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## **Section 4.55(2) Modification of Development Consent No. DA2018/2057**

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Proposed modification of approved dwelling house located at

Lot 74 DP 10974  
9 Mildred Avenue  
Manly Vale

### **Proposed Modification**

Reference is made to Development Application No. DA2018/2057 determined by Northern Beaches Council on 15 February 2019 for the 'construction of a dwelling house' at the above address.

This Application to Modify Consent made under Section 4.55(2) of the Environmental Planning and Assessment Act 1979 (EPA Act 1979) proposes to modify the existing Development Consent by making some minor modifications to the stormwater design of the dwelling by locating the OSD system to an above ground water tank in lieu of the below ground system. The proposed changes will still provide a suitable drainage system in accordance with Councils requirements.

The proposed modification to the stormwater will continue to ensure minimal impact upon adjoining properties and is requested in order to provide a more appropriate drainage system.

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It is requested that Council review the amended plans with the view of incorporating the current version of the plans prepared by Storm Civil Consulting Engineers (job no. 303204, Issue A, dated 01/05/19).

## Assessment – Section 4.55 of the EPA Act 1979

Section 4.55(1A) of the EPA Act 1979 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
- (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
- (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.'

The proposed modification to the stormwater design is considered to be a minor change in the overall context of the development ensuring it will not result in any detrimental environmental impact.

The proposed development will remain substantially the same as the approved development, being the 'construction of a dwelling house'. The modification will not significantly alter the dwelling house, the drainage plans just require updating to provide a more suitable drainage system.

The minor modification to the stormwater design of the development will not result in any increased impact on the amenity of the adjoining properties.

## Assessment – Section 4.15 of the EPA Act 1979

The proposed stormwater design is to remain an on-site detention system, however, is provided as an above ground system, in lieu of a below ground system. The proposed system will in accordance with Warringah Water Management Policy.

No aspect of the proposed modification is anticipated to contravene the intentions and requirements within Section 4.15 of the EPA Act 1979.

The minor design changes will ensure the development continues to meet the objectives of Council's controls and the intentions of the original Development Consent.

Following the minor amendments to the proposed stormwater design no impact upon adjoining properties is anticipated. As the modifications can be made without resulting in any impact on the amenity of the adjoining properties, the overall development is considered to remain in the public interest.

The modification is considered to achieve the requirements of Section 4.15 of the EPA Act 1979.

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## Conclusion

The proposed modification results in a development that is substantially the same as the original approval, maintaining a functional dwelling and stormwater design in keeping with the objectives of the EPA Act 1979, the R2 Low Density Residential Zone and Council's specified design standards. The development will not have any unreasonable impact on the surrounding natural and built environments.

As there will be no detrimental impact on the streetscape or the amenity of the surrounding properties as a result of the modified stormwater design, the development is considered to remain in the public interest.

Given there will be a reduced impact beyond that of the approved development, it is considered reasonable for the application to be supported in this instance.



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