

23 November 2020

Northern Beaches Council
PO Box 82
MANLY NSW 1655

Dear Sir/Madam,

SECTION 4.55(1a) APPLICATION

Premises:	Lot 40 in DP 11828, No. 21 Wattle Avenue, Fairlight
Amendments:	Amend Plans
Development Application:	DA 2019/1108
Date of Determination:	18/12/2019

INTRODUCTION

On behalf of Ms Baker and Mr Earl 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. DA2019/1108 relating to the construction of dwelling alterations and additions.

BACKGROUND

Development Consent for the construction of additions/alterations to an existing dwelling (DA2019/1108) on the subject site was approved by Council on 18 December 2019.

This application seeks to amend the approved plans to meet the needs of the applicant. This is detailed on the plans submitted with the application and dated 02/11/2020.

This Section 4.55(1a) application carries out a detailed assessment against the relevant provisions of the Manly 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 on the plans prepared by SketchArc dated 02/11/2020 and as summarized below:

Lower Floor

- Extend rumpus within existing subfloor and provide timber windows on front (north) elevation and door on western elevation.

Ground Floor

- Delete extension over existing deck adjacent to family room and provide French doors on front (north) elevation.

First Floor

- Reduce depth of Bed 3 and 4 and provide bay window around portion of side and rear elevations. Setback of 1.0m provided to eastern side boundary and 2.4m provided to western side boundary.

The proposed amendments do not alter the approved height, and no part of the amendments exceeds the maximum 8.5m height control.

The proposed amendments result in the following development indices:

Site Area:	431.8m ²
Floor Area:	223.4m ² or 0.51:1 (increase of 5.45m ²)
Total Open Space:	233.11m ² or 53.9% (no change)
Landscaped Area:	173.07m ² or 72.8% of total open space (no change)

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 minor amendments to the approved plans. 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 of alterations and additions to an existing dwelling. The proposed amendments are relatively minor, generally within the existing building 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.

Manly Local Environmental Plan 2013

The site is zoned R1 General Residential under the provisions of the Manly 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:

Clause	Development Standard	Proposal	Compliance
Clause 4.3 Height of Buildings	8.5m	The proposed amendments do not exceed the maximum 8.5m height control.	Yes
Clause 4.4 Floor Space Ratio	0.6:1	223.4m ² or 0.51:1	Yes

The following clauses also apply:

Clause 6.1 Acid Sulfate Soils

The subject site is identified as Class 5 of the Acid Sulfate Soil map. The proposal is supported by a geotechnical report and it is not considered that the proposal will have any impact on the water table. No further information is required in this regard.

Clause 6.2 Earthworks

An updated Geotechnical Report has been prepared by White Geotechnical which in summary provides:

Provided the vibration and excavation support advice in the original report are followed, the proposed changes will not add any additional risk. The changes are considered minor from a geotechnical perspective and do not alter the recommendations or the risk assessment in the original report carried out by this firm numbered J1886 and dated the 14th August, 2018.

Clause 6.4 Stormwater Management

All collected stormwater will continue to discharge to the street gutter in accordance with Council controls.

There are no other specific clauses that specifically relate to the proposed development.

Manly Development Control Plan

The following controls of the Manly DCP apply:

Clause 3.1.1 – Streetscape (Residential Areas)

The proposed amendments are relatively minor and will not have any detrimental impact on the streetscape.

Clause 3.4 - Amenity (Views, Overshadowing, Overlooking/Privacy, Noise)

The proposed amendments are considered to comply with this clause for the following reasons:

- The proposed amendments do not alter the approved height and will not obstruct any existing views from the surrounding properties.
- The amendments are relatively minor and do not alter the approved roof form, and as such there will be no additional overshadowing.

- The proposed amendments will not reduce privacy to the adjoining properties. The changes are relatively minor and do not provide for any additional windows on the side elevations. The upper level bedrooms provide for bay windows, however these replace the approved windows of similar size and do not decrease the privacy of the adjoining properties

Clause 3.5 - Sustainability

An amended BASIX Certificate has been issued and accompanies this application.

Clause 3.7 - Stormwater Management

There is no increase in hard surface area and all collected stormwater will continue to drain to Wattle Street.

The following numerical provisions of **Part 4** are considered relevant to the proposal:

Clause/ Design Element	DCP Requirement	Compliance/Comments
Residential Density & Subdivision	Density Area D3 – 1 dwelling per 250m ²	Yes Site area is 431.8m ² . There is no change to the density.
Floor Space Ratio	Refer to LEP 0.6 :1	Yes Proposal provides for a floor space of 223.4m ² or 0.51:1 which complies with this clause.
Wall Height	Height – 6.5m	The proposal does not increase the approved wall height.
Number of Storeys	Two Storeys	Yes The proposed continue to results in a two-storey dwelling. The extension to the rumpus is at basement level and will not visible from the street.
Roof Height	2.5m above wall height	Yes No change to approved roof form
Parapet Height: 600mm above wall height.	600mm above wall height	Not applicable

Clause/ Design Element	DCP Requirement	Compliance/Comments
Maximum Roof Pitch	35°	Yes – roof pitch matches existing.
Building Setbacks	Front Setback – Min. 6.0 metres or consistent with neighbouring.	The proposed amendments do not encroach the approved front setback.
	Side Setback – 1/3 of the height of wall.	The proposed bay windows provide for setbacks of 1.0m and 2.4m to the sites eastern and western boundaries. The non-compliance to the eastern boundary is from the bay window only. This does not have an unreasonable impact on the adjoining property. The proposal does not increase the window size but rather provides for more visual interest and articulation.
	Rear Setback – Minimum 8.0 metres	Yes
Landscaping/Open Space	Open Space Area 3: Minimum total open space: 55% of site area.	This clause requires a total open space of 237.49m ² and a landscaped area of 83.12m ² . The proposal provides for the following: Total Open Space: 223.11m ² or 53.9%
	Minimum soft open space as % of total open space: 35%	Soft Open Space: 173.07m ² or 72.8% of the 'required' total open space. However, the proposed amendments do not reduce the area of approved open space.
	Minimum number of endemic trees: 1 additional tree required	Yes The proposed amendments do not require the removal of any vegetation.
	Private open space to be directly accessible from living areas.	Yes The amendments do not reduce the approved private open space.

Clause/ Design Element	DCP Requirement	Compliance/Comments
	Minimum dimension 3m. Minimum area of 18m ² .	
First Floor Additions	Additions may follow the existing ground floor wall setbacks providing adjoining properties are not adversely impacted by overshadowing, view loss or privacy issues. Must retain the existing scale and character of the street and should not degrade the amenity of surrounding residences	The proposed first floor provides for side setbacks that reflect the existing ground floor. This is considered appropriate given that the amenity of the adjoining properties is maintained. The proposal does not result in unreasonable overshadowing and the privacy of the adjoining properties is maintained. The resultant dwelling is compatible with the existing streetscape, with particular regard to the two adjoining properties.

There are no other provisions of the Manly DCP that apply to the proposed development.

JUSTIFICATION

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

- The proposed amendments are relatively minor and will not impact on the streetscape or the amenity of the adjoining properties
- The proposal does not result in any reduction of the existing landscaped area.

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