

Ref: DA2019/0906

24 October 2019

Northern Beaches Council
PO Box 82
MANLY, NSW 2112

PROPOSED SECTION 4.55(1A) Modification of Development Consent DA2019/0906 granted for Alterations and Additions to a dwelling house including a swimming pool,

Lot 76 DP 226445, 40 Towradgi Street, NARRAWEENA NSW 2099

I refer to the above-mentioned proposal and advise that Pittwater Design and Draft act for the proponent and applicants, Caroline and Darren McDevitt.

1. We seek Council approval to modify development consent DA2019/0906, which authorises development for the alterations and additions to the existing dwelling including a swimming pool.
2. This application is made pursuant to section 4.55(1A) of the EP&A Act, 1979 (as amended) because the proposed modifications constitute substantially the same development and will result in minimal environmental impact.
3. The relevant information to support the application is provided hereunder pursuant to section 115 of the Environmental Planning and Assessment Regulation 2000, which states:

An application for modification of a development consent under section 4.55(1A) of the Act must contain the following information:

- (a) The name and address of the applicant,*
- (b) A description of the development to be carried out under the consent (as previously modified),*
- (c) The address, and formal particulars of title, of the land on which the development is to be carried out,*
- (d) A description of the proposed modification to the development consent,*
- (e) A statement that indicates either:*
 - (i) That the modification is merely intended to correct a minor error, misdescription or miscalculation, or*
 - (ii) That the modification is intended to have some other effect, as specified in the statement,*
- (f) A description of the expected impacts of the modification,*

- (g) *An undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved,*
- (h) *If the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to the making of the application,*

Particulars:

(a) The name and address of the applicant

Caroline and Darren McDevitt c/- Pittwater Design and Draft

(b) A description of the development to be carried out under the consent

- A Development Application for the alterations and additions of an existing dwelling was approved on the 3 October 2019.
- The applicant has not yet commenced the approved works.

(c) The address, and formal particulars of title, of the land on which the development is to be carried out

- The land is legally described Lot 76 DP 226445, 40 Towradgi Street, NARRAWEENA, NSW 2099.

(d) A description of the proposed modification to the development consent

7. Amend Approved plan set Plan numbered DA-01 Issue 3, DA-02 Issue 3, DA-05 Issue 3, DA-06 Issue 3, DA-12 Issue 3 all prepared by Pittwater Design and Draft, dated Issue 3 16/7/2019 **to DA-01 Issue 4, DA-02 Issue 4, DA-05 Issue 4, DA-06 Issue 4, DA-12 Issue 4 all prepared by Pittwater Design and Draft, dated Issue 4 24/10/2019.**

8. Proposed changes to the plan set are as follows:

- Add a 1.8m timber fence to the northern rear boundary with screening bushes.

The Reason for the requested modifications

9. The requested conditions are proposed to provide:

a. Safety

- Condition 7 of the Notice of Determination proposes a 3.46m wall along a large portion of the length of the rear yard (maximum pool deck height of 1.66m + 1.8m solid timber screening fence (page 12-13, DA Assessment report)).
- This would close the pool area off to the lower yard, posing a safety risk if a child is in this zone when the supervising parent is in the pool area with another child or tending to the pool.
- The adult would not be able to see the child, and may not hear them.
- Our proposed alternative of a 1.8 fence along the northern boundary would ensure maximum safety within the entire rear yard, as well as maximum privacy for the neighbours.

b. Privacy

- To ensure and optimise privacy for the occupants of the adjoining property.
- To maintain privacy between dwellings.

c. More openness in the yard with less impact on the surrounding environment

- Condition 7 proposes a 3.46m wall along most of the length of the rear yard (maximum pool deck height of 1.66m + 1.8m solid timber screening fence (page 12-13, DA Assessment report)).
- This would result in a divided yard, with two isolated zones, and appears to contradict Council's reasons for approving the pool:
 - i. "to create a sense of openness in rear yards" and
 - ii. "to provide a functional private open space area (and) a sense of openness within the rear yard. The proposed retaining wall will not appear visually dominant in the rear yard" (page 12, DA Assessment Report).
- The screening fence and pool wall – reaching 3.46m high from ground level – would be visually dominant.
- We believe it would create an unreasonable – and unnatural – impact on the surrounding land. It would negatively impact the existing openness and natural features such as the property's bush rock and views of the distant bush.
- A 1.8m fence along the boundary would result in an open yard that provides a private, functional open space that makes the most of the unique natural characteristics of the Northern Beaches.

Please refer to images below identifying the existing and proposed view into 42 Towradgi Street, Narrabeena.



Existing view from the approved pool coping level FFL 34.600



Proposed view from the approved pool coping level FFL 34.600

The requested change above constitutes the full extent of the modification, the proposed amendments to the plan set will not increase the approved floor area of the dwelling.

(e) A statement that indicates ... (ii) That the modification is intended to have some other effect, as specified in the statement

The proposed modifications to the plans will have minimal environmental impact on either the land or the adjoining allotments.

(f) A description of the expected impacts of the modification

The impacts of the proposed modification can be determined by an assessment of the relevant matters under the Environmental Planning and Assessment Act, 1979. An application to modify a consent must be considered pursuant to section 4.55(2) of the Act:

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.

Section 4.15 matters for consideration

(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
 - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (v) (Repealed)*

The proposed modification has been made in accordance with the relevant planning instruments, legislation and development controls.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Social Impact

The proposed modifications will not cause any social impacts.

Environmental Impact

The proposed modifications will not cause environmental impacts.

Economic Impact

The proposed modifications will not cause economic impacts.

(c) the suitability of the site for the development

Previously assessed and determined suitable with consent granted on 3 October 2019.

(d) any submissions made in accordance with this Act or the regulations

Council may elect to notify adjoining property owners of the proposed modifications. There is no aspect of the proposed changes that should be of concern to the public.

(e) the public interest.

The modifications provide certainty and are therefore in the public interest.

(f) An undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved

The modifications do not change the type of development for which consent had been granted. The development consent as proposed to be modified will result in substantially the same development as the development for which consent was originally granted, it is merely the addition of a boundary fence as a direct alternative to DA2019/0906 Condition 7 to preserve the privacy of 42 Towradgi Street, Narraweena.

(g) If the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to the making of the application

Refer to Application form.

If you have any further enquiries regarding the above please do not hesitate to contact the writer.

Yours faithfully,

Pittwater Design and Draft