

17 April 2019

Northern Beaches Council  
PO Box 82  
MANLY NSW 1655  
Att: Steve Findlay

Dear Steve,

## **SECTION 4.55(1a) APPLICATION**

<b>Premises:</b>	<b>Lot 1 in DP 900658, No. 7 Pavilion Street, Queenscliff</b>
<b>Amendments:</b>	<b>Amend Plans as per DWG No. DA01-DA22 by Corben Architects and the Schedule of Changes</b>
<b>Development Application:</b>	<b>DA 2018/0612</b>
<b>Date of Determination:</b>	<b>23/08/2018</b>

## **INTRODUCTION**

On behalf of Ms Megan O'Leary I seek Council consent pursuant to Section 4.55(1a) of the *Environmental Planning & Assessment Act* 1979 to amend the approved plans specified in Development Application No. DA2018/0612 relating to the construction of dwelling alterations and additions.

## **BACKGROUND**

Development Consent for the construction of additions to an existing dwelling including a new upper level (DA2018/0612) on the subject site was approved by Council on 23 August 2018.

This application seeks to amend the approved plans. The amendments proposed seek to improve amenity, usability of the dwelling, natural light and ventilation, reduce bulk and improve view sharing and presentation to the streetscape. Negotiations have been undertaken with the owners at No. 2B and No. 9 Pavilion St, Queenscliff which have resulted in number of amendments including the reduction in overall height, increased setback to the southern side boundary and deletion of the northern elevation dining room window.

This Section 4.55(1a) application carries out a detailed assessment against the relevant provisions of the Warringah LEP and DCP. It is considered that the proposed amendments are consistent with the relevant planning controls and is worthy of the approval.

## PROPOSED MODIFICATION

This proposal seeks to amend the approved plans as detailed in the plans prepared by Corben Architects, Job No. OPQ and dated 15 April 2019. A detailed 'Schedule of Changes' prepared by Corben Architects supports the application. However, in summary the proposed amendments incorporate the following:

- Provide new 1 degree roof pitch over southern portion of dwelling providing for a maximum level RL42.0. The proposal now complies with the maximum height development standard specified in Clause 4.3 of the LEP.
- New metal roof to replace existing tiled roof.
- New external stair adjacent to southern boundary to provide access to service courtyard.
- Extend lounge over existing courtyard and extend to garage.
- Internal changes to create a more functional floor plan.
- New balcony on front northwest and southwest corners.
- Provide balcony to bedroom 3 on eastern elevation.
- Remove windows on southern elevation serving bedroom 4 and 5.
- Provide new window on southern elevation serving bathroom.
- Reduce the proposed floor area of the upper level
- Increase setback from southern side boundary from 1.1m (SW corner) – 1.5m (SE corner) to 1.9m (SW corner) – 2.243m (SE corner).
- Reduce depth of balcony on rear (eastern) elevation.
- Delete window on northern elevation of ground floor dining room.

## LEGISLATION

Section 4.55(1a) of the Act states:

*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*

Comment: The Consent granted approval for the construction of alterations and additions to an existing dwelling. This application proposes some minor amendments to the plans including internal reconfiguration, reduction in roof height and reduction in floor area. The proposed amendments have minimal environmental impact, if any.

- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: The original consent granted approval to the construction alterations and additions to an existing dwelling including a new upper level. The proposed amendments provide for minor amendments to reduce overall height and footprint. The proposed amendments are considered to be substantially the same development.

- (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 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 by the development control plan, as the case may be.*

Comment: The application will be notified in accordance with Council guidelines.

## **LEGISLATION**

### **Planning for Bushfire Protection 2006**

The subject site is not identified as bushfire prone vegetation buffer on Council's Bushfire Prone Land Map and therefore the provisions of Planning for Bushfire Protection 2006 do not apply.

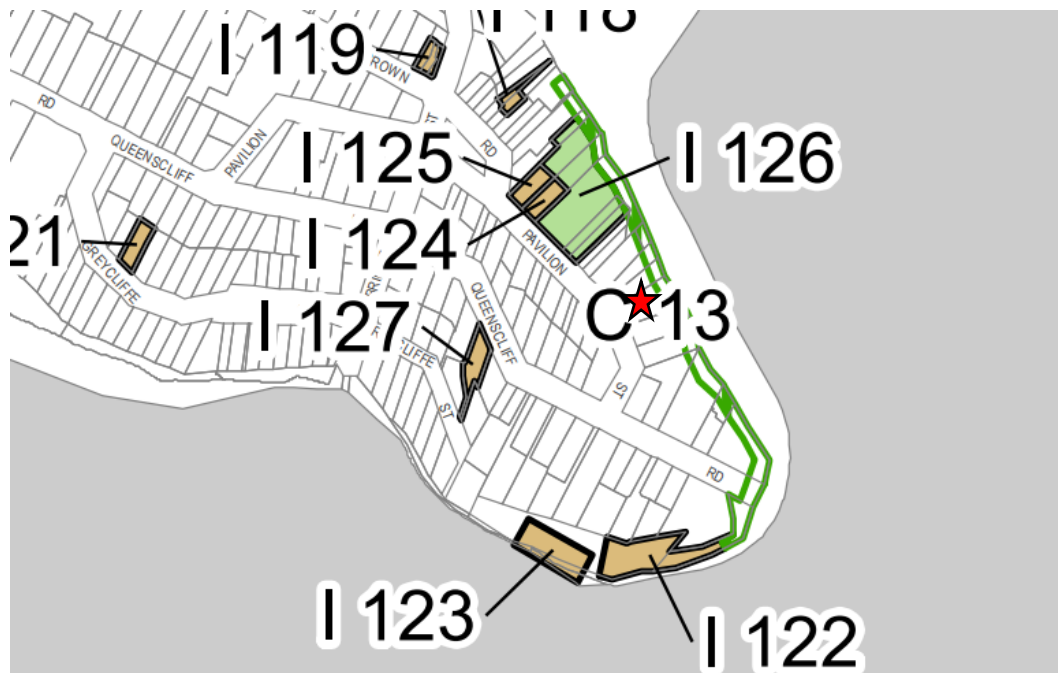
### **Warringah Local Environmental Plan 2012**

The site is zoned R2 Low Density Residential under the provisions of the Warringah Local Environmental Plan. Development for the purpose of alterations to an existing dwelling house are permissible with Consent in this zone.

The following provisions of the LEP apply to the proposed development:

<b>Clause</b>	<b>Development Standard</b>	<b>Proposal</b>	<b>Compliance</b>
Clause 4.3 Height of Buildings	8.5m	8.5m	Yes

### **Clause 5.10 - Heritage Conservation**



#### Heritage

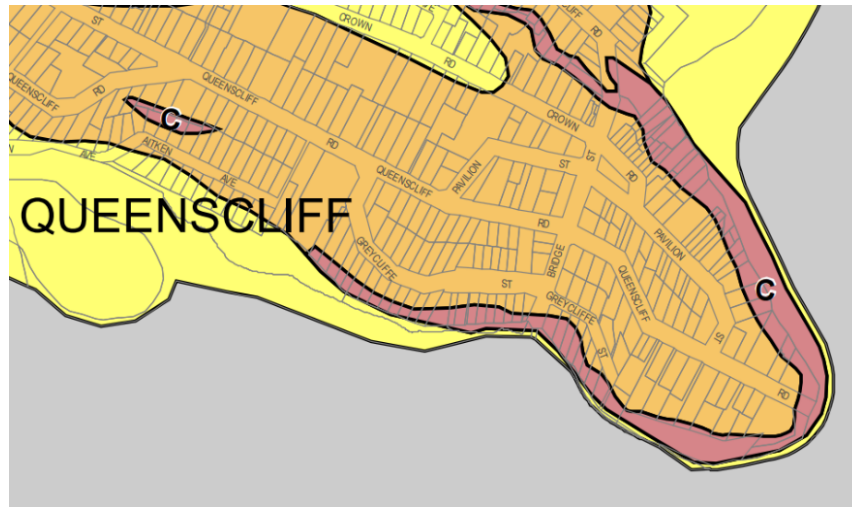
-  Conservation Area - General
-  Conservation Area - Landscape
-  Item - General
-  Item - Archaeological
-  Item - Landscape

#### Extract of Heritage Map

The rear eastern portion of the site is identified as being within the C13 Queenscliff Coastal Cliffs Conservation Area. It is noted that the proposed amendments do not extend into that portion of the site that is located within the conservation area, nor beyond the approved rear setback. It is considered that the proposed works will not have any detrimental impact on the significance of the conservation area for the following reasons:

- The proposed amendments are well setback from the coastal cliffs and embankment.
- The proposed amendments are for the most part located within the existing building footprint.
- The proposed amendments are modest and do not result in unreasonable bulk or scale when viewed from the conservation area. In this regard the amendments reduce the overall height and footprint of the approved dwelling, thereby minimising bulk and scale.

### Clause 6.4 – Development on Sloping Land



**Extract of Landslip Map**


The site is identified as being partly within Category B and Category C of the Landslip Risk Map. A Geotechnical Report has been submitted with the application.

There are no other provisions of the Warringah Local Environmental Plan 2011 that apply to the proposed development.

### Warringah Development Control Plan

Clause	Requirement	Compliance
B1 – Wall heights	7.2m	The proposal does not comply with this control. However the proposed amendments provide for an increased setback to the southern boundary. Further the overall height of the proposal has been lowered so as to reduce bulk and scale. It is considered that the proposed wall height is compatible with the existing surrounding development.

Clause	Requirement	Compliance
B3 - Side Boundary Envelope	Building envelope 45 degrees from 5m. Eaves up to 675mm are an allowable encroachment	The proposed amendments provide for a reduction in the overall building height and an increase in the side boundary setback to the upper level. These amendments reduce the non-compliance of the building envelope currently approved. The proposed amendments provide for a more appropriate outcome reducing bulk and scale and improving view corridors along the southern boundary and over the resultant dwelling. As the proposed amendments reduce the encroachment of the building envelope (as approved) it is considered that this is preferred outcome.
B5 - Side Boundary setbacks	Minimum: 0.9m	Yes Proposed works comply with this clause. It is noted that the proposal seeks to increase the setback to the southern side boundary from the upper level.
B7 – Front Boundary Setbacks	Minimum 6.5m	Yes Proposed works are located behind the established building line.
B9- Rear Boundary Setbacks& B10 Merit	6m rear setback required	Yes Ample setback

Clause	Requirement	Compliance
Assessment of Rear Setbacks	The rear boundary setback may be encroached by swimming pools and outbuildings which, in total, do not exceed 50% of the rear setback area	provided to rear boundary.
B13 – Coastal Cliffs Setback	<p>The site is identified as C – Coastal Cliff Setback requiring all works to be within a setback measured 25m from the street frontage.</p>  <p>MANLY COUNCIL DCP SETBACKS SPECIAL</p> <p>Legend:  <span style="color: red;">■</span> 15m Forshore  <span style="color: green;">■</span> 20m National Park  <span style="color: blue;">■</span> Coastal Cliff</p>	<p>Yes</p> <p>All proposed works comply with this requirement. (refer to architectural plans)</p>
C4 - Stormwater	To be provided in accordance with Council's Stormwater Drainage Design Guidelines for Minor Developments & Minor Works Specification.	<p>Yes</p> <p>All collected stormwater will drain to the approved stormwater system. It is noted that there is no increase in hard surface area as a result of this proposal.</p>
C7 - Excavation and Landfill	Site stability to be maintained	<p>Yes</p> <p>The proposed amendments do not</p>

Clause	Requirement	Compliance
		require any excessive fill or excavation.
D1 – Landscaped Open Space and Bushland	Min 40% Landscaped Area to be maintained	Yes The proposal provides for a landscaped area of 405.48m <sup>2</sup> or 44.5% of the site which complies with this clause.
D2 - Private Open Space	Dwelling houses with three or more bedrooms Min 60m <sup>2</sup> with min dimension 5m	Yes The proposed works maintain an adequate area of private open space.
D6 – Access to sunlight	The controls require that sunlight to at least 50% of the private open space of both the subject and adjoining properties' private open space receives not less than three hours sunlight between 9am – 3pm on 21 June winter solstice.	Yes Shadow diagrams have been submitted with the application. Given the reduction in height and increased setback to the upper level from the southern boundary, the proposed amendments will not result in additional overshadowing to the adjoining properties.
D7 - Views	View sharing to be maintained	See discussion at end of table.
D8 - Privacy	This clause specifies that development is not to cause unreasonable overlooking of habitable rooms and principle private open space of adjoining properties.	Yes The proposed amendments have been designed to ensure the continued privacy of the surrounding properties. In particular the deletion of the north and south facing windows will improve privacy to the adjoining properties.



Clause	Requirement	Compliance
D9 – Building Bulk	This clause requires buildings to have a visual bulk and architectural scale that is consistent with structures on nearby properties & not to visually dominate the street.	Yes The proposed amendments seek to reduce bulk and scale. This has been achieved by providing for a flat (1.5 degree) metal roof form over the southern portion of the dwelling and increasing the setback to the southern boundary for the upper level. These amendments reduce the overall bulk and scale of the approved dwelling and present as similar bulk to the existing house on site. Further amended external finishes create visual interest to reduce bulk and scale.
D10 – Building Colours and materials	External finishes and colours sympathetic to the natural and built environment	Yes Amended external finishes are sympathetic to the natural and built environment.
E3 – Threatened species, populations, ecological communities	Not identified on map	Not Applicable
E4 – Wildlife Corridors	Retain and enhance native vegetation and the ecological functions of wildlife corridors.	Yes The proposed works are located over the existing hard paved areas and do not impact on the wildlife corridors.
E5 – Native Vegetation	Provide natural habitat for local wildlife, maintain	Yes The rear portion of the

Clause	Requirement	Compliance
	natural shade profiles and provide psychological & social benefits.	site is identified as 'native vegetation' on Council's map. However, the proposed works are located over the existing footprint and do not impact on native vegetation.
E6 - Retaining unique environmental features	Unique or distinctive features within a site to be retained	Yes The proposed works are located within the existing footprint and do not impact on any environmental features of the site.
E7 – Development on land adjoining public open space	To ensure that development responds to its adjacent surroundings to preserve and enhance the natural qualities of the environment.	Yes  The site is identified on Council's map as adjoining public open space to the rear.  The proposed works are located over the existing footprint/hard surface area and do not impact on the adjoining public open space.  The dwelling continues to overlook the open space and provide for appropriate bulk and scale.
E10 – Landslip Risk	Identified on map as B and C	A Geotechnical Report is provided.

## D7 Views

The stated objectives of this clause are:

- *To allow for the reasonable sharing of views.*
- *To encourage innovative design solutions to improve the urban environment.*
- *To ensure existing canopy trees have priority over views.*

A View Analysis has been prepared by Corben Architects in respect of No. 2b Pavilion Street. The proposed amendments have been designed to provide for reasonable view sharing. The amendments include the reduction of the overall approved building height from RL43.1 to RL42.0 and an increased setback to the upper level to the southern side boundary.

These amendments have provided for an increased view corridor for the residents of No. 2b between the subject site and No. 5 Pavilion Street to the south. The reduction in height has also enabled views over the proposed development to view the horizon.

A photo montage has been prepared (DA17) which depicts the approved building envelope as viewed from 2B Pavilion Street. The reduction of building height and increased first floor setback to the southern boundary proposed in this application will provide for a greater view corridor from No. 2B Pavilion Street.

## **JUSTIFICATION**

The proposed amendments to the approved plans are considered to be justified for the following reasons:

- The proposed amendments are located over the existing footprint/hard surface area.
- The proposal seeks to reduce the approved overall building height. This has been achieved by reducing the roof pitch and removing the approved gable roof form.
- The proposal reduces the floor area of the upper level and increases the setback to the southern side boundary to reduce bulk and scale and ensure appropriate view sharing.
- The proposed reconfiguration on the existing approval does not have any impact on the public domain or the adjoining properties.
- Introduction of new external materials to reduce bulk and scale.
- The proposal will improve the appearance of the building from the street by upgrading and modernising the front entry.

It is therefore considered appropriate that the amendments to the plans should be supported.

## **CONCLUSION**

For the reasons stated above it is considered that this application to amend the plans as detailed. Should you require any further information please do not hesitate to contact me.

Yours faithfully,



**Natalie Nolan**