

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2023/0380
Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 123 DP 752046, 70 Attunga Road NEWPORT NSW 2106
Proposed Development:	Modification of Development Consent DA2021/2067 granted for Alterations and additions to a dwelling house including a carport
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Shona Florence Lorigan Michael Colm Lorigan
Applicant:	Timothy Hugh West
Application Lodged:	19/07/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	25/07/2023 to 08/08/2023
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 11.25%
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The s4.55(2) modification application seeks to modify Development Application No DA2021/2067 approved for alterations and additions to a dwelling house including a carport in the following way:

Level 2 Floor Plan

- Internal changes to bathroom 1, staircase, lift shaft.
- Add lift landing
- Approved balcony extension removed from the scope of works.

Level 3 Floor Plan

- Extend level 3 balcony
- Minor internal change to lift shaft, staircase, kitchen and pantry joinery
- Reduce size of window W01
- Maintain existing structure and modify sliding doors D01, D40

Level 4 Floor Plan

- Retention of existing roof formation

External

- Relocation of water tank

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 - 4.3 Height of buildings
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards
Pittwater 21 Development Control Plan - A4.3 Bilgola Locality
Pittwater 21 Development Control Plan - C1.1 Landscaping
Pittwater 21 Development Control Plan - C1.3 View Sharing
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - D3.3 Building colours and materials
Pittwater 21 Development Control Plan - D3.6 Front building line
Pittwater 21 Development Control Plan - D3.7 Side and rear building line
Pittwater 21 Development Control Plan - D3.9 Building envelope
Pittwater 21 Development Control Plan - D3.11 Landscaped Area - Environmentally Sensitive Land
Pittwater 21 Development Control Plan - D3.15 Scenic Protection Category One Areas

SITE DESCRIPTION

Property Description:	Lot 123 DP 752046 , 70 Attunga Road NEWPORT NSW 2106
Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Attunga Road. The site is irregular in shape with a frontage of 18.17m along Attunga Road and a depth of 53.98m. The site has a surveyed area of 753.4m². The site is located within the C4 Environmental Living zone and accommodates a two and three storey dwelling house with an inground swimming pool and spa is located at the rear. The site currently has vehicular access to an existing attached double garage and carport structure to the site of the garage via a brick paved driveway from Attunga Road. Access is obtained via a Right of Carriageway over No.68. The site has a crossfall of approximately 17m from the south (street frontage) to the north (rear) The existing properties landscape character is modified with managed landscape gardens and hard surface areas, whilst a locally native Coast Banksia and She Oak are present within the rear of the property. The frontage of the property does not contain any trees. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by two and three storey dwellings of varying architectural styles. Attunga Reserve adjoins the site to the north and the west which consists of dense bushland.

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:

- **Building Certificate** - Three storey rendered brick dwelling with pool under, attached glass covered carport, but excluding encroachments upon the adjoining bushland reserve, retaining walls on the south and west sides of the carport, and the portions extending over the road reserve.- Issued 02/11/1998

- **Development Application DA2021/2067** (subject of this Modification) - Alterations and additions to a dwelling house including a carport - Approved 23/02/2022 (Under construction)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2021/2067, 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	The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2021/2067 for the following reasons: • The modifications will not change the use of the site • The modifications will not significantly alter the form of development that was originally approved, • From qualitative and quantitative perspectives, the proposal will not be significantly altered by the proposed modifications.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2021/2067 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with:	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.
(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	
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided	No submissions were received in relation to this application.

Section 4.55 (2) - Other Modifications	Comments
by the development control plan, as the case may be.	

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 (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)	<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>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <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 (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 application (prepared by The Fire Consultants, dated 24 February 2023). The report stated that the bushfire attack level of the site is "Flame Zone" and the report recommended an alternative solution to comply with Planning for Bush Fire Protection .

The application was referred to the NSW Rural Fire Service (NSW RFS) for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report , along with the conditions from the NSW RFS have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 25/07/2023 to 08/08/2023 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 1 submission/s from:

Name:	Address:
	PO Box 2185 DANGAR NSW 2309

One submission was received from the Department of Planning, Industry and Environment – Crown Lands (the department), as adjoining landowner. The response raised no objection to the proposed works, however made the following comments:

"The Department of Planning, Industry and Environment – Crown Lands (the department), as adjoining landowner has reviewed the development application in accordance with the principles of Crown land management (s.1.4 Crown Land Management Act 2016) and offers no objections to the proposed development. However, it is noted that Attunga Road is still vested with the Department as a Crown public road, the following has been noted.

- *Attunga Road is a constructed road and appears to be maintained.*
- *Attunga Road provides main access to local residential properties.*

With the above identified factors and to ensure Attunga Road is managed in the most efficient way, the Department recommends the Council investigate to transfer Attunga Road (and any developed Crown roads in the vicinity) to the management and control of Northern Beaches Council"

Comment

The application does not propose any new works on Attunga Road or on Crown Land nor does it authorise any existing works on this land. This is also to be conditioned within any consent. The matter for road ownership transfer is not a planning matter in this instance and the correspondence recommending this transfer of ownership was previously forwarded to the relevant Council department for review and further action if required

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The application is for modification to development consent DA2021/2067. The proposed amendments will not change the landscape outcome approved in DA2021/2067, and as such the original conditions remain. No further conditions are imposed.
NECC (Bushland and Biodiversity)	The proposal seeks approval for the modification of Development Consent DA2021/2067 granted for Alterations and additions to a dwelling house including a carport. The comments in this referral relate to the following applicable controls and provisions: • Planning for Bushfire Protection 2019 • NSW Biodiversity Conservation Act 2016 • Pittwater LEP - Clause 7.6 Biodiversity Protection • Pittwater 21 DCP - Clause B4.1 Flora and Fauna Conservation Category 1 Land • Pittwater 21 DCP - Clause B4.3 Flora and Fauna Habitat Enhancement Category 2 Land A referral from the RFS has been submitted with the application in conjunction with an updated Bushfire report and recommended the property be treated as an Inner Protection Area as the level of risk awarded to the site is BAL Flame Zone. Additionally, an updated Flora and Fauna report has been submitted with the application indicating that entry into the Biodiversity Offsets Scheme (BOS) is not triggered by the proposal and that the proposed modifications are unlikely to impact native flora and fauna. The development is designed, sited and will be managed to avoid any significant adverse environmental impact.
NECC (Development Engineering)	I have reviewed the submitted modification documentation. I have no objections to the proposed development subject to the retention of the existing engineering conditions of consent.
External Referral Body	Comments
Rural Fire Service - Local Branch - EP&A Act, s4.14	The application was referred to the NSW Rural Fire Service. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS have been included as part of the recommended conditions of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.A432728_03 dated 20 March 2023).

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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no additional conditions are recommended.

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:	8.0m	9.94m	8.9m	11.25%	No (reduced height)

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

4.3 Height of buildings

Clause 4.3 (2) stipulates that height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The subject site is located within Area 'H' of the Height of Buildings Map which has a maximum height of 8.0m.

The maximum height of the dwelling additions within the original Development Application subject of this modification (DA2021/2067) was 9.94m. This breach primarily related to the new roof formation on the northern section of the dwelling.

The original Development Application was assessed based on extrapolated ground levels for the site (pre-excitation). As such, the building height for this modification will be assessed on extrapolated ground levels for the site (pre-excitation), consistent with the original assessment (within DA2021/2067).

The proposed modification seeks to retain the roof formation of the existing dwelling, and as such the overall height breach will be reduced to 8.9m

As the proposed modification seeks to reduce the scope of works which exceed the height requirement, it is considered the outcomes of the original assessment and consistency with the control objectives are maintained and the application is supported.

7.6 Biodiversity protection

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

(a) whether the development is likely to have:

- (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
- (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
- (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (iv) any adverse impact on the habitat elements providing connectivity on the land, and*

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

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

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—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 assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

7.7 Geotechnical hazards

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

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

Comment:

The proposed development is supported by a geotechnical risk assessment, that demonstrate all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

Development consent must not be granted to development on land to which this clause applies unless:

- (a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and*

Comment:

The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

(b) the consent authority is satisfied that:

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

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

Comment:

The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent. As such, Council can be satisfied that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	6.5m	1.6m (Carport)	unaltered	No (unaltered)
Rear building line	6.5m	18.9m	unaltered	Yes
Side building line	2.5m (SE)	0.9m (W03) 1.1m (W02) 1.2m (L4 Balcony) 1.1m (L2 balcony) 1.8m (Pool Deck)	0.9m (W03) - Unaltered 1.1m (W02) - Unaltered 1.3m (L3 balcony) 2.1m (L2 balcony) 1.8m (Pool Deck) - Unaltered	No
	1m (NW)	Nil (L3 landing) 0.8m (L3 Addition and balcony)	unaltered	No (unaltered)
Building envelope	3.5m (SE)	Outside envelope	Outside envelope	No
	3.5m (NW)	Outside envelope	Outside envelope (reduction)	No (reduction)
Landscaped area	60% (452sqm)	35.8% (270sqm)	unaltered	No (unaltered)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.3 Bilgola Locality	No	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.1 Flora and Fauna Conservation Category 1 Land	Yes	Yes
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land	Yes	Yes
B5.13 Development on Waterfront Land	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
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	No	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
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D3.1 Character as viewed from a public place	Yes	Yes
D3.3 Building colours and materials	Yes	Yes
D3.6 Front building line	No	Yes
D3.7 Side and rear building line	No	Yes
D3.9 Building envelope	No	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	No	Yes
D3.15 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.3 Bilgola Locality

The proposed development includes three storeys, where the locality calls for two storey development. However, the existing development includes three storeys and the proposal does not seek the addition of a new level.

The proposed development involves minimal environmental impact, is set below the general tree canopy height, includes building modulation to minimise bulk, and provides an appropriate balance between respecting the landform and encouraging development. Given the slope of the site, the proposed dwelling presents as two storeys from Attunga Road. The proposed development would appear as three storeys as viewed from the north, however, existing vegetation downslope of the dwelling house will assist in softening the built form as viewed from surrounding properties and Bilgola Beach.

Overall, it is considered that the proposed alterations and additions represent a relatively modest increase to the existing built form. As such, the proposed development achieves the intention of the desired character of the area and is acceptable in this regard

C1.1 Landscaping

The subject application would not decrease the approved to the existing provision of landscaped area. The proposed works would be primarily over the existing building footprint and no substantial trees or vegetation is proposed to be removed.

The application has been reviewed by Council's Landscape Officer who raised no objection subject to recommended conditions.

C1.3 View Sharing

Views of Bilgola Beach, Headland and the ocean are available to the north-east of the subject site. The adjoining property to the east (68 Attunga Road) is expected to retain these view corridors given its relative positioning to the east.

The proposed modifications will be primarily within the existing footprint of the building and the proposed works are not anticipated to result in unreasonable view loss.

Any view loss from the proposal would be over a side boundary and is considered negligible in consideration of the views retained to the north-east and a reasonable sharing of views amongst dwellings is achieved.

Additionally, no objection to view loss has been received adjoining neighbours.

C1.5 Visual Privacy

Clause C1.5 of the P21DCP stipulates that private open space areas and windows of adjoining properties are to be protected from direct overlooking within 9.0m by building layout, landscaping, screening devices or greater spatial separation.

The proposed extension to the Level 3 balcony has been designed to angle away from the adjoining neighbour to the south-east (68 Attunga Road). The orientation and design of balcony, as well as its location approximately 10m forward of No.68 Attunga Road is not considered to lend itself to unreasonable privacy impacts. Additionally, no objections in relation to privacy have been received by this neighbour. Given the prominent view corridors to the north-east, this portion of Attunga Road is characterised by open balconies void of screening.

The location and size of other windows will remain generally consistent with the approved development. Conditions will remain on the consent requiring suitable privacy treatment for window W02.

In consideration of the built form of the existing dwelling and the location of existing windows and balconies, the proposed additions are not considered to result unreasonable privacy impacts to adjoining neighbours. Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved.

D3.3 Building colours and materials

The modification will not alter the assessment of this clause as outlined within DA2021/2067. The colours and materials will remain generally consistent with this approval and the existing building.

D3.6 Front building line

The approved development includes a carport within the front setback area. The proposed modifications to the development retain, but do not exacerbate, this front building line non-compliance.

D3.7 Side and rear building line

Description of non-compliance

Clause D3.7 of the Pittwater 21 DCP requires development be setback at least 6.5m from the rear boundary, 1.0m from the north-western side boundary and 2.5m from south-eastern side boundary.

The modification application predominately retains the approved side setback breaches. However, the modification application proposes the following additional elements which are non-complaint with the required side setback:

South- eastern side setback- 1.3m (L3 balcony)

The proposed modifications are considered relatively minor. As such, the outcomes of the original assessment and consistency with the control objectives are maintained as specified below:

Merit Consideration

The proposed modifications within the side setback would result in a minor change in the approved built form. The proposed changes are not considered to

result in unreasonable amenity impacts on the adjoining properties or the streetscape. The proposed modification will generally retain the scale and appearance of the approved dwelling, and will not result in the removal of additional landscaping. Only a minor portion of the new Level 3 balcony will encroach into the side boundary and the balcony has been designed to angle away from the adjoining neighbour to the south-east (68 Attunga Road)

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

D3.9 Building envelope

Description of non-compliance

The clause stipulates that buildings are to be projected at 45 degrees from 3.5m above the existing ground level, measured from the side boundaries.

The proposed modification works includes works which protrude outside the prescribed building envelope along the south-eastern elevation, specifically the new level 3 balcony addition.

The works also include a reduction to approved building envelope non-compliance along both the north-western and south-eastern elevations, though the retention of the existing roof formation.

Figure 1 represent additional envelope encroachment subject of these modifications (highlighted in pink). Figure 2 represents the approved envelope non-compliance along the south-eastern elevation (as approved within DA2021/2067).

This building envelope non-compliance is also partially attributed to the slope of the site, which exceeds 30%. P21DCP allows for a variation to the prescribed building envelope for development on steep sites, subject to consistency with the outcomes of this Clause.

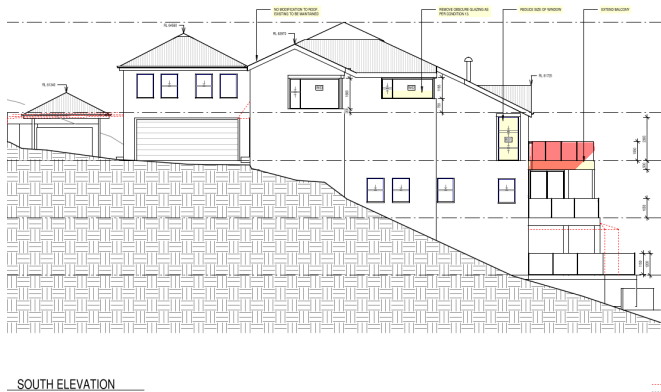


Figure 1 - Proposed additional building envelope non-compliance on the north-eastern elevation (highlighted in pink).

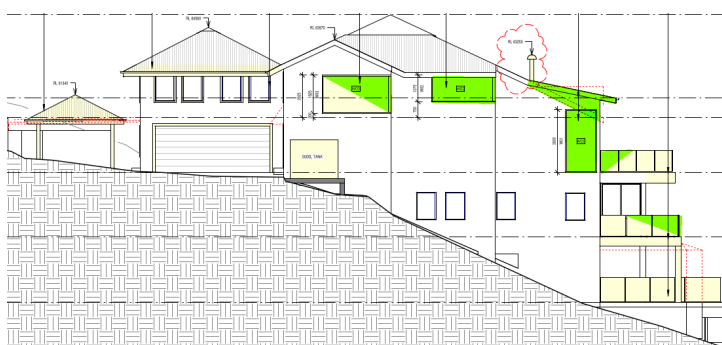


Figure 2 - Approved building envelope non-compliance on south-eastern elevation (highlighted in green).

Overall, it is considered that the proposed modification is consistent to with the assessment of the original approval as outlined below:

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying objectives of the Control as follows:

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

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of the existing dwelling and surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report

relating to A4.3 Bilgola Locality of the Pittwater 21 DCP.

- ***To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.***

Comment:

The proposed development is generally set below the height of surrounding canopy tree surrounding the site and in the locality. It is considered that the bulk and scale of the proposal would not be out of character with the existing dwelling and wider locale. Given the slope of the site, the proposed dwelling presents as two storeys from Attunga Road. The proposed development would appear as three storeys as viewed from the north, however, existing vegetation downslope of the dwelling house will assist in softening the built form as viewed from surrounding properties and Bilgola Beach. Overall, it is considered that the proposed alterations and additions represent a relatively modest increase to the existing built form.

- ***To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.***

Comment:

As above, the slope and topography of the land is considered steep. The works are largely confined to the existing building footprint and do not result in unreasonable excavation, tree removal or environmental impact. The subject site has already been heavily modified, with significant retaining walls and pre-existing excavation currently existing on site. It is therefore considered that the resultant development does not unreasonably impact on natural landforms. The proposal has also been assessed by Council's Bushland and Biodiversity; Landscape Officer and Development Engineer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions.

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

Comment:

The additions to the dwelling propose to maintain a similar building footprint and scale as to what exists. The non-compliances are largely a direct result of the existing built form and are not considered to result in unreasonable bulk. The dwelling would be appropriately articulated using recessed and modulated walls, balconies and fenestration break up built form. The proposals design maintains the open style rear balcony areas to provide a "stepped" look when viewed from the rear and the neighbouring properties. The proposal reflects the established built form character of existing site and newer dwellings in the vicinity where multi-level, variably stepped houses are prevalent, due to the steep topography of the land. The structures will sit below the height of surrounding canopy trees. The 19m rear setback and maintenance of a existing vegetation downslope of the dwelling house will assist in softening the built form as viewed from surrounding properties and Bilgola Beach. This provides a situation in which presentation of bulk and scale is adequately minimised.

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

Comment:

The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP. The elements of the proposal that are non-compliant with building envelope are not considered to result in unreasonable view loss.

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

Comment:

It is considered that the proposal provides adequate spatial separation between adjoining buildings. The application has demonstrated that the proposal will not have an unreasonable impact with regards to solar access. The adjoining properties will maintain solar access in accordance with the DCP requirements. The matter of privacy has been addressed elsewhere within this report in detail (refer Clause C1.5) and it is considered no unreasonable privacy impacts would occur as a result of the development.

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

Comment:

As above, the proposal does not require any significant vegetation to be removed as part of the application. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions. The proposed works would be primarily over the existing built footprint. The 19m rear setback and maintenance of a vegetation buffer also allows for some visual relief towards Bilgola Beach. Vegetation will be retained along the south-eastern boundary to minimise the bulk and scale of the development as viewed from adjoining properties. The proposal will adjoin Attunga Reserve to the south and west which contains dense bushland which will assist in mitigation of visual bulk.

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

D3.11 Landscaped Area - Environmentally Sensitive Land

The modification does not alter the approved landscaped area of the proposed development. As such, the outcomes of the original assessment and consistency with the control objectives are maintained.

D3.15 Scenic Protection Category One Areas

Trees and vegetation will be retained to the north of the dwelling to minimise the visual impact of the development as viewed from Bilgola Beach. The proposed development does not require the removal of any significant vegetation. The proposal would not result in a significant increase in the bulk and scale of the existing dwelling as viewed from the public realm. Overall, it is considered that the proposed alterations and additions represent a relatively modest increase to the existing built form and would meet the objectives of this control.

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. Mod2023/0380 for Modification of Development Consent DA2021/2067 granted for Alterations and additions to a dwelling house including a carport on land at Lot 123 DP 752046,70 Attunga Road, NEWPORT, 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-348642 MOD2023/0380	The date of this notice of determination	Modification of Development Consent DA2021/2067 granted for Alterations and additions to a dwelling house including a carport • Add Condition No.1A (Modification of Consent - Approved Plans and supporting Documentation) • Add Condition No.32A (Wildlife Protection) • Modify Condition 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:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A 01 Issue L - SITE & ROOF PLAN	24/02/2023	THW Architects
A 02 Issue L - LEVEL 1 FLOOR PLAN	24/02/2023	THW Architects
A 03 Issue L - LEVEL 2 FLOOR PLAN	24/02/2023	THW Architects
A 04 Issue L - LEVEL 3 FLOOR PLAN	24/02/2023	THW Architects
A 05 Issue L - LEVEL 4 FLOOR PLAN	24/02/2023	THW Architects
A 10 Issue L - NORTH ELEVATION	24/02/2023	THW Architects
A 11 Issue M - SOUTH ELEVATION	19/09/2023	THW Architects
A 12 Issue L - EAST ELEVATION	24/02/2023	THW Architects
A 13 Issue L - WEST ELEVATION	24/02/2023	THW Architects
A 20 Issue L - SECTION 2	24/02/2023	THW Architects
A 21 Issue L - SECTION 1	24/02/2023	THW Architects
A 104 Issue L - EXTERNAL FINISHES	24/02/2023	THW Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (A432728_03)	20/03/2023	THW Architects
Bush Fire Hazard Assessment Report	24/02/2023	The Fire Consultants
Flora and Fauna Report	September 2021 updated March 2023	Kingfisher Urban Ecology and Wetlands
Geotechnical Assessment Letter	10/03/2023	ASCENT Geotechnical Consulting

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

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

B. Add Condition 32A (Wildlife Protection) to read as follows:

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

Reason: To protect native wildlife.

C. 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	15/12/2021
NSW Rural Fire Service	RFS Referral Response (DA2021128005224-S4.55-1)	25/07/2023

(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.

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

Signed



Gareth David, Principal Planner

The application is determined on 26/09/2023, under the delegated authority of:



Steven Findlay, Manager Development Assessments