

14 June 2023

Northern Beaches Council
PO Box 82,
Manly NSW 1655

RE: SECTION 4.55(1A) APPLICATION TO MODIFY DEVELOPMENT CONSENT (DA/2022/1978) AT LOT 7 DP238331, 10 COURTLEY ROAD BEACON HILL NSW

Introduction

We write on behalf of the owners (the **proponent**) to request modification of development consent DA/2022/1978, dated 31 January 2023, pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (the **Act**) and Section 100 of the *Environmental Planning and Assessment Regulation 2021* (the **Regulations**).

The proposed modification relates to Lot 7 DP 238331 being 10 Courtley Road, Beacon Hill (**the site**).

The proposed 4.55(1A) modification seeks to amend Condition 1 from DA2022/1978, to amend approved plans due to proposed increased finished floor level of the dwelling by 300mm.

No additional changes to the dwelling are proposed as previously approved.

Background

DA/2022/1978

On 31 January 2023, Northern Beaches Council (**Council**) granted consent to the two-storey dwelling with associated site works on Lot 7 DP 238331.

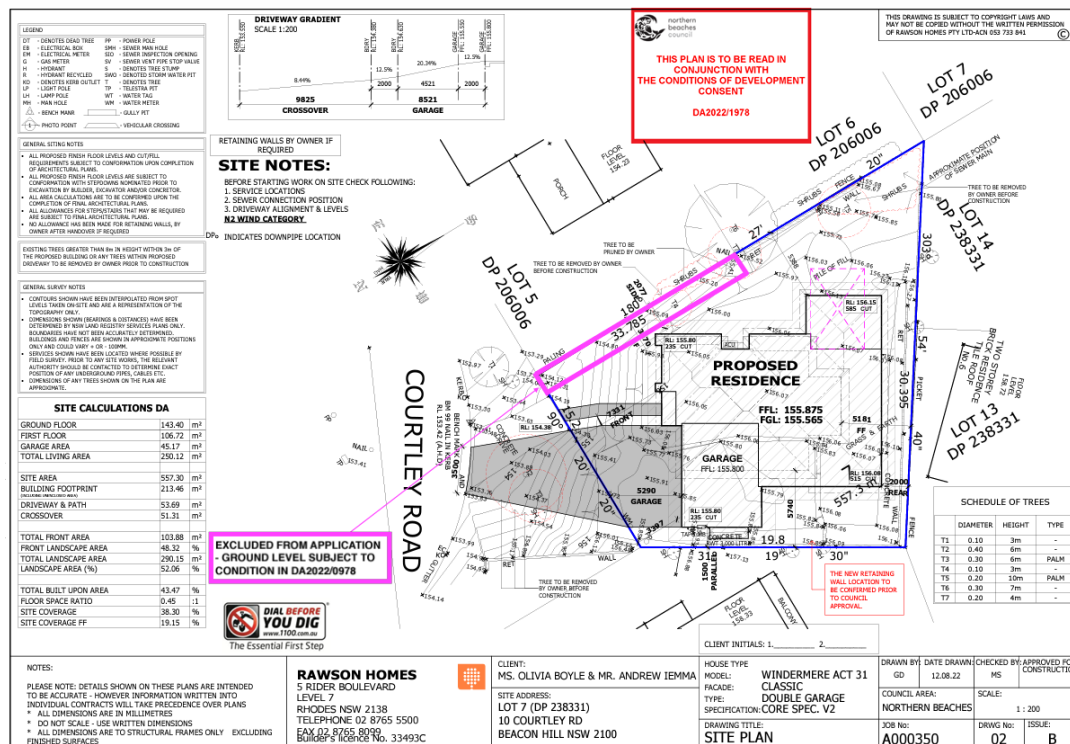


Figure 2 – Approved site plan (Source: Thrive Homes)

The Site

The site is legally described as Lot 7 DP 238331 being 10 Courtley Road, Beacon Hill. It is irregular in shape and provides a site area of 557.30sqm.

The site is currently vacant and provides a single street frontage to Courtley Road (approximately 15.2m).

The site sits within a broader low density residential locality. Development in the immediate vicinity of the site is defined by established low density residential development including one to two storey dwellings with some dwellings recently rebuilt.

A range of light industrial, retail and commercial uses are located further west of the site.

A site aerial is provided at **Figure 3**.



Figure 3 – Site Aerial (Source: Nearmaps)

Proposed Modifications

The proposed modifications are sought pursuant to Section 4.55(1A) of the Act and are minor in nature and are of minimal environmental impact.

The proposed modification application seeks to amend Condition 1 of consent DA2022/1978, which includes a list of approved plans and supporting documentation.

The modification seeks to amend approved plans due to the finished floor level of the dwelling needing to be raised by 300mm and relocation of rainwater tanks. No changes are proposed to the proposed height of the dwelling or layout.

The modification seeks to amend this condition by amending the approved plans to the current issue.

The following wording is recommended, with deleted words in ~~strike through~~ and new words in ***italicised bold***.

1. *Approved Plans and Supporting Documentation*

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) *Approved Plans*

<i>Architectural Plans - Endorsed with Council's stamp</i>		
<i>Drawing No.</i>	<i>Dated</i>	<i>Prepared By</i>
02 Site Plan Rev B Rev E	12 August 2022	Rawson Homes
03 Ground Floor Rev B Rev E	12 August 2022	Rawson Homes
04 First Floor Rev B Rev E	12 August 2022	Rawson Homes
05 Elevations 1-2 Rev B Rev E	12 August 2022	Rawson Homes
06 Elevations 3-4 Rev B Rev E	12 August 2022	Rawson Homes
Sections Rev B Rev E	12 August 2022	Rawson Homes
Schedule of Colours and Finishes	26 September 2022	Rawson Homes

No changes are proposed to any other approved plans or documentation under Condition 1 other than above.

Details of Modification

The approved finished floor level (FFL) of the dwelling is 155.875 and this modification proposes to increase the finished floor level to 156.175 (increase of 300mm). The increase in FFL is due to existing footings on site which are too high and impacting the building footprint. The proposed slab is amended from a M class slab to a H class slab.

The dwelling height was approved at RL 163.401 with a proposed increase in dwelling height to RL 163.701 (increase of 300mm). The proposed dwelling height is still compliant with the LEP height limit as discussed further below in this report.

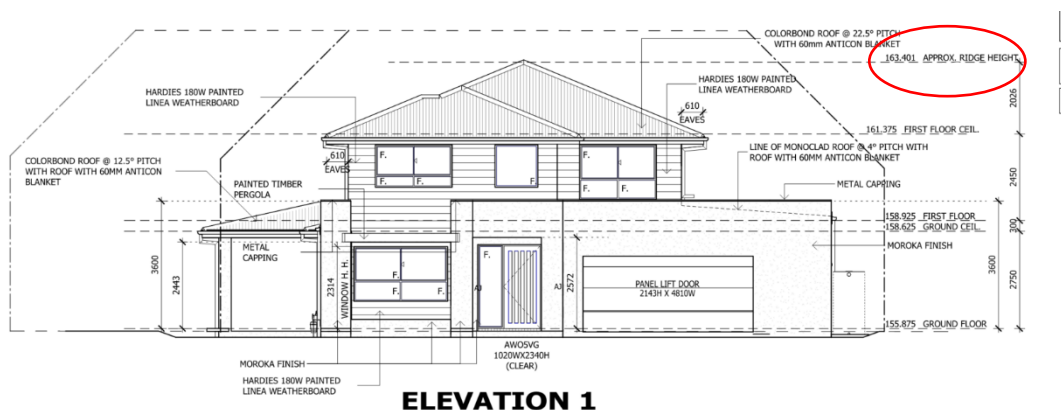


Figure 5 – Stamped plans under DA2022/1978 – Elevation 1

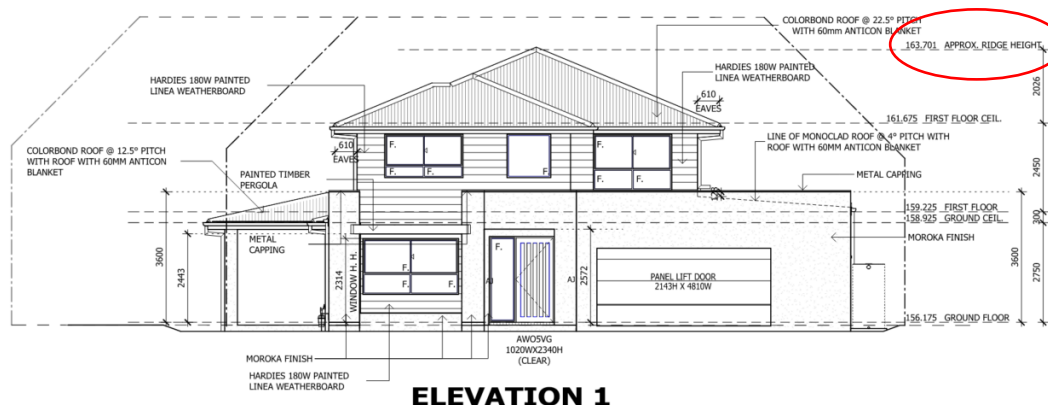


Figure 6 – Proposed plans under this Mod – Elevation 1

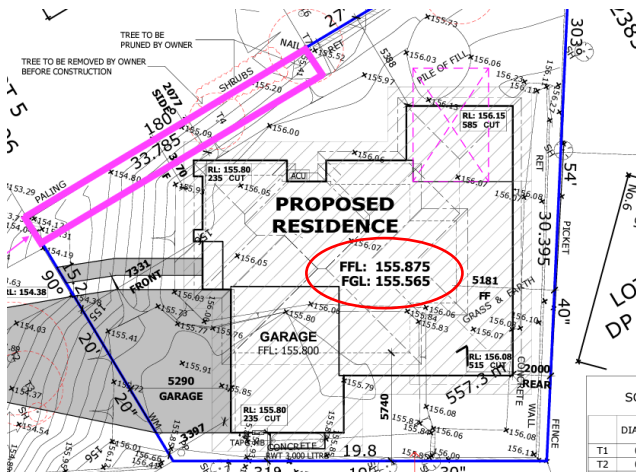


Figure 7 – Stamped plans under DA2022/1978

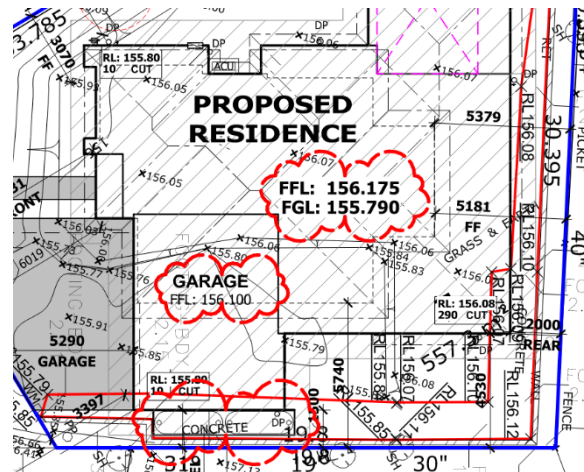


Figure 8 – Proposed plans under Mod

The proposed modification also includes an additional rainwater tank as per below. The tanks remain in the same location, on the western elevation besides the Garage as approved.

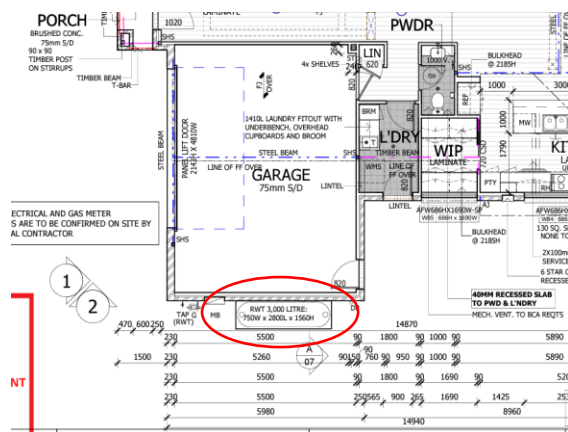


Figure 9 – Stamped plans under DA2022/1978

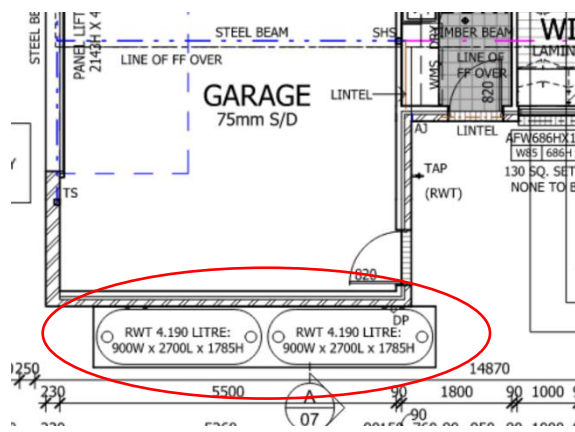


Figure 10 – Proposed plans under Mod

Substantially the Same Development

Section 4.55(1A) of the Act states that:

“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.*

Subsections (1), (2) and (5) do not apply to such a modification.”

In relation to the material substance and impacts of the proposed modifications:

- The proposed modifications result in a development outcome that is quantitatively and qualitatively substantially the same as the original development,
- The fundamental characteristics and essence of the proposed development remain unchanged,
- The development remains consistent with the built form as approved and continues to complement the prominent building form and character of the surrounding area,
- The modification does not alter the developments approved bulk or scale or height of dwelling, with the proposed amendments solely relating to minor increase in FFL and approved rainwater tank on site, and
- The modification to the consent will not alter the overall physical form of the approved dwelling besides the minor increase in FFL.

Overall, the modification does not give rise to any additional impacts beyond that considered as part of the approved application. It will maintain compliance with the approved conditions of consent that are imposed to minimise all environmental impacts during construction and upon completion of the development.

Section 4.55(3)

Under Section 4.55(3) of the Act, the consent authority is required to take the following matters into consideration:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

The proposed changes sought in the subject modification do not give rise to any inconsistency with the reasons for determination of the original DA. The changes are minor in nature, only resulting in changes FFL due to existing footings and approved rainwater tank on site.

Section 4.15 Assessment

In determining an application for modification of a consent under Section 4.55(1A), the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

Warringah Local Environmental Plan 2011

The proposed modification has been considered in terms of the relevant provisions of *Warringah Local Environmental Plan 2011 (WLEP)*.

Table 1 – Warringah Local Environmental Plan 2011

Clause	Response
2.1 Land Use and Objectives	No change to the approved use, being a dwelling house, is proposed in the R2 Low Density Residential zone.
	No change to the approved dwelling house is proposed and will therefore maintain consistency with the objectives of the zone as previously approved.
4.3 Height of Buildings	The maximum building height for the site is 8.5 m. FFL is increasing by 300mm and therefore the height of dwelling is slightly increased. The dwelling was approved at RL 163.401 with a proposed height of RL 163.701. The dwelling is compliant with the height limit.

Table 1 – Warringah Local Environmental Plan 2011

4.4 Floor Space Ratio	Site is not affected by floor space ratio controls.
5.9 Preservation of Trees or Vegetation	The site does not contain any significant vegetation requiring removal and no change to the approved dwelling or landscaping plan is proposed.
5.10 Heritage Conservation	The site not identified as a heritage item or within a heritage conservation area.
5.11 Bush Fire Hazard Reduction	The site is not identified as bush fire prone land.
5.21 Flood Planning	The site is not identified as within a flood planning area.
6.1 Acid Sulfate Soils	The site is not identified as being affected by Acid Sulfate Soils
6.2 Earthworks	The modification proposes to increase the FFL by 300mm with a reduced amount of cut proposed.

The proposed modification does not give rise to any changes to the development as approved from a compliance perspective with Warringah Local Environmental Plan 2011.

Other Applicable State Environmental Planning Policies (SEPPs)

The SEPP Resilience and Hazards was considered under the parent DA application (DA2022/1978). The proposed modification application, which is minor in nature, will not affect compliance with the SEPP Resilience and Hazards. Overall, the proposed modification:

- Will not impact or alter the assessment of the parent DA, which notes the subject site has historically been used for residential purposes with no known land uses that would result in potential land contamination.

Based on the above considerations, the proposed modification does not give rise to further consideration of SEPP Resilience and Hazards.

Warringah Development Control Plan 2011

The proposed modifications will not change the development's consistency with any relevant controls in the Warringah Development Control Plan 2011 (**WDCP**).

Overall, the modification will maintain a development as approved which is compatible with the character of Beacons Hill. The proposed modification will maintain the approved architecturally designed building which establishes a high quality contemporary built form to present a coherent development outcome in character with the approved subdivision.

Likely Impacts

The proposed modification will not introduce any new development or land use from that approved. The modification seeks to amend the FFL noting existing footings and proposed rainwater tanks.

The proposed modification will not create any significant adverse additional environmental, social or economic impacts beyond those already considered by Council during the assessment of DA2022/1978 or the parent subdivision approval.

Suitability of the Site

The proposed modification does not change the suitability of the site for the proposed development. There are no anticipated impacts on the surrounding natural and built environments, and the proposal is permissible under all relevant planning controls.

Public Interest

The proposed amendments will not adversely impact on the surrounding properties, public domain and will not alter the overall approved envelope, use or built form. It is therefore considered to be in the public interest.

Conclusion

As detailed in this request the proposed changes are consistent with the requirements under Section 4.55(1A) of the Act. Specifically,

- The development as proposed to be modified remains qualitatively and quantitatively substantially the same development as that for which consent was originally granted,
- The proposal is consistent with relevant SEPPs, LEP and DCP provisions, and
- The proposed modifications are minor, consistent with applicable statutory planning controls and will not result in any environmental impacts.

We therefore conclude that the proposed modification should be approved.