

June 2021

Alterations and additions to a dual occupancy and strata subdivision

79b Lauderdale Avenue, Fairlight

Environmental Planning & Assessment Act 1979

Section 4.55 Application to Modify Consent

DA No. 2020/0470

Details of Proposed Modifications and Environmental Effects

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1. INTRODUCTION

This document sets out the details of the proposed modifications to development consent No. 2020/0470 operational conditions numbers 3 & 17 together with modification to items depicted in the architectural plans master drawing set DA00-B to DA13-B.

This statement is intended to be read in conjunction with all documentation submitted to Council for Development Application No. 2020/0470 and associated Consent and Building Information Certificate Application No. BC2020/0247 and associated Consent.

In particular, this document is to be read in conjunction with the Statement of Environmental Effects (SoEE) prepared by Cradle Design dated April 2020 and submitted with DA 2020/0470. This document addresses the effects of proposed modifications to the development consent and as such modifies but does not supersede the considerations in the original SoEE.

Accordingly, whilst consideration has been given to the statutory framework set out in the following planning instruments for each of the proposed design modifications, analysis is included in this document only where the impact of a proposed modification is regarded to depart from that of the previous assessment of the item being modified.

Planning instruments considered:

- ☐ *The Environmental Planning and Assessment Act, 1979 as amended*
- ☐ *The Environmental Planning and Assessment Regulation 2000*
- ☐ *Manly Local Environmental Plan 2013*
- ☐ *Manly Development Control Plan 2013*

The following drawings by Cradle Design included in this application detail the design and scope amendments set out in this document:

- DA-00, Issue B1 (Cover Sheet & Location Plan) May 2021
- DA-01, Issue B1 (Site Analysis Plan) May 2021
- DA-02, Issue B1 (Ground Floor Plan – Demolition) May 2021
- DA-03, Issue B1 (Ground Floor Proposed) May 2021
- DA-04, Issue B (Upper Floor Plan - Proposed) May 2021
- DA-05, Issue B (Roof Plan, Drainage, Site Management & Erosion Control Strategy) May 2021
- DA-06, Issue B (North & South Elevations - Existing & Proposed) May 2021
- DA-07, Issue B (East Elevation – Existing & Proposed) May 2021
- DA-08, Issue B1 (West Elevation – Existing & Proposed) May 2021
- DA-09, Issue B (Proposed Finishes Schedule) May 2021
- DA-10, Issue B (Proposed Strata Plans) May 2021
- DA-11, Issue B (Shadow Diagrams 1 of 3) May 2021
- DA-12, Issue B (Shadow Diagrams 2 of 3) May 2021
- DA-13, Issue B (Shadow Diagrams 3 of 3) May 2021

2. THE SITE

The subject site is identified as Lot 12 in DP 867302.

Refer to the Statement of Environmental Effects dated April 2020 by Cradle Design for detailed description.

3. PROPOSED MODIFICATIONS

a. Development Consent Condition 3 - Existing Studio

No Approval for "Existing Studio"

No approval is granted under this Development Consent for the structure marked "Existing Studio" above the garages. For the avoidance of doubt, the "Existing Studio" is to not form part of the Strata-Subdivision Plan associated with this Development Consent.

Reason: To ensure compliance with the relevant Local Environmental Plan.

It is proposed that Condition number 3 be deleted from the consent.

Since the granting of the subject Development Consent with condition number 3, a Building Information Certificate Application No: BC2020/0247 for an 'Existing store room above garages' was made by Cradle Design on behalf of the owners and approved by Northern Beaches Council on 26 May 2021.

The effect of the Building Information Certificate approval was to regularise the use of the structure, previously indicated as an 'Existing Studio', as an 'Existing store room above garages'.

Consequently, it is considered that the reason for exclusion of the former 'Studio', now 'store room' from the scope of the Development Consent is no longer relevant and the condition should be removed from the Consent.

b. Development Consent Condition 17 - Subdivision plan

Subdivision plan

The strata subdivision plan is to be amended to remove the "existing studio" shown on the plans. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: This is an unauthorised structure without prior approval.

It is proposed that Condition number 17 be deleted from the consent.

Since the granting of the subject development consent with condition number 17, a Building Information Certificate Application No: BC2020/0247 for an 'Existing store room above garages' was made by Cradle Design on behalf of the owners and approved by Northern Beaches Council on 26 May 2021.

The effect of the Building Information Certificate approval was to regularise the use of the structure, previously nominated as an 'Existing Studio', as an 'Existing store room above garages'.

Consequently, it is considered that the reason for exclusion of the former 'Studio', now 'store room', from the scope of the Strata Plan is no longer relevant and the condition should be removed from the Consent.

c. Proposed Amendment - Screening & louvre roof of the entry pergola

It is proposed that the configuration of the louvres to the roof of the entry pergola and of the mesh screening to the western elevation of the entry pergola be modified as shown primarily on architectural drawings DA-05-B and DA-08-B.

This proposal has the effect of simplifying and reducing the visual weight of the previously proposed open roof of the pergola by deleting the box-framed and clad perimeter element and panel of timber louvres and replacing the louvres with finer, lower profiled, fixed aluminium battens to the full width and length of the pergola roof.

The roof battens are visually integrated into the western facade of the pergola facing the boundary by turning down to varying levels along that façade as shown on the drawings.

In conjunction with this change the structural frame of the pergola has been reorganised to have frame openings that better relate to the offsetting the framing members away from the top corner junction of the western façade and roof of the pergola to accentuate the lighter form of the proposal.

In turn, this framing adjustment has been complimented by a re-ordering of the pattern of mesh screening panels on the western façade. There will be no appreciable change to the level of privacy or openness provided by the screening.

Manly Local Environment Plan clause 6.9 Foreshore Scenic Protection Area, subclause (3) prohibits the granting of Development Consent unless the consent authority has considered the following matters:

- (a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) measures to protect and improve scenic qualities of the coastline,*
- (c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) measures to reduce the potential for conflict between land-based and water-based coastal activities.*

The overall dimension, position, configuration and openness of this modified pergola proposal remain essentially unchanged from those of the original proposal such that the consideration given that the original proposal is acceptable when assessed against the relevant matters of LEP Clause 6.9 remain valid for the modified pergola.

Similarly, consideration given in relation to the relevant clauses of the Manly Development Control Plan for the subject Development Consent is not affected by the proposed modifications. Particularly with respect to Clauses 3.4.3 Maintenance of Views and 4.1.4 Setbacks (front, side and rear) and Building Separation.

d. Proposed Amendment - Entry paving and water feature

It is proposed that the entry paving beneath the entry pergola be amended to remove the 'stepping stone' component of the pathway to the ground floor unit to provide a simplified, single element water feature of one single channel running centrally between & parallel to the entry pathway and the stair to the first-floor unit.

This modification is shown primarily on architectural drawing DA-03-B.

This modification is minor and remains consistent with design intent of the original Development Application will not change the proposal's consistency with the aims and objectives of the relevant controls.

e. Proposed Amendment - Delete water feature & replace with a pergola to south garden

It is proposed that the new water feature & slab approved to replace the existing paved and stone-walled sitting terrace in the subject Development Consent be abandoned and that the terrace be retained and a pergola be erected over the it.

This modification is shown primarily on architectural drawings DA-04-B, DA-06-B, DA07-B & DA-08-B.

The pergola is intended to improve the amenity of the garden for the occupants of the subject site by providing a measure of privacy from overlooking of the terrace from adjacent dwellings and balconies.

The proposed pergola will be open on all sides and at the top. It will consist of support posts with connecting beams and an open grid of parallel rafters. The plan dimensions of the pergola, subject to suitable post footing locations, are 2.8m x 5.1m with a nearest side boundary setback of 1.35m to the west and a rear boundary setback of 3.8m. The nearest corner is approximately 2.5m from the southern wall of the dwelling.

The pergola is proposed to straddle the sitting terrace rather than bear on it due to the anticipated inadequacy of the retained fill under the paving and the random rock balustrade to provide the requisite bearing capacity and stability for the post footings.

As a consequence of the relatively steep topography, the sitting terrace in the south garden is approximately 2 metres below the ground floor level of the subject dwelling and some 5 metres above the rear boundary.

The underside of the roof structure of the new pergola is proposed to be RL 22.50 which is approximately 2.25m above the highest point of the sitting terrace. This results an anticipated maximum top of pergola level of RL 23.00, subject to structural requirements. This height has been determined in order to provide adequate head clearance beneath the proposed structure when descending to the terrace from the existing landscape steps.

These levels put the top of the proposed pergola at approximately 120mm below the top of the dwelling's ground floor southern balcony balustrade (approximately RL 23.12).

Manly Local Environment Plan clause 6.9 Foreshore Scenic Protection Area, subclause (3) prevents the granting of Development Consent unless the consent authority has considered the following matters:

- (a) *impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) *measures to protect and improve scenic qualities of the coastline,*
- (c) *suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) *measures to reduce the potential for conflict between land-based and water-based coastal activities.*

The following considerations have been given in the preparation of this proposal:

- (a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*

The proposed pergola is positioned close to and almost wholly behind the southern side of the existing dwelling. It will stand approximately 900mm above the existing stone wall at the end of the passageway between the dwelling and western boundary and extend diagonally to a point approximately 900mm west of the western wall of the dwelling. As such it will be visible from the public domain in Lauderdale Avenue but is considered not have a significant impact on the views from Lauderdale Avenue to North Harbour by virtue of the intersection with the view being some 53 metres from and 6.5 meters below the nearest point of view, and which existing depressed lines of sight are variously filtered through existing vegetation at this level. The open style of the pergola will further mitigate the impact on views by allowing lines of site through the structure.

The open style of the pergola will result in the structure sitting lightly in the visual field when viewed from the public domain of the North Harbour Walk. It will be visually subsumed by the scale of the existing two-storey elevation of the dwelling immediately behind it. Further, the view of the pergola from the Walk will be intermittently filtered through existing vegetation subject to the point of view.

Due to the open style of the structure the shadows cast by it will be in strips of varying widths and lengths throughout the day. The effect of these shadows will be largely mitigated by the shadows cast by the proximate existing trees (refer to survey by Total Surveying Solutions which accompanied the original Development Application).

It is therefore considered that the proposed pergola will have minimal, if any, detrimental impact on the visual amenity of the harbour foreshore the subject of this subclause when viewed from the public domain in Lauderdale Avenue.

- (b) measures to protect and improve scenic qualities of the coastline,*

The features of the open style and siting of the pergola set out in the response to the previous subclause are seen to mitigate potential impacts on the scenic quality of the immediate vicinity and when combined with a detailed design that is consonant with the existing landscaping and architectural style of the site, is anticipated to complement the scenic qualities of the built component of the immediate foreshore.

- (c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,*

The scale, siting and design of the proposed pergola are considered to be suitable both in the context of the subject site and in the broader surrounding context of the foreshore.

- (d) measures to reduce the potential for conflict between land-based and water-based coastal activities.*

The proposed pergola is not considered to have any potential conflict with any coastal activities.

Manly Development Control Plan - Clause 3.4.3 Maintenance of Views. The nature and scale of the proposed pergola suggests that the objectives of this clause and subclause a) are relevant for consideration (the remaining subclauses being not applicable):

- Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.*
- Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).*
- Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.*
- a) The design of any development, including the footprint and form of the roof is to minimise the loss of views from neighbouring and nearby dwellings and from public spaces.*

The following considerations have been given in the preparation of this Statement:

- a) The design of any development, including the footprint and form of the roof is to minimise the loss of views from neighbouring and nearby dwellings and from public spaces.*

The impact of the pergola on views from public spaces has been considered in the context of Clause 6.9 of the Manly Local Environment Plan above in this document.

With respect to preservation of views from neighbouring and nearby dwellings, views southwards to the water and land-water interface of North Harbour and beyond over rear boundaries are not impacted by this proposal.

Views across side boundaries through the location of the proposed pergola include water and land-water interfaces, with distant views southeast towards North Head enjoyed by No.81 Lauderdale Ave.

The position, scale & level of the proposed pergola place it predominantly behind and below all but a narrow northern periphery of a depressed field of view bounded by the rear wall of the existing dwelling on the subject site from the ground floor balcony of No.81 Lauderdale Ave across the western boundary.

The level at the top of the pergola of RL 23.00 is below standing eye levels at ground floor windows and ground floor balconies of the neighbouring dwellings. Views from first floor windows & balconies of adjacent properties will not be affected.

The top of the pergola is approximately 40mm above the boundary wall separating the subject site from the ground floor balcony of No.81 and approximately 140mm below the top of the balustrade to the same balcony.

The level of the ground floor balcony of No.81 Lauderdale Avenue is RL 22.14 from which a nominal standing eye level of RL 23.74 can be extrapolated. This eye level is approximately 0.74m above the top of the proposed pergola. Accordingly, only some depressed lines of sight to land views will be affected at the periphery described above. Views in this direction are across nearby properties such as No.73 Lauderdale Ave trees and vegetation of varying heights adjacent to the North Harbour Walk.

The open style of the proposed pergola will further mitigate the impact on the small portion of the side boundary views affected.

It is proposed that the pergola will use either timber with a natural finish to weather and blend with the landscape or darker coloured finishes to again recede into its context and avoid reflection and glare wherever it is visible from outside the site.

Accordingly, when considering the maintenance of views across side boundaries and view sharing principles, the impact on neighbouring properties is considered negligible, reasonable and acceptable.

Manly Development Control Plan – Clause 4.1.5 Open Space and Landscaping. Total Open Space is defined in the DCP as;

...that part of a site which is designed or designated to be used for active or passive recreation and includes:

...

☐ *Hard paved areas (un-enclosed pedestrian walkways and access paths pergolas, clothes drying and barbeque areas);*

Accordingly, this proposal results in no change or amendment to open space as assessed for the subject Development Consent.

f. Proposed Amendment – Retain existing window opening Ground Floor

It is proposed that the infilling of the existing window opening in the northern end of the west wall of the ground floor approved in the Development Consent be abandoned and that the existing window be retained.

The reason for retaining this window opening is to maximise the amount of light transmitted into the bedroom of the ground floor unit.

This modification is shown primarily on architectural drawings DA-03-B & DA-08-B.

This modification has the effect of deleting a proposed change to the existing building and as such an assessment against planning controls is not required.

g. Proposed Amendment – South Garden Stair

It is proposed that the configuration of the south garden access stair adjacent to the eastern boundary included in the original Development Consent be modified to better respond to the existing topography by following the alignment of the adjacent rock face & so better avoid excavation into those faces to accommodate the stair.

To that end the stair has been reconfigured to descend further and parallel to the eastern boundary to a point where it can turn westward along the face of the second rockface below the top riser and so retain the existing landscape features.

This modification is shown primarily on architectural drawing DA-03-B.

This modification is broadly consistent with the general principles underlying the landscaping objectives of the Manly Development Control Plan 4.1.5 Open Space & Landscaping, and specifically Objective 1) *'To retain and augment important landscape features...'*.

h. Proposed Amendment – Replacement of Paving to the Garage Apron & Turning Area

The original development application included the proposal to remove and replace the existing deteriorated concrete paving to the garage apron and vehicle turning area. This was shown on application drawing DA-02-A which was not included in the endorsed set of plans accompanying the Consent. Reference to the slab was not included in the Development Engineer's report considered in the original development assessment.

For the avoidance of doubt and at Council's request, this work has been annotated on drawing DA-03-B for this Modification Application.

This work is best characterised as maintenance of the existing driveway & provides the opportunity to improve the collection of storm water run-off from the surface of the driveway by the inclusion of additional drains & pits to be connected to the existing stormwater disposal system.

As a replacement of the existing slab this work will not change the location or extent of existing paving nor stormwater catchment and so will have no environmental, social or economic impact over and above the existing conditions.

4. CONCLUSION

It is considered that the proposed modifications satisfy the appropriate controls as set out in this document or, where of equivalent or less impact than the item being modified, as determined in the original Development Consent and so are appropriate for consent to be granted.

CRADLE DESIGN