and amended Architectural plans and have no objections to the proposed development subject to the retention of the existing engineering conditions of consent.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| NECC (Flooding)                  | <p>The proposal is for modifications to DA2023/0900. The works include changing the location of the pool and landscaping works.</p> <p>The works are outside the Medium Risk Flood Precinct. As such, there are no flood related development controls.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

| External Referral Body                              | Comments                                                                                                                                                                                                                                                          |
|-----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Rural Fire Service - Local Branch - EP&A Act, s4.14 | <p>The proposal was referred to the NSW Rural Fire Service for concurrence who provided a response stating that the proposal is acceptable subject to compliance with their recommendations. These recommendations are included in the conditions of consent.</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 (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        | 9.088m   | Unaltered | N/A         | No (As approved) |

#### Compliance Assessment

| Clause                                                   | Compliance with Requirements |
|----------------------------------------------------------|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments | Yes                          |
| 4.3 Height of buildings                                  | Yes                          |
| 5.21 Flood planning                                      | Yes                          |
| 7.1 Acid sulfate soils                                   | Yes                          |
| 7.2 Earthworks                                           | Yes                          |

| Clause                      | Compliance with Requirements |
|-----------------------------|------------------------------|
| 7.6 Biodiversity protection | Yes                          |
| 7.10 Essential services     | Yes                          |

## Pittwater 21 Development Control Plan

### Built Form Controls

| Built Form Control  | Requirement                                                              | Approved                       | Proposed                       | Complies                |
|---------------------|--------------------------------------------------------------------------|--------------------------------|--------------------------------|-------------------------|
| Front building line | 20m                                                                      | 66m                            | Unaltered                      | Yes                     |
| Rear building line  | 7.5m                                                                     | Pool: 31.4m<br>Dwelling: 45.5m | Pool: 30.5m<br>Unaltered       | Yes<br>Yes              |
| Side building line  | North - 7.5m                                                             | 13.8m                          | Unaltered                      | Yes                     |
|                     | South - 7.5m                                                             | Pool: 4.5m<br>Dwelling: 10.9m  | Unaltered<br>Unaltered         | No (As approved)<br>Yes |
| Building envelope   | North - 3.5m                                                             | Within Envelope                | Within Envelope                | Yes                     |
|                     | South - 3.5m                                                             | Within Envelope                | Within Envelope                | Yes                     |
| Landscaped area     | 96% of total site area minus 400m <sup>2</sup> (6907.712m <sup>2</sup> ) | 6449.13m <sup>2</sup> (84.72%) | 6445.47m <sup>2</sup> (84.67%) | <b>No</b>               |

### Compliance Assessment

| Clause                                                       | Compliance with Requirements | Consistency Aims/Objectives |
|--------------------------------------------------------------|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted                | Yes                          | Yes                         |
| A4.6 Ingleside Locality                                      | Yes                          | Yes                         |
| B1.3 Heritage Conservation - General                         | Yes                          | Yes                         |
| B1.4 Aboriginal Heritage Significance                        | Yes                          | Yes                         |
| B3.2 Bushfire Hazard                                         | Yes                          | Yes                         |
| B3.6 Contaminated Land and Potentially Contaminated Land     | Yes                          | Yes                         |
| B3.11 Flood Prone Land                                       | Yes                          | Yes                         |
| B4.18 Heathland/Woodland Vegetation                          | Yes                          | Yes                         |
| B5.15 Stormwater                                             | 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                         |

| Clause                                                              | Compliance with Requirements | Consistency Aims/Objectives |
|---------------------------------------------------------------------|------------------------------|-----------------------------|
| 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                         |
| C1.8 Dual Occupancy Specific Controls                               | 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                         |
| D6.1 Character as viewed from a public place                        | Yes                          | Yes                         |
| D6.3 Building colours and materials                                 | Yes                          | Yes                         |
| D6.5 Front building line                                            | Yes                          | Yes                         |
| D6.6 Side and rear building line                                    | No                           | Yes                         |
| D6.7 Building envelope                                              | Yes                          | Yes                         |
| D6.8 Landscaped Area - Non Urban General                            | No                           | Yes                         |
| D6.12 Construction, Retaining walls, terracing and undercroft areas | Yes                          | Yes                         |

#### Detailed Assessment

#### **D6.6 Side and rear building line**

No changes are proposed to the previously approved side and rear building lines.

#### **D6.8 Landscaped Area - Non Urban General**

##### Description of non-compliance

This control requires a minimum landscaped area of 96% minus 400m<sup>2</sup> which for this site, equates to 6907.712m<sup>2</sup> for the site area of 7612.2m<sup>2</sup>. The proposal provides 6445.47m<sup>2</sup> which does not comply with the control.

This is a minor reduction from the previously approved development which provided 6449.13m<sup>2</sup>. However, it is noted that there is an existing non-compliance with this control as the site currently stands providing 6444.55m<sup>2</sup>, whereby the proposal increases the overall quantum of landscaped area from existing.

##### Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying

outcomes of the control as follows:

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

Comment:

The proposal maintains the low density rural residential form of the area and therefore achieves the desired future character of the Locality.

- *To enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment.*

Comment:

The proposed development provides generous front, side and rear setbacks ensuring the development remains an appropriate size and scale. The proposed modification do not alter the height of the approved development which is compatible with surrounding development. As such, the proposal does not impact on the existing streetscape and the development is of a scale and density that is compatible with the height of the natural environment.

- *To ensure that development does not unreasonably diminish sunlight to neighbouring properties and within the development site.*

Comment:

The proposed development maintains ample spatial separation to neighbouring properties and provides a compliant level of solar access to neighbouring properties.

- *To preserve and enhance vegetation to visually reduce the built form.*

Comment:

The site contains substantial landscaping, trees and vegetation which will be largely retained. The dense vegetation and trees at the front of the site adequately visually reduce the built form.

- *To minimise the impact of development on Pittwater's biodiversity by minimising the removal of indigenous vegetation and naturally occurring soils, conserving existing significant indigenous and native trees, and encouraging planting of indigenous and native plants and trees on private property.*

Comment:

Council's Bushland and Biodiversity Officer has reviewed the proposal and deemed it acceptable. The proposal does not require the removal of indigenous or significant vegetation and is considered to have minimal impact on Pittwater's biodiversity.

- *To conserve significant natural features of the site and contribute to effective management of biodiversity*

Comment:

The proposal maintains substantial landscaped area at the front and rear of the site which maintains the natural features and values of the site. The proposal is not considered to impact on biodiversity.

- *To provide for infiltration of water to the water table, minimise stormwater runoff and assist with stormwater management to reduce and prevent soil erosion and the siltation of natural*

*drainage channels.*

Comment:

The proposal has been reviewed by Council's Development Engineer with regards to stormwater deeming it acceptable subject to the recommended conditions.

- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*

Comment:

The proposal maintains ample soft surface throughout the site which assists with stormwater management.

- *To preserve and enhance the rural and bushland character of the non-urban area of the locality.*

Comment:

The proposal maintains the rural and bushland character of the area by providing a low density residential dwelling surrounded by trees and vegetation.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 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. Mod2024/0037 for Modification of Development Consent DA2023/0900 granted for Alterations and additions to a dual occupancy including two garages and a pool. on land at Lot 53 DP 774017,4 C Minkara Road, BAYVIEW, subject to the conditions printed below:

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

| Application Number         | Determination Date                       | Modification description                                                                                                                                                                                                                                                                                                                      |
|----------------------------|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PAN-404794<br>Mod2024/0037 | The date of this notice of determination | Modification of Development Consent DA2023/0900 granted for alterations and additions to a dual occupancy including two garages and a pool.<br><br>Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation<br>Modify Condition No.2 - Compliance with Other Department, Authority or Service Requirements |

## Modified conditions

**A. Add Condition No.1A - 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.

| <b>Approved Plans</b> |                        |                              |                   |                     |
|-----------------------|------------------------|------------------------------|-------------------|---------------------|
| <b>Plan Number</b>    | <b>Revision Number</b> | <b>Plan Title</b>            | <b>Drawn By</b>   | <b>Date of Plan</b> |
| DA05                  | C                      | Site - Waste - Sediment Plan | Progressive Plans | 21 February 2024    |
| DA07                  | C                      | Proposed Ground Floor Plan   | Progressive Plans | 21 February 2024    |
| DA09                  | C                      | Proposed First Floor Plan    | Progressive Plans | 21 February 2024    |
| DA16                  | C                      | Elevations - North & South   | Progressive Plans | 21 February 2024    |
| DA17                  | C                      | Elevations - East & West     | Progressive Plans | 21 February 2024    |
| DA18                  | C                      | Sections - A & B             | Progressive Plans | 21 February 2024    |
| DA19                  | C                      | Sections - C & D             | Progressive Plans | 21 February 2024    |
| DA20                  | C                      | Pool Plans                   | Progressive Plans | 21 February 2024    |
| DA21                  | C                      | Pool Sections                | Progressive Plans | 21 February 2024    |

| <b>Approved Reports and Documentation</b>       |                       |                                           |                         |
|-------------------------------------------------|-----------------------|-------------------------------------------|-------------------------|
| <b>Document Title</b>                           | <b>Version Number</b> | <b>Prepared By</b>                        | <b>Date of Document</b> |
| Provision of Updated Bushfire Assessment Report | 240678                | Building Code & Bushfire Hazard Solutions | 29 January 2024         |
| Arborist Letter                                 | -                     | Hugh The Arborist                         | 29 January 2024         |

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                                | Ausgrid Referral Response | Undated      |
| NSW Rural Fire Service                 | RFS Referral Response     | 4 March 2024 |

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

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

**Signed**

**Olivia Ramage, Planner**

The application is determined on 11/03/2024, under the delegated authority of:



**Adam Richardson, Manager Development Assessments**