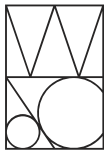


SUBJECT
Statement of Modification

SITE
888 Barrenjoey Road,
Palm Beach, NSW 2108

DATE
03.10.23



Dear Sir/Madam

This statement of modification has been prepared on behalf of Ms Lisa Keighery to assist Northern Beaches Council in the consideration of an application to modify the development at 888 Barrenjoey Road, Palm Beach, as approved by development consent DA2021/0657.

The application involves modifications to the form of the approved development, with the amendments detailed in the following documentation:

- Architectural Plans prepared by Wyer & Co (AD)
 - Job No. 20.052 / Dated 03.10.2023 / Rev01
 - S4.55_01, S4.55_05, S4.55_06
- Landscape Plan prepared by Wyer & Co (AD)
 - Job No. 20.052 / Dated 03.10.2023 / Rev01
 - LD_01

Background

On the 31st of May 2021, a Development Application was lodged with Northern Beaches Council for 'alterations and additions to a dwelling house including swimming pool and garage' for the property at 888 Barrenjoey Road, Palm Beach, and was granted approval by Council by Notice of Determination on the 16th of August 2021.

Construction of the alterations and additions to the dwelling under DA2021/0657 have commenced.

Proposed Modifications

This modification application seeks a modification of *Condition 21: Protection of Existing Street Tree*, including the removal of Tree E01 (*Glochidion ferdinandi* – Cheese Tree) and the provision of a suitable mature native replacement tree.

Upon technical advice provided by Alliance Geotechnical Pty Ltd (Alliance), Northern Beaches Consulting Engineers and Hugh the Arborist, concerning the demolition and reconstruction of existing sandstone retaining wall at the front of the property, it is advised that in order to establish a safe 1:1 (H:V) batter for stability during construction, the batter will extend beyond the base of the existing tree and subsequently

undermine the tree. It is therefore not feasible to keep the tree in its current location while maintaining the retaining wall design, layout, and setback from the public pedestrian footway as approved. A suitable mature native replacement tree is proposed within the vicinity of the existing tree to maintain the general configuration of the proposed works as viewed from the street and the neighbouring properties.

Justification

The Environmental Planning & Assessment Act 1979 provides for the modification of a consent under Section 4.55(2) if the consenting authority '*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*'. Moto Projects (No.2) Pty Ltd v North Sydney Council (1999) 106 LGERA 289 established that the modified proposal must be found to be '*essentially or materially*' the same as the approved development through a '*qualitative*' and '*quantitative*' comparison.

Quantitatively, the modification application will retain the retaining wall design, including its materiality, height and extent, and the landscape design, including species, location, and overall plant quantity as originally approved. Additionally, the works proposed under this modification application do not inherently alter the nature or form of the '*alterations and additions to a dwelling house*' as originally approved.

Qualitatively, the modification application will maintain the general configuration, bulk and scale of the proposed works as viewed from the street and the neighbouring properties as originally approved and will not introduce any significant view or privacy loss.

Conclusion

We, Wyer & Co, therefore, consider the proposed modifications to be justified on the basis that proposed modifications are generally consistent with the previously approved application (DA2021/0657) and '*substantially the same development*' as defined by the Environmental Planning & Assessment Act 1979, and can therefore be reasonably assessed by Council under Section 4.55(2) of the Act. Council's support for the proposed modifications is sought on this basis.

Should you have any queries or wish to discuss these proposed amendments, please do not hesitate to contact our office.

Thank you,



Lucy Coptly
DIRECTOR OF DESIGN
BA. LANDSCAPE ARCHITECTURE (HONS)

WYER & CO.

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