

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2025/0063
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Responsible Officer:	Anaiis Sarkissian
Land to be developed (Address):	Lot 122 DP 8394, 89 Marine Parade AVALON BEACH NSW 2107
Proposed Development:	Modification of Development Consent DA2023/1780 granted for Demolition works and construction of a dwelling house including 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:	Annabelle Chapman Architect Pty Ltd

Application Lodged:	07/03/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	05/03/2025 to 19/03/2025
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

This modification application proposes the following changes to the approved development:

- Entry staircase realigned – moved south by approximately 300mm
- Revised skylight sizes and locations
- Minor re-pitching of the roof over the dining room area, resulting in a slight increase in the short east-west portion of the roof over the dining area which will raise from RL 43.26 to RL 43.49 (+230mm)
- Minor internal reconfigurations
- New vehicle turntable within basement
- Window and external door changes
- Garden terrace roof moved west to align with western eaves line

- New rear balcony to laundry, with 1.8m privacy screen
- Eastern wall of outdoor equipment storage room moved east by 1090mm

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 Local Environmental Plan 2014 - 7.8 Limited development on foreshore area
Pittwater 21 Development Control Plan - C1.5 Visual Privacy

SITE DESCRIPTION

Property Description:	Lot 122 DP 8394 , 89 Marine Parade AVALON BEACH NSW 2107
Detailed Site Description:	The subject site consists of one (1) allotment located on the eastern side of Marine Parade and adjoins a cliff face to the east. The site is regular in shape with a frontage of 18.31m along Marine Parade and an average depth of 56m. The site has a surveyed area of 1,034m². The site is located within the C4 Environmental Living zone and accommodates vacant land as, at the time of writing this report, the approved new dwelling house is under construction. The site is identified as being exposed to Bluff Management Hazard. The site is located within the H1 (highest category)

landslip hazard zone as identified within Northern Beaches Councils precinct (Geotechnical Risk Management Policy for Pittwater – 2009).

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by residential development, typically dwelling houses.

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:

N0467/10

Development Application for alterations and additions to existing dwelling.
Approved 21 October 2010

CC0348/11

Construction Certificate (2011/4473) issued for alterations and additions to existing dwelling.
Approved 19 September 2011

DA2023/1780

Development Application for demolition works and construction of a dwelling house including swimming pool.
Approved 2 July 2024

MOD2024/0436

Section 4.55(1) Modification of Development Consent DA2023/1780 granted for demolition works and construction of a dwelling house including swimming pool.
Approved 15 August 2024

CC2024/1011

Construction Certificate (CC2024-171) issued for demolition works and construction of a dwelling house including swimming pool.

Approved 11 September 2024

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 DA2023/1780, 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: • Subject to compliance with conditions, the proposed modifications will have no additional impact on the natural environment nor hazards which affect the site. • The proposed modifications will not result in any unreasonable additional impact on surrounding properties or the public domain, including any overshadowing and overlooking impacts. • The proposed modifications do not involve the removal of any additional trees on site.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same	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

Section 4.55(1A) - Other Modifications	Comments
development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	under DA2023/1780 for the following reasons: • The proposed modifications will maintain the form and function of the approved development. • The proposed modifications will not materially alter the external appearance of the building, including its bulk and scale. • The proposed modifications will not materially change the approved building footprint.
(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 '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)(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)	<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. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested on 4 March 2025 in relation to the foreshore building line and again on 10 April 2025 in relation to privacy screening and the courtyard extension. <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. <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 matter has been addressed via a condition of consent. <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.
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
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 'Matters for Consideration'	Comments
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 05/03/2025 to 19/03/2025 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 process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Paul Anthony Mosley	87 A Marine Parade AVALON BEACH NSW 2107
Mrs Leonie Dorothy Annesley	87 Marine Parade AVALON BEACH NSW 2107

The issues raised within the submissions are summarised and addressed as follows:

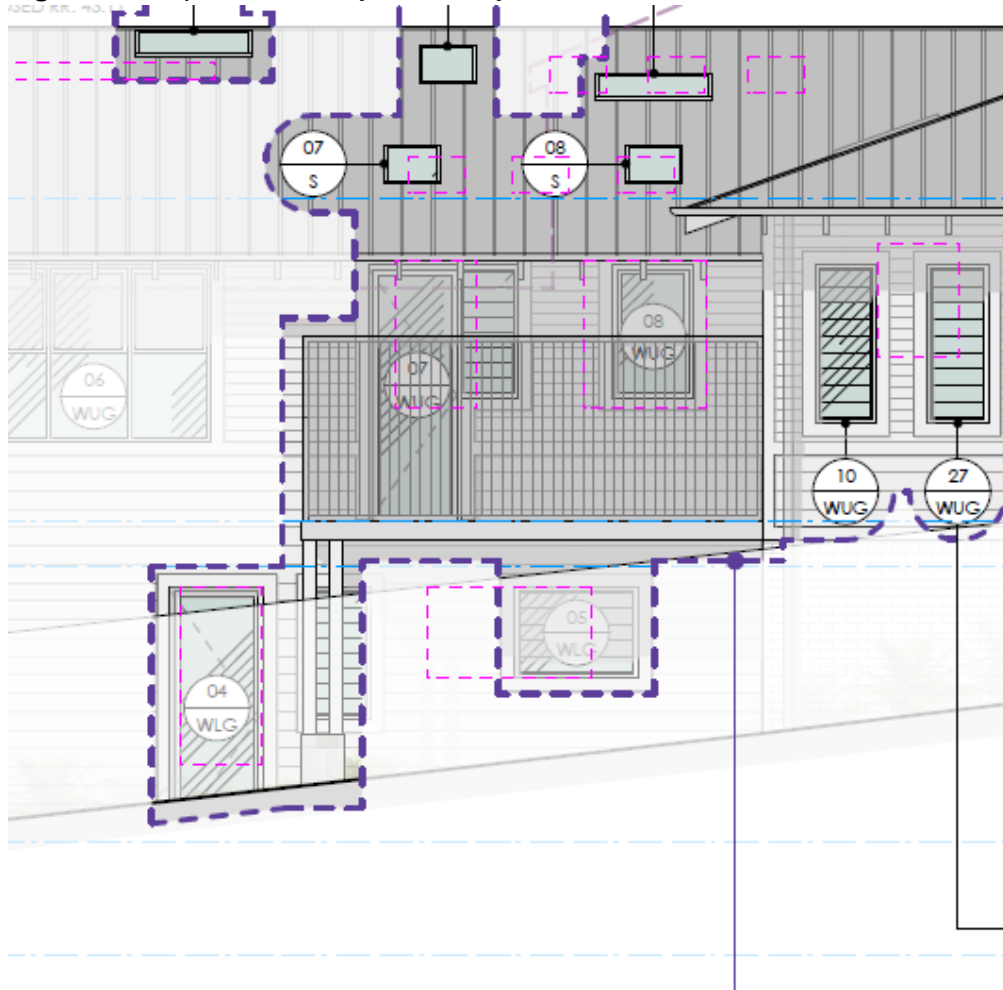
- **Visual privacy**

The submissions raised concerns over the addition of the balcony to the laundry at the upper ground floor in relation to direct overlooking to the private open space of 87 Marine Parade. The submissions requested that 1.8m privacy screening be incorporated to all sides of the balcony, and the windows to the southern elevation be frosted glass in addition to the proposed internal plantation shutters.

Comment:

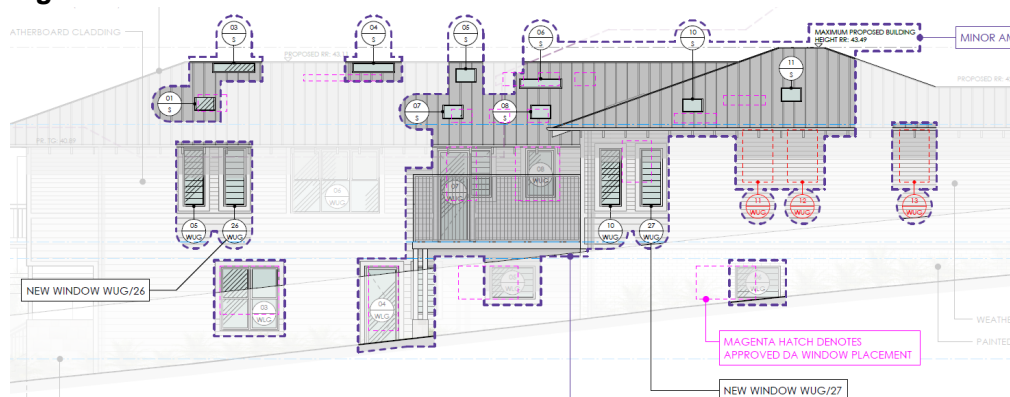
The proposed balcony off the laundry incorporates a 1.8m privacy screen along the southern elevation, thereby mitigating any overlooking towards the south (refer Figure 1). It is noted that the new balcony is also less than 1m in width and intended to be used for clothes drying and therefore would not be a high-use area. Given the principal private open space of 87 Marine Parade is situated at the northern portion of the property and extends west of the proposed dwelling and balcony, a condition has been included within this consent requiring the 1.8m privacy screening to extend along the western elevation of the balcony.

Figure 1: Proposed balcony to laundry



In relation to the windows at the southern elevation, windows WUG-11, WUG-12 and WUG-13 have been deleted from the proposal (refer Figure 2). Windows WUG-5, WUG-26, WUG-10 and WUG-27 are relatively small windows to bathrooms, and WUG-6 is to a bedroom, which are all low-use rooms. The bathroom windows are louvre style and the bedroom window incorporates frosted glass up to a height of 1.6m above the finished floor level (in accordance with Condition 13 of DA2023/1780), and therefore the portion of this window with clear glazing is above a height of 1.65m from the finished floor level. It is noted that in addition to these window treatments to mitigate privacy impacts, the bedroom and bathroom windows are intended to include internal plantation shutters, which will further mitigate potential privacy impacts.

Figure 2: Southern elevation



- **Extension into foreshore area**

The submissions raised concerns that the proposed vergola extension is not minor and increases the building footprint beyond the foreshore building line, setting a precedent and impacting adversely on visual amenity from public and private properties.

Comment:

Amended plans submitted on 15 April 2025 amend the vergola design such that it is consistent with that approved and therefore does not extend into the foreshore area (refer Figures 3 and 4).

Figure 3: Original modified vergola design

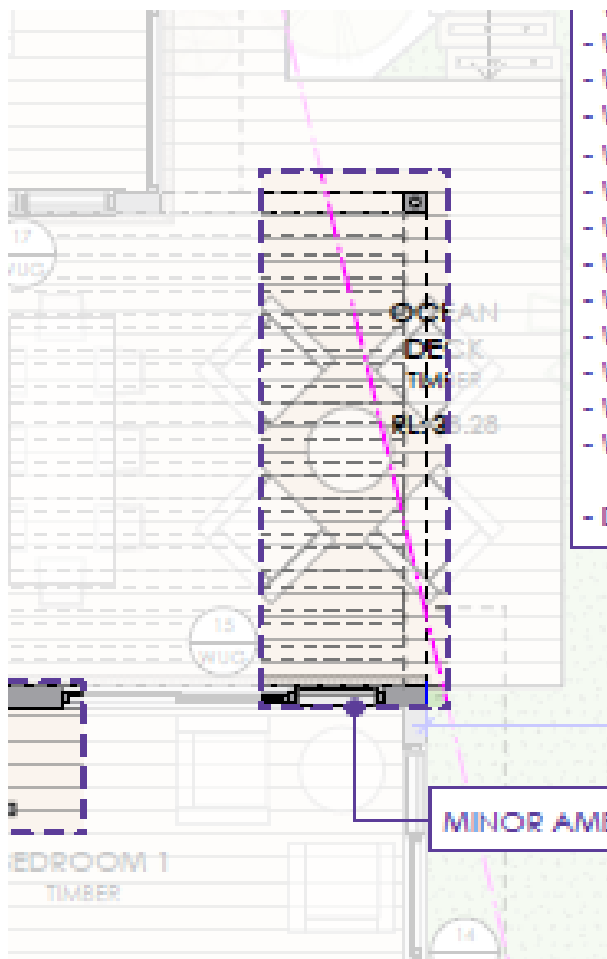


Figure 4: Amended vergola design (and as approved)

- **Change in roof ridge height**

The submissions raised concerns that the repitching of the roof over the dining room area from RL 43.26 to RL 43.49 increases the height of the dwelling along a section of the southern façade adjoining the north-facing garden at 87A Marine Parade. Concern is also raised over the approved southern edge of the roof stepping down from RL 41.34 to RL 40.89, and that the proposed change maintaining the edge of the roof at RL 41.34 will not fit within the required building envelope and result in increased overshadowing of the neighbouring garden during winter.

Comment:

The roof ridge height has increased by 230mm, with the increase in height limited to a small section of roof. The remainder of the roof height is maintained at RL 43.11 and RL 42.45, as evident in Figures 5-8 below. The change in roof pitch and form does not alter the building envelope, (nor the maximum building height) as the ceiling level has not changed and therefore the proposal as modified does not result in any additional encroachment of the building envelope to that approved. The changed roof also results in a negligible impact in relation to overshadowing in the morning, and no change in overshadowing to the approved plans at midday and in the afternoon (refer blue shading at Figures 9 and 10). Thus, 87A Marine Parade will continue to receive a reasonable level of solar access during winter.

Figure 5: Approved roof ridge at southern elevation

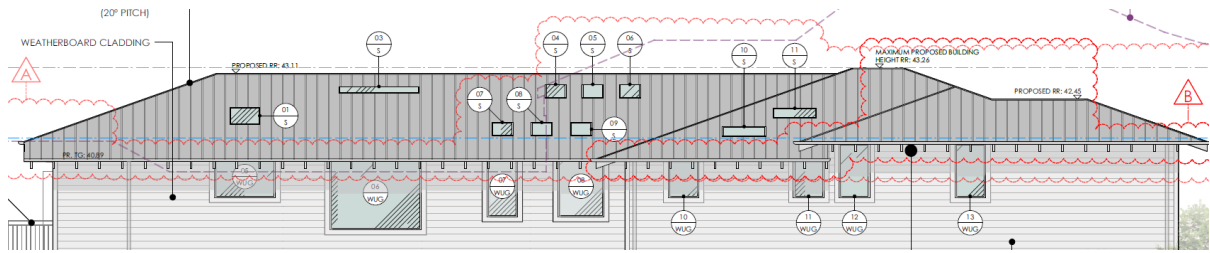


Figure 6: Proposed roof ridge at southern elevation

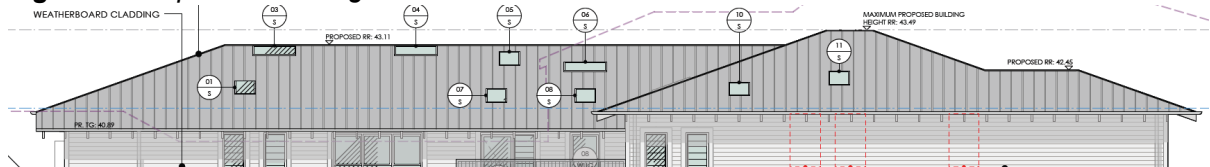


Figure 7: Approved roof plan

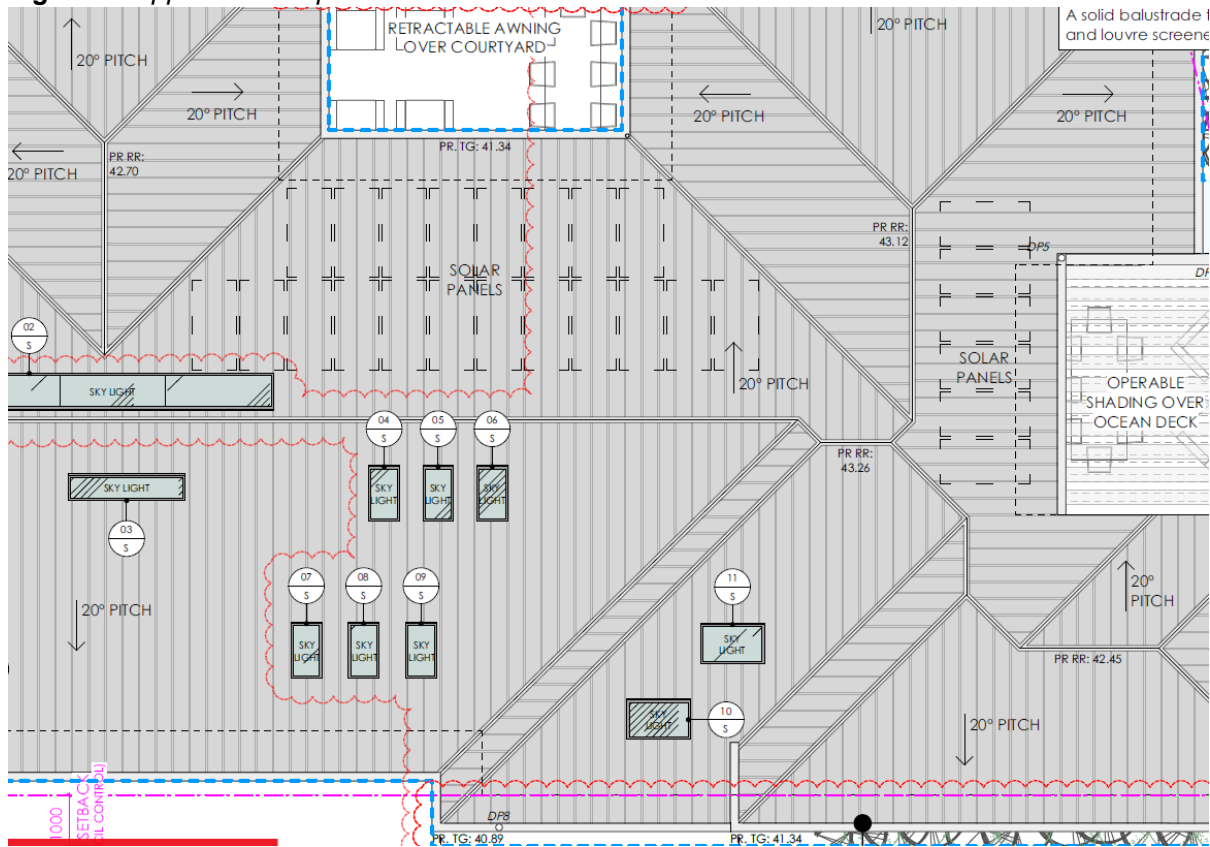


Figure 8: Proposed roof plan

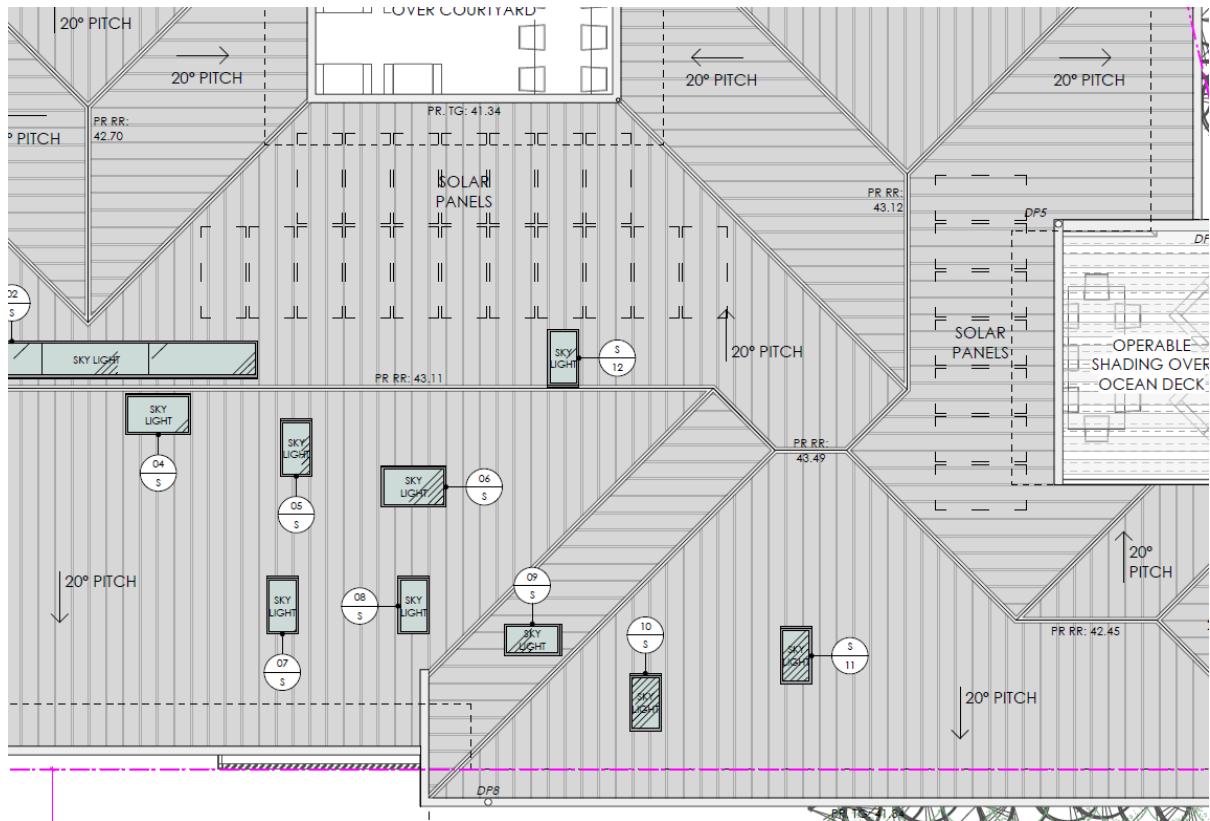


Figure 9: 9am shadow of approved development

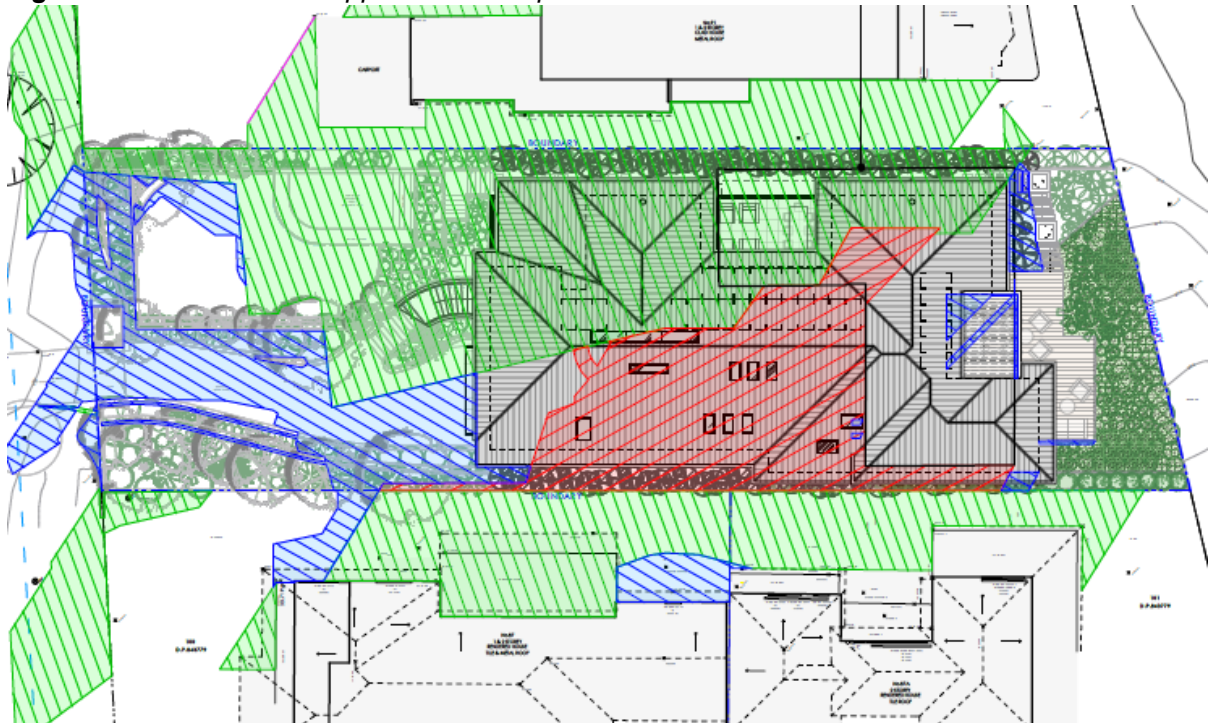
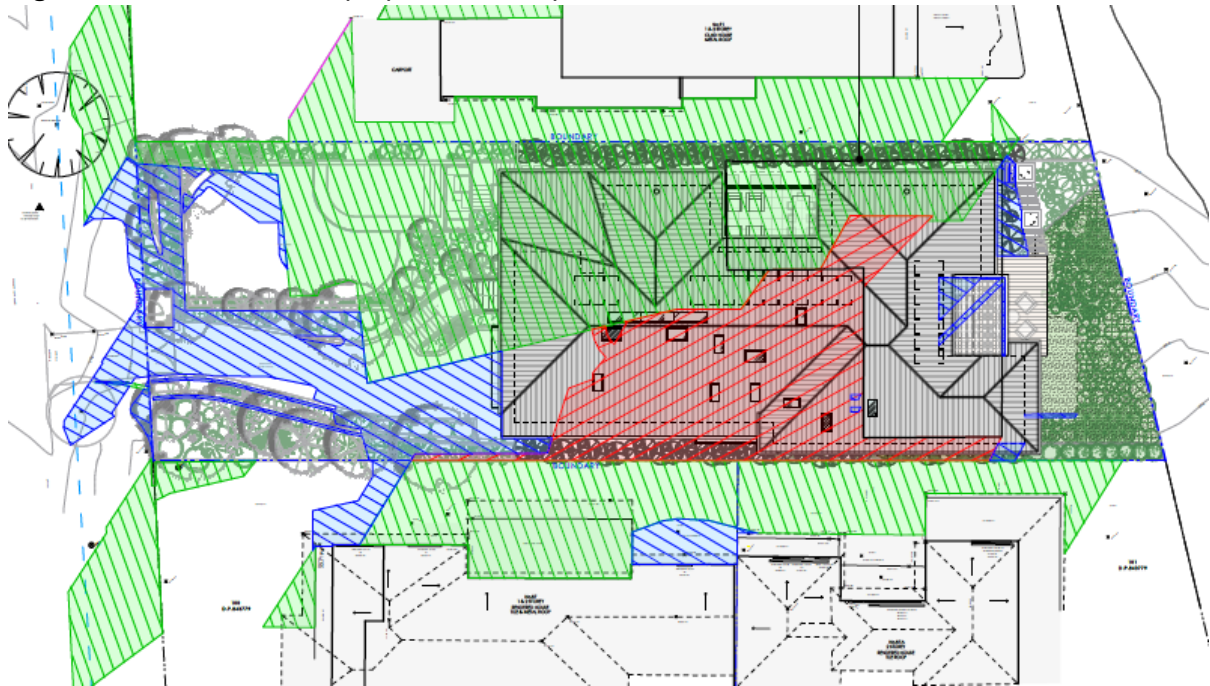


Figure 10: 9am shadow of proposed development as modified



REFERRALS

Internal Referral Body	Comments
Landscape Officer	The application is for modification to development consent DA2023/1780 as described in reports and as illustrated on plans. Following review Landscape Referral raise no concerns.
NECC (Bushland and Biodiversity)	The modifications do not increase impacts to biodiversity and as such there are no objections, subject to existing conditions.
NECC (Coast and Catchments)	This application proposes to modify DA2023/1780. The proposed changes to the approved design do not alter the coastal management matters assessed in the coastal referral for DA2023/1780. Therefore, no objections to approval and no changes to conditions of Consent DA2023/1780.
NECC (Development Engineering)	No objections to approval and no changes to conditions of Consent DA2023/1780.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

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. A1782378 dated 6 February 2025).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 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 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - f) Aboriginal cultural heritage, practices and places,
 - g) the use of the surf zone.

Comment:

The modified proposal is supported by a geotechnical assessment and a coastal engineering statement. This documentation demonstrates that the proposed development as modified is of acceptably low risk in relation to coastal damage, erosion and recession. As such, the modified proposal is not anticipated to result in adverse impact to the above matters.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The development has been designed and sited to ensure the provisions of subclause (1) are not adversely affected.

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
 - ii) adverse 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 dwelling and associated structures will continue to provide sufficient access to and along the foreshore, beach, headland or rock platform for all members of the public, while not impacting upon the visual amenity and scenic qualities of the coast, including coastal headlands. The environmental heritage, including Aboriginal heritage will not be affected.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The modified proposal is not anticipated to result in any increased risk of coastal hazards on the subject site and adjoining sites. The proposal as modified has been reviewed by Council's Coastal Officer, who is supportive of the application with no additional conditions of consent required.

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	Complies
Height of Buildings:	8.5m	8.5m	Unaltered	Yes

Compliance Assessment

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

Detailed Assessment

Zone C4 Environmental Living

The subject site is located in the C4 Environmental Living zone under *Pittwater Local Environmental Plan 2014*.

The proposed development has been assessed against the objectives of the zone as detailed below:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.***

Comment:

The proposed development as modified has been designed to consider the special ecological, scientific, and aesthetic values of the site.

- To ensure that residential development does not have an adverse effect on those values.***

Comment:

The proposed development as modified is not likely to have adverse effects on any special ecological, scientific, or aesthetic values.

- ***To provide for residential development of a low density and scale integrated with the landform and landscape.***

Comment:

The proposed development as modified continues to provide for residential development of a low density and scale.

- ***To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.***

Comment:

The proposed development as modified will not adversely impact upon riparian and foreshore vegetation, or wildlife corridors.

7.8 Limited development on foreshore area

Under Clause 7.8 Limited Development on Foreshore Area, development consent must not be granted for development on land in the foreshore area except for the following purposes:

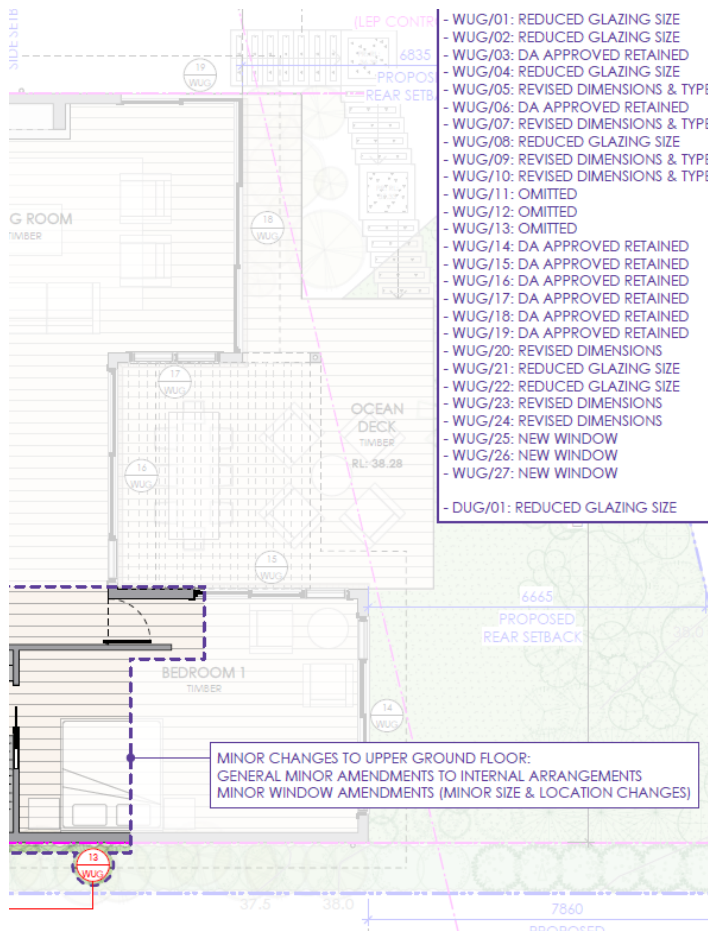
- *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
- *boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

Comment:

The proposed development is for modification of an approved dwelling house with decking and access stairs partly in the foreshore area; however, the modifications will not result in the footprint of the building extending further into the foreshore area, as evident in Figures 11 and 12 below. The foreshore building line is indicated in pink. It is noted that Condition 22 of DA2023/1780 required the deletion of a portion of the ocean deck and replacement with landscaped area. In this way, the proposal as modified is considered to result in a lesser protrusion into the foreshore area.

Figure 11: *Approved upper ground floor plan*

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Development consent must not be granted under this clause unless the consent authority is satisfied that:

- the development will contribute to achieving the objectives for the zone in which the land is located, and
- the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and
- the development will not cause environmental harm such as:
 - pollution or siltation of the waterway, or
 - an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or
 - an adverse effect on drainage patterns, or
 - the removal or disturbance of remnant riparian vegetation, and
- the development will not cause congestion or generate conflict between people using open space areas or the waterway, and
- opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and
- any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and
- in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and
- sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change have been considered.

Comment:

The proposed development is consistent with the objectives of the C4 Environmental Living zone. The appearance of the proposed development is compatible with the surrounding area. The proposed development will not cause environmental harm in relation to pollution, siltation, surrounding uses, marine habitat, wetland areas, flora or fauna habitats, drainage patterns or remnant riparian vegetation. The proposed development will not cause congestion or generate conflict between people using the adjacent open space or waterway. The proposed development retains public access along the foreshore. The proposed development will not result in adverse impacts to any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land. The proposed development will not have an adverse impact on the amenity or aesthetic appearance of the foreshore. The proposed development will not impact upon sea level rise, coastal erosion or recession, or change flooding patterns.

In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following:

- *continuous public access to and along the foreshore through or adjacent to the proposed development,*
- *public access to link with existing or proposed open space,*
- *public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- *public access to be located above mean high water mark,*
- *the reinforcing of the foreshore character and respect for existing environmental conditions.*

Comment:

The proposed development will retain continuous public access to and along the foreshore. The proposed development does not impact upon any public access. The proposed development is acceptable in relation to the foreshore character and the existing environmental conditions.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	Swimming pool: 10m Dwelling: 20.9m	Unaltered	Yes
Rear building line	6.5m	Dwelling: 6.5m	Unaltered	Yes
Side building line	North - 2.5m	2.5m	Unaltered	Yes
	South - 1.0m	1.0m - 2.15m	Unaltered	Yes
Building envelope	North - 3.5m	Outside envelope - 32% (0.3m - 1.1m)	Unaltered	Yes
	South - 3.5m	Outside envelope - 22.8% (Nil - 0.8m)	Unaltered	Yes
Landscaped area	60% (620.4m ²)	49% (507.5m ²) +6% impervious = 55%	50.4% (521.5m ²) +6% impervious = 56.4%	Yes > approved

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.4 Coastline (Bluff) Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.13 Development on Waterfront Land	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
B8.6 Construction and Demolition - Traffic Management Plan	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
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	Yes	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D1.15 Fences - General	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

C1.5 Visual Privacy

Detailed description of non-compliance

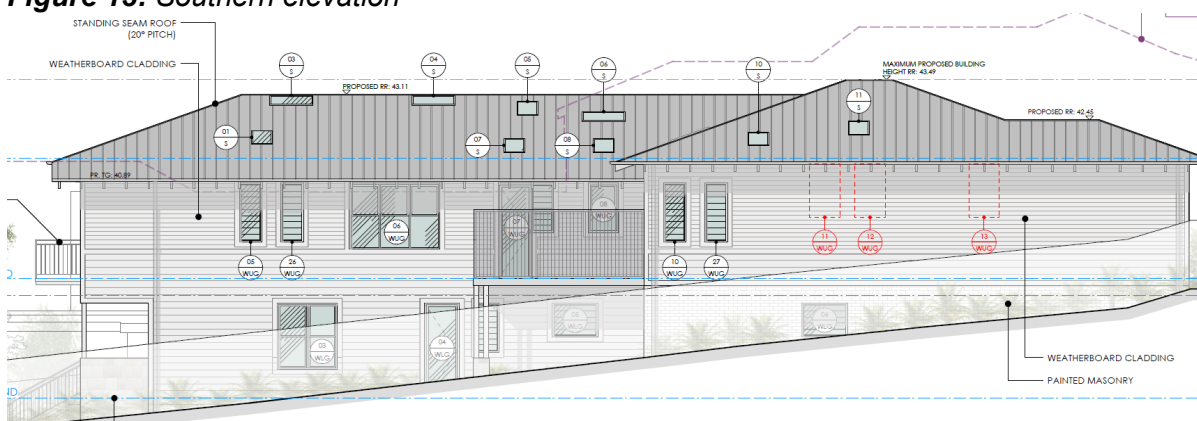
Pursuant to Section C1.5 of the Pittwater 21 Development Control Plan, private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9m by building layout, landscaping, screening devices or greater spatial separation (measured from a height of 1.7m above floor level).

The existing 1.8m high fencing along the southern boundary mitigates potential privacy impacts to 87 and 87A Marine Parade to the south from the windows at the lower ground floor (refer Figure 13).

The proposed balcony off the laundry at the upper ground floor incorporates a 1.8m privacy screen along the southern elevation, thereby mitigating any overlooking towards the south (refer Figure 13). It is noted that the new balcony is also less than 1m in width and intended to be used for clothes drying and therefore would not be a high-use area. Given the principal private open space of 87 Marine Parade is situated at the northern portion of the property and extends west of the proposed dwelling and balcony, a condition has been included within this consent requiring the 1.8m privacy screening to extend along the western elevation of the balcony.

In relation to the upper ground floor windows at the southern elevation, windows WUG-11, WUG-12 and WUG-13 have been deleted from the proposal (refer Figure 2). Windows WUG-5, WUG-26, WUG-10 and WUG-27 are relatively small windows to bathrooms, and WUG-6 is to a bedroom, which are all low-use rooms. The bathroom windows are louvre style and the bedroom window incorporates frosted glass up to a height of 1.6m above the finished floor level (in accordance with Condition 13 of DA2023/1780), and therefore the portion of this window with clear glazing is above a height of 1.65m from the finished floor level. It is noted that in addition to these window treatments to mitigate privacy impacts, the bedroom and bathroom windows are intended to include internal plantation shutters, which will further mitigate potential privacy impacts.

Figure 13: Southern elevation



In relation to privacy impacts to the northern neighbour, the southern elevation of 91 Marine Parade does not contain any windows (refer Figure 14 below), and therefore the proposed development as modified does not pose any threats to privacy for the northern neighbour.

Figure 14: Site photo - facing NE towards 91 Marine Parade



Merit consideration

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

Comment:

Subject to conditions of consent, the habitable rooms and outdoor living areas of the dwelling as modified optimise visual privacy through good design.

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

Comment:

The modified proposal provides a sense of territory and safety for residents.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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.

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. Mod2025/0063 for Modification of Development Consent DA2023/1780 granted for Demolition works and construction of a dwelling house including swimming pool on land at Lot 122 DP 8394,89 Marine Parade, AVALON 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
PAN-511683 MOD2025/0063	The date of this notice of determination	Modification of Development Consent DA2023/1780 granted for Demolition works and construction of a dwelling house including swimming pool. Modify Condition 1 - Approved Plans and supporting documentation Modify Condition 2 - Compliance with Other Department, Authority or Service Requirements Modify Condition 13 - Amendments to the approved plans
PAN-460300 MOD2024/0436	15 August 2024	Modification of Development Consent DA2023/1780 granted for Demolition works and construction of a dwelling house including swimming pool Delete Condition 12 - Vehicle Crossings Application

Modified conditions

A. Modify Condition 1 - 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
002	DA	Existing / Demolition Plans	Annabelle Chapman Architect Pty Ltd	21 November 2023
101	A	Proposed Site Plan	Annabelle Chapman Architect Pty Ltd	11 April 2025
102	A	Proposed Basement Plan	Annabelle Chapman Architect Pty Ltd	11 April 2025
103	A	Proposed Lower Ground Floor Plan	Annabelle Chapman Architect Pty Ltd	11 April 2025
104	A	Proposed Upper Ground Floor Plan	Annabelle Chapman Architect Pty Ltd	11 April 2025

105	A	Proposed Roof Plan	Annabelle Chapman Architect Pty Ltd	11 April 2025
200	A	Proposed Elevation - Street View	Annabelle Chapman Architect Pty Ltd	11 April 2025
201	A	Proposed Dwelling Elevation - West	Annabelle Chapman Architect Pty Ltd	11 April 2025
202	A	Proposed Dwelling Elevation - North	Annabelle Chapman Architect Pty Ltd	11 April 2025
203	A	Proposed Dwelling Elevation - East	Annabelle Chapman Architect Pty Ltd	11 April 2025
204	A	Proposed Dwelling Elevation - South	Annabelle Chapman Architect Pty Ltd	11 April 2025
301	A	Proposed Section A-A	Annabelle Chapman Architect Pty Ltd	11 April 2025
302	A	Proposed Section B-B	Annabelle Chapman Architect Pty Ltd	11 April 2025
303	A	Proposed Section C-C	Annabelle Chapman Architect Pty Ltd	11 April 2025
304	A	Proposed Section D-D	Annabelle Chapman Architect Pty Ltd	11 April 2025
305	A	Proposed Site Section E-E	Annabelle Chapman Architect Pty Ltd	11 April 2025
306	A	Proposed Site Section F-F	Annabelle Chapman Architect Pty Ltd	11 April 2025
801	-	Door/Window Schedule - Basement	Annabelle Chapman Architect Pty Ltd	21 January 2025
802	-	Door Schedule - Lower Ground Floor	Annabelle Chapman Architect Pty Ltd	21 January 2025
803	-	Window Schedule - Lower Ground Floor	Annabelle Chapman Architect Pty Ltd	21 January 2025
804	-	Window Schedule - Lower Ground Floor	Annabelle Chapman Architect Pty Ltd	21 January 2025
805	-	Door/Window Schedule - Upper Ground Floor	Annabelle Chapman Architect Pty Ltd	21 January 2025
806	-	Window Schedule - Upper Ground Floor	Annabelle Chapman Architect Pty Ltd	21 January 2025
807	-	Window Schedule - Upper Ground Floor	Annabelle Chapman Architect Pty Ltd	21 January 2025
808	-	Window Schedule - Upper Ground Floor/Skylight	Annabelle Chapman Architect Pty Ltd	21 January 2025
C1	D	Landscape Plan	Contour Landscape Architects	20 May 2024
C2	D	Tree Replenishment Plan	Contour Landscape Architects	20 May 2024
C3	D	Plant Schedule & Tree Images	Contour Landscape Architects	20 May 2024

C8	D	Section A	Contour Landscape Architects	20 May 2024
C9	D	Section B	Contour Landscape Architects	20 May 2024
C10	D	Front Fence Elevation	Contour Landscape Architects	20 May 2024
H01	B	Stormwater Management Plan & Details	Peninsula Consulting Engineers	17 November 2023
H02	B	Impervious Area Plans	Peninsula Consulting Engineers	17 November 2023
H03	B	Basement & LGF Drainage Plans	Peninsula Consulting Engineers	17 November 2023
H04	B	Basement & LGF Drainage Plans	Peninsula Consulting Engineers	17 November 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
701 - Schedule of Colours and Materials	A	Annabelle Chapman Architect Pty Ltd	11 April 2025
Coastal Engineering Advice Report	-	Horton Coastal Engineering	28 September 2023
Coastal Engineering Advice Statement	-	Horton Coastal Engineering	5 February 2025
Arboricultural Impact Assessment Report	-	Margot Blues Consulting Arborist	8 November 2023
Geotechnical Report	2	Crozier Geotechnical Consultants	30 November 2023
Geotechnical Statement	-	Crozier Geotechnical Consultants	4 February 2025
BASIX Certificate	A1782378	Efficient Living Pty Ltd	6 February 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 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	7 March 2025

(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 13 - Amendments to the approved plans, to read as follows:

The following amendments are to be made to the approved plans:

- The proposed bedroom 3 window (WUG-06) is to have a sill height of at least 1.6m above finished floor level, or be fixed and frosted below 1.6m.
- The 1.8m high privacy screening to the southern edge of the balcony located off the laundry at the upper ground floor as shown on the approved plans is to continue along the entire length of the western edge of that balcony.

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

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

Signed



Anais Sarkissian, Planner

The application is determined on 28/04/2025, under the delegated authority of:



Adam Richardson, Manager Development Assessments