

20 May 2019

The General Manager
Northern Beaches Council
Civic Centre
DEE WHY NSW 2099

Dear Sir,

**APPLICATION TO MODIFY DEVELOPMENT CONSENT SECTION 4.55 (1A) ENVIRONMENTAL
PLANNING & ASSESSMENT ACT**

Development Application No: DA 2018/0559

Date of Determination: 29 June 2018 & 19 December 2018

Premises: Lot 2127 DP 752038 No 8 Nargong Road, Allambie Heights

Proposed Development: Demolition work and construction of a dwelling house with a Secondary dwelling

This submission has been prepared to assist Council in the consideration of an application pursuant to Section 4.55 (1A) of the Environmental Planning & Assessment Act 1979 to alter the terms of the Commencement Consent as approved by development consent DA2018/0559.

The application will seek to modify the form of the building's design and specifications through the inclusion of the adjusted building plans. These changes consist of;

- Increasing in the side setback of the proposed development (Planned Lot 1) from 1090mm to 1500mm in relation to the planned boundary of the future subdivision (as per DA2016/0834)
- Addition of a sliding door at the rear of the proposed development
- The rearranging of approved cladding design
- Minor changes to window position/types main dwelling
- Addition of decking west of secondary dwelling
- An increase of excavation levels of a max. 860mm

Reason: During the process of achieving the Construction Certificate it has been advised by the fire engineer that the proposed building is considered a Class 2 dwelling. Any building structure, including windows, within 1.5m of any existing or proposed boundary, requires a minimum of a 60 minute fire rating. This would incur significant and unnecessary costs to the development. Increasing the side setback to 1.5m negates this requirement. As the subdivision (DA2016/0834) has not yet been processed through Lands & Titles, it is legal to build within 1.5M of the planned boundary without a fire rating, but this would prevent any future subdivision being possible.

A number of minor aesthetic changes to the building and some decking west of the secondary dwelling are also requested as part of this modification. These issues were overlooked subsequent to the original application. These changes seek to improve the buildings' appearance and overall liveability.

Excavation cutting has also increased to a maximum of 860mm additional. This was increased to accommodate an error in the building design that left inadequate space in the sub floor beneath the secondary dwelling and to also make allowance for the concrete pad that supports the retaining walls.

PROPOSED MODIFICATION

This application, under s4.55 (1A) of the Act seeks increase the side setback of the planned Lot 1 eastern boundary from 1090mm to 1500mm. The overall building footprint would therefore be reduced. The result would see a proportional increase of the main dwelling's overhang over secondary dwelling on the western side of 410mm. The builder has advised that the existing cantilevering of the main dwelling will support this. The appropriate noise and fire proofing between the dwellings will be increased to support the change.

The proposed aesthetic changes relate to the exchange of position of some of the approved cladding styles, the change in style of some of the windows in the main dwelling and the addition of a sliding door at rear of the main dwelling. We also propose the addition of decking to the west of the secondary dwelling.

JUSTIFICATION

The Environmental Planning & Assessment Act 1979 provides for the modification of a consent under S4.55 (1A) which notes:

(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 a development consent granted by it to undertake minor changes of minimal environmental impact. Subsections (1), (2), (3), (5) and (6) and Part 8 do not apply to such a modification.

Accordingly, for the Council to approve the 4.55(1A) Modification Application, the Council must be 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.

We seek these modifications in order to allow the immediate issue of the Construction Certificate unencumbered by fire restrictions relating to the eastern wall of the main dwelling. The modifications also significantly improve the buildings' appearance and liveability.

The proposed decking for the secondary dwelling is intended to improve safety by providing level, easily accessible access to the front of the property. The use of fill cannot be used to raise the final soil level as the concrete slab that serves as the retaining wall support pad also serves to drain rainfall away from the secondary dwelling to a stormwater pit located within the slab. The Planning & Development Regulation 2008 states that decking is compliant if the;

"height of the finished floor level is not more than 0.4m above natural ground level for any part that is either between a front boundary and a building line for the block or within 1.5m of a side or rear boundary and 1m above finished ground level in any other case"

Given the deck will sit 0.85m above the finished slab level it appears to meet the regulation by not being both 1.5m from the side boundary and greater than 1m above the finished slab. The decking will also sit below the natural ground level and so will not produce any privacy incursions on the neighbouring property.

The addition of the sliding door to the study of the main dwelling is intended to improve accessibility and cross ventilation. As this door opens onto the side of the neighbouring property it would not appear to produce any privacy incursions.

The minor changes to windows are summarised as follows;

- Outwards opening window of main dwelling (south) changed to louvers of similar size
- Sliding windows (east wall southern end) changed to a slightly different size
- Outwards opening windows (east wall southern end) changed to louvers of similar size
- Removal of shade devices

In support of our request, we suggest that the approval of the increased side setback will assist the achievement of the subdivision as detailed under DA 2016/0834 and further reduce the building envelope non-compliance under DA 2018/0559.

Council's support of the modification to the form of the proposed development is sought in this instance.

Please contact me on 0433267228 should you wish to discuss these proposed amendments.

Yours faithfully,



David Pender