

15 October 2021

Northern Beaches Council
PO Box 82
Manly NSW 1655

Dear Sir/Madam,

SECTION 4.55(1a) APPLICATION

Premises:	Lot 6 in DP 13900, No. 139 Headland Road, North Curl Curl
Amendments:	Delete Condition 1 (Deferred Commencement)
Development Application:	DA2019/1369
Date of Determination:	29/04/2020

INTRODUCTION

On behalf of the Ms Karina Wells I seek Council consent pursuant to Section 4.55(1a) of the *Environmental Planning & Assessment Act* 1979 to amend Development Consent DA2019/1369 relating to the construction of a new dwelling house and swimming pool.

BACKGROUND

Development Consent was granted for the construction of a new dwelling and swimming pool. The consent was issued on 29 April 2020.

The applicant had proposed to dispose of collected stormwater into Parr Avenue via a proposed drainage easement over No. 16 Parr Avenue. Since approval the owners of No. 16 Parr Avenue have indicated that they do not consent to the easement over their property (letter supplied).

The Consent was issued as a 'Deferred Commencement Consent' with Condition 1 as follows:

Deferred Commencement

1. Stormwater Drainage Easement

As the natural fall of the land is towards the rear of the site the disposal of stormwater drainage is to be in accordance with the drainage plan submitted by Michal Korecky. The easement is to be created under Sections 88B and/or 88K of the Conveyancing Act 1919. The applicant must provide Council with evidence of the created easement on title in order to activate the consent.

Stormwater drainage plans are to be submitted to Council for written approval detailing disposal of stormwater from the site in accordance with Council's Water Management Policy.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply....

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 amendment is consistent with the relevant planning controls and is worthy of the approval.

PROPOSED MODIFICATION

This application seeks to modify the Development Consent by deletion of Condition 1 and provide for collected stormwater on site. A Stormwater Management Proposal has been prepared by Bekker Engineers Design Buro Pty Ltd, Project No. 63908 and dated 8/10/2021.

LEGISLATION

Section 4.55(1a) of the Act states:

(1a) Modifications involving minimal environmental impact

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 original consent granted approval for the construction of a new dwelling with a condition requiring drainage via a proposed easement over the downstream property. This application seeks to alter the stormwater disposal so as not to require an easement, as one cannot be obtained. The proposal will direct all collected stormwater on site. This is considered to be minimal environmental impact.

- (b) it 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 and before that consent as originally granted was modified (if at all), and*

Comment: The original consent granted approval for the construction of a new dwelling with a condition requiring drainage via a proposed easement over the downstream property. This application seeks to alter the stormwater disposal so as not to require an easement, as one cannot be obtained. There are no changes proposed to the approved building envelope or footprint. The proposal is 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*

Comment: It is not considered that the proposed amendments require notification to the surrounding properties as there is no change to the approved building envelope/footprint. With the only modifications relating to stormwater disposal.

- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment: See comments above.

LEGISLATION

Warringah Local Environmental Plan 2011

The subject site is zoned R2 Low Density Residential under the provisions of the Warringah Local Environmental Plan 2011.

The proposed dwelling is consistent with the objectives of the R2 zone and is permissible with consent.

There are no provisions relevant to the proposed modifications.

Warringah Development Control Plan

The proposed amendments relate only to stormwater with the building envelope/footprint remaining unchanged. The relevant provisions of the DCP are detailed below:

C4 Stormwater

This application seeks to disperse of all collected stormwater on site in accordance with the Stormwater Management Proposal has been prepared by Bekker Engineers Design Buro Pty Ltd. The original consent provided for stormwater to be connected to Parr Avenue via an easement over the adjoining property at No. 16 Parr Avenue. The owners of No. 16 Parr Avenue have not agreed to a drainage easement. In accordance with Council's policies an Infiltration Report has been prepared by White Geotechnical Group which indicates that the site is suitable for infiltration. A copy of this Report has been submitted with the application. The proposal complies with this clause and Council Policies.

JUSTIFICATION

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

- The original Consent granted approval for the construction of a new dwelling and swimming pool with a condition requiring a drainage easement over the adjoining property and into the Council infrastructure. This modification proposes disperse collected stormwater directly on site. As the applicants cannot gain an easement over the downstream properties there is no alternative.
- The proposed drainage is supported by a Stormwater Drainage Plan which demonstrates compliance with Council controls.
- There is no impact on the public domain, adjoining properties or the streetscape.

It is therefore considered appropriate that the request to amend the consent and delete Condition 1 of the Deferred Commencement Consent should be supported.

CONCLUSION

For the reasons stated above it is considered that this application to amend the Consent should be supported. Should you require any further information please do not hesitate to contact me.

Yours faithfully,



Natalie Nolan