

Attention

Northern Beaches Council

Via – planning portal

Date 3.8.21

Amended Statement of Environmental Effects for the development modification clause 4.55 DA
2019/1310

The address of the development is Lot C DP 302957 107 Griffiths Street Balgowlah

Proposed development; Demolition works, construction of attached dual occupancy and subdivision.

As per Division 4.9 post consent provisions clause 4.55 modification of the consent –I am applying
for a

(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
- (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

Discussion as to why it's a 4.55 (1a) – Minimal Environmental impact application

The assessment has been made with relation to the development and the applicable clause within the act to use as the basis for the modification. Clause 4.55 (1a) is appropriate for the following reasons;

- (a) – the CC plans were approved by the certifier with the current heights and the building is now complete. He has also undertaken onsite inspections and the builder has been approved to continue. There is a small technical matter of being 20mm over the current

height approved on the CC drawings. There is little environmental impact on the surrounding built environment.

- (b) The development is substantially the same and there is no change to the approved CC drawings apart from being 20mm higher on the upper most roof.
- (c) I don't believe that the council needs to notify this matter as it's only 20mm above the current approved CC drawings by the certifier. The requirement to notify this for a minor issue and technical correction of condition 1 which will allow condition 22 to be satisfied.

Discussion of the term “approved plans” under condition 22.

When looking at the legislation the term “approved plans” in this instance is the “ approved construction certificate plans” and not the Development consent plans. The intent of the development consent is that “an approval is given with conditions” and hence the modification of the plans to “ satisfy the consent conditions “ is generally accepted to ensure that the development can be built to the external regulatory authorities requirement.

The current matter is not regulated by the Local Government Act under section 68 and is controlled by a Sydney Water who is regulated by the NSW Government.

With the current matter we have discussed this with the certifier, and he has requested that a modification be sought under clause 4.55 (1a) for the technical correction of the condition to allow a Occupation Certificate to be issued.

I am of the view that the current approved construction certificate plans are the “approved plans “. The certifier has still requested that this modification be lodged.

The Background to the changes needed

The background to the modification and the need to make an amendment to the following consent condition.

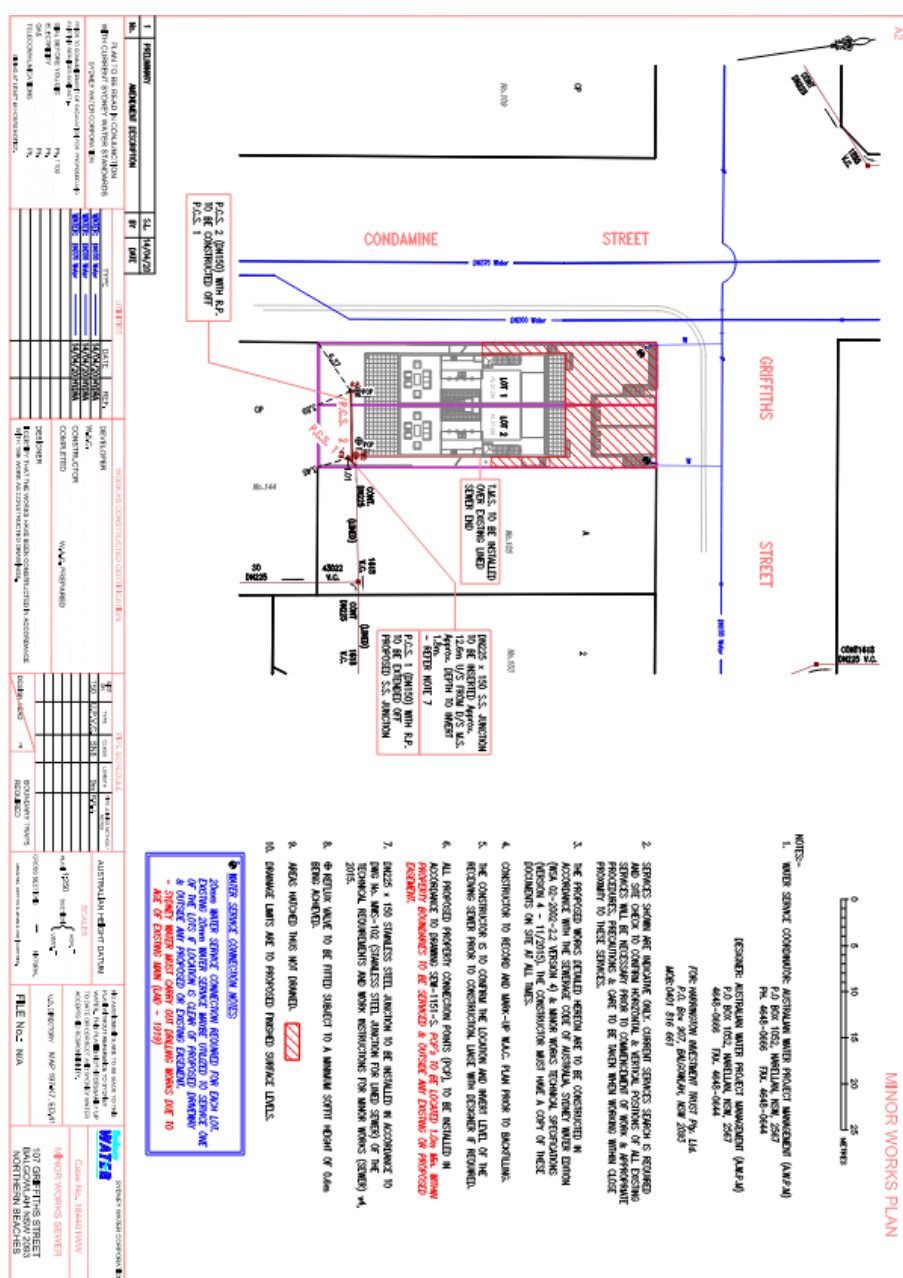
Condition no 1 – a) approved plans

Condition 22 (c) – Survey certificate – at the completion of the roof frame confirming the finished roof/ridge height is in accordance with the levels indicated on the approved plans.

Background to the history of the minor changes and why the floor levels were lifted as part of the approved CC.

As part of the consent condition 35 required that a section 73 certificate must be applied for and be granted prior to the issue of the subdivision certificate. There is also a Sydney water tap in is required.

The minor works were approved as below in the diagram



As part of the Construction certificate application the plans were amended to incorporate the changes and the RL's of the slab was raised from the approved drawings in the condition 1 of the approval. The amendment of the RL's are as follows;

GF Approved RL 26.990 CC drawings approved by the certifier RL 27.238

First Floor RL 30.090 CC drawings approved by the certifier RL 30.338

Upper roof RL 34.140 CC drawings approved by the certifier RL 34.338

The onsite survey has the following AS Built RLs

GF – 27.400

Fire Floor 30.338

Upper Roof 34.420

See attached the final survey by total surveying solutions.

Our Reference: 182597-FL Report

Date of Issue: 23/09/2020

**Grant Harrington
107 Griffiths Street,
Balgowlah NSW 2093**

Survey Report

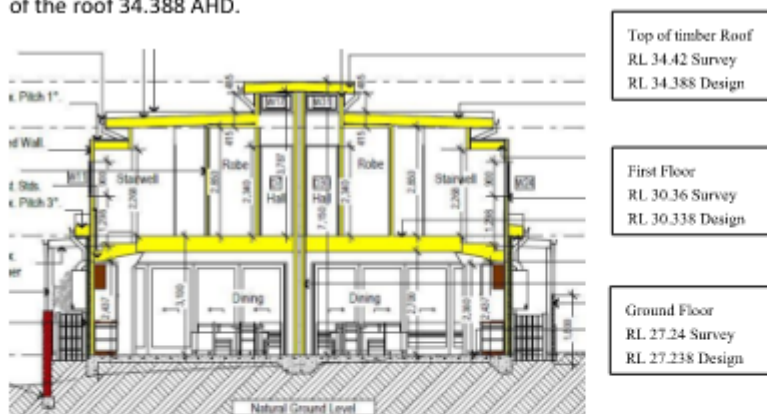
**107 Griffiths Street, Balgowlah
Lot C DP 302957**

Dear Grant,

In accordance with your instructions we have surveyed the floor level of the residence being erected on Lot C of DP302957, situated at 107 Griffiths Street, Balgowlah.

Adopting PM 990, having an RL of 24.826 AHD, we find the level of the Ground floor to be 27.24 AHD and the First floor level to be 30.36 AHD. We also find that the top of timber frame for Roof to be 34.42 AHD.

Design plans by Rapid Plans show the Ground floor level 27.238 AHD, First floor level 30.338 AHD and the top of the roof 34.388 AHD.



Total Surveying Solutions


**Paul Johnston
Registered Land Surveyor
Surveyor ID: 5878**

In a summary of the changes to the original statement of environmental effects by Symons Goodyer Project No 18-161 dated April 2019 the development is substantially the same and the following is apparent;

- There is no change to the overall Floor space ratio
- No change to the setbacks of the front and rear from the boundary
- No change to the exterior landscape RL, fence heights and retaining walls heights
- No change to the carport set back, heights , orientation and layback location

There is only a small matter of the height increase to the wall height to the boundary setback and this would have an affect of 1/3 the wall height as outlined by the SEE discussion below and we are still compliant with this with an increase of 230mm.

7.2.4. Side boundary setbacks

The proposal complies with the side setback requirements of Part 4.1.4.2 of the MDCP 2013. In this regard the building steps in at the upper level and provides two wall planes, with the lower wall plane set back a minimum of 1/3 of its wall height and the upper wall plane set in 1/3 of its wall height.

There are projections into the side boundary setback area, being the upper part of the stairwell. In accordance with clause 4.1.4.2(b) of the MDCP

2013, this element has no adverse impact on adjoining the adjoining properties. It does not result in any overlooking or noise impacts.

The following compliance table is still compliant and relevant. The total building height is still well under the allowed of being 8.5m and the building will still be 1m under.

7.2. Part 4 – Development Controls

Control	Required / Permitted	Proposed	Complies?
Residential density – Area D3	1 dwelling per 250 m ²	1 dwelling per 247.2m ²	NO
Wall height	- East 7.0m - West 6.8m	- East 6.1m - West 6.3m	YES YES
Number of storeys	2	2	YES
Roof allowance	2.5m over wall height	1.2m	YES
Front Setback	6.0m or prevailing / established front setback	10.2m Consistent with streetscape	YES
Side setback	- East ground 1.1m - East first 2.3m - West ground 1.1m - West first 2.3m	- East ground 1.1m - East first 2.4m - West ground 1.1m - West first 2.4m	YES YES YES YES
Side setback of windows to habitable rooms	- East 3m	- East 1.1m – 2.4m	NO
Rear setback	8.0m	8.7m	YES
Open Space (OS3)			
- Total	55% site area (271.8m ²)	39.3% site area (194.0m ²)	NO
- Soft	19.25% site area (95.1m ²)	23.9% site area (118.0m ²)	YES
- Above ground	Maximum 40% of Total OS	0% of Total OS (0m ²)	YES
Number of endemic trees	1	2	YES
Private open space	- East dwelling - 18 m ² - West dwelling - 18 m ²	- East dwelling - 58 m ² - West dwelling - 58 m ²	YES YES
Car parking	4 spaces	2 spaces	NO
Cut and fill	1.0m maximum	< 1.0m	YES

With relation to the original SEE the follow clauses have been addressed and assessed in this Modification;

4.3- no change

4.4 – no change

4.3 – no change

4.5 – no change

4.6- no change

4.7 – no change

4.8 – no change

4.9 – see attached updated DA plans with minor amendment to the heights 230mm increase

5.2 – no change

5.3- no change

5.4 – no change

5.5 – no change

5.6 – no change

5.7 - no change

5.8 – no change

6.1 -6.2 – no change

6.3 – minor change to the height being 230mm – still complies and is 670mm under the 8.5m limit

6.4 – still complies

6.5 – no change

6.6- no change

6.7 - no change

7.1 – no change

7.2 inclusive of all subsections and part 4 controls – still complaint

Summary of the facts

The consent to build is subject to conditions of consent and the conditions form part of the approval and are a “directive to undertake” external referrals which are not covered by the EPA Act and Regs or the Local Government Act and regs.

Separate NSW legislative Public Authorities such as Sydney water regulate and have the ability to impose infrastructure requirements on an approved development. In this case the imposed requirement was to ensure that the new parcel of land was able to be serviced by water and sewer which is controls by the section 73 process. The section 73 process is part of the subdivision process.

This matter is quite simple in nature and is only got complex by the condition 22 in this instance and the imposition of the interpretation of the condition. I have spoken with the Accredited Certifier and we have agreed that the CC plans have been approved in their current “ raised configuration” and hence these are acceptable and they are the “ approved plans “ by the certifier.

We have also had discussions about the survey and the minor variation to the overall total height which is over the approved plans.

In the essence of finalising the matter the certifier has instructed us to lodge a 4.55 modification to correct the following;

1. Changes to the “ DA approved plans vs the CC approved plans” – condition 1
2. The final height of the roof which is “20mm over the CC approved plans” – condition 22

The minor changes have no environmental impact on adjoining privacy and has no environmental impact and hence the current matter was unavoidable due to the impact of the sewer location and the imposed design of the new sewer lines by Sydney Water.

With this 4.55 we are seeking to align the minor technical non compliances so that the appointed Certifier can issue the Occupation Certificate.

We have also been instructed to apply for a Building information Certificate which will follow in the coming days. Given we are at the end of the project we are seeking that Councils Assessing officer can undertake this without notification for the following reasons;

The heights have been approved under the Construction Certificate – by the certifier

The only minor matter here is that the over all height is 20mm over the approved CC drawings.

Regards

Linda Harrington – director

Harrington Investment Trust Pty Ltd