

10 Nooal Street, Newport Alterations and additions to dwelling house – S4.55 (2)

Statement of Environmental Effects – September 2021



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INTRODUCTION

1. Overview

This Statement of Environmental Effects has been prepared by Mod Urban Pty Ltd to support a Section 4.55 (2) application on behalf of the owners of 10 Nooal Street, Newport and relates to the proposed new alterations and additions to the dwelling house including a first-floor extension. The site is legally described as Lot 481 in DP 535272.

Development consent was granted by Northern Beaches Council for *alterations and additions to a dwelling house* on 25 February 2020 (DA2019/1497). It is this consent that is proposed to be modified.

The proposed new modifications are highly compatible with the existing development and use of the site as well as surrounding land uses. The proposal will ensure that the premises do not impact on the amenity of surrounding residential occupiers.

The provisions of the Pittwater LEP 2014 apply to the site, and the proposal is considered to be consistent with its objectives. The site is also located within the Northern Beaches Council area.

This SEE provides an assessment of the proposal against the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000 (as amended).

SITE ANALYSIS

2. The Subject Site

The site is located at 10 Nooal Street, Newport and is legally described as Lot 481 in DP 535272.

2.1 Site Details

- The site is roughly rectangular in shape with an area of 870.3m² and contains a part one and part two storey dwelling house;
- The site also contains a swimming pool;
- It has a primary street frontage to Nooal Street and the site slopes away from the street to the west;
- The building is not a locally listed heritage item and is not located within a conservation area.
- Car parking is located on site adjacent the building within an existing carport.
- Vehicle entry and exist is from Nooal Street.

The site is identified in **Figure 1** of this SEE.



Figure 1: The site (Source: Six Maps)



Figure 2: The subject site Nooal Street frontage



Figure 3: Side elevation to the north and views to Pittwater.



Figure 4: Northern boundary and access to properties at the rear.



Figure 5: Southern boundary of the property.



2.2 Site Surrounds

- Surrounding land uses are predominantly residential uses consisting of one and two storey detached dwelling houses.
- The site affords views onto Pittwater and the local marina.



PROPOSED DEVELOPMENT

3. Overview

The proposal relates to modifications to the approved alterations and additions to the dwelling house under DA2019/1947. The proposed modified plan and elevations are included at **Appendix B** of this report.

3.1 Built Form

Lower Ground Floor

- Relocate internal stair.
- Delete internal walls.
- Rectify external retaining walls.
- Extend concrete floor.
- Modify proposed cabana design.

Ground Floor

- Delete garage wall and widen garage to make garage more compliant with DCP.
- Relocate entry to allow garage modification.
- Relocate internal stair.
- Adjust wet areas and guest room sizes.
- Replace awning with operable solar control.
- Modify kitchen.
- Delete approve column near entry
- Provision of operable shading
- Thicken the wall to the east elevation

First Floor

- Enlarge approved window W1N1
- Reconfigure bedroom 2.
- Reconfigure window to Bedroom 4.
- Relocate window to Bedroom 3.
- Reconfigure bathroom, WC and walk in robe to bedroom 1.
- Reduction of brick chimney overrun.
- Increase north facing glazing to entry stair.
- Provision of a new flue.
- Reduce height of fireplace overrun.
- Provision of operable shading



Roof

- Modify roof form and remove skillion roof over hall and replace with a smaller roof.
- Remove fireplace extension at upper level.
- Delete approved skylight



LEGISLATIVE FRAMEWORK

4. Overview

This Part of the SEE assesses and responds to the legislative and policy requirements for the project in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act).

The following current and draft State, Regional and Local planning controls and policies have been considered in the preparation of this application:

State Planning Context

- Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Local Planning Context

- Pittwater Local Environmental Plan 2014 (PLEP)
- Pittwater Development Control Plan 2014 (PDCP)

This planning framework is considered in detail in the following sections.

4.1 Environmental Planning and Assessment Act 1979

Section 4.55(2) of the Environmental Planning & Assessment Act 1979 makes provision to modify a Development Application that has been made pursuant to Part 4 of the Environmental Planning & Assessment Act 1979.

The proposal as submitted to Northern Beaches Council is considered to satisfy the provisions of Section 4.55(2) of the Act in that the changes proposed will result in minimal environmental impact and will result in the development being substantially the same as that for which consent was originally granted.

The key provisions of Section 4.55(2) of the Act have been considered below:

(2) Other modifications

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 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

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, 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 the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

The proposed modifications maintain the approved residential development and will not result in a significant increase in intensity beyond that of the approved scheme and are of minimal environmental impact for the following reasons:

- No significant change to the building footprint or significant change to the building envelope;
- No increase in approved gross floor area.
- No change to the overall building height
- No additional adverse shadowing impacts to adjoining properties
- No additional traffic impacts
- No perceptible visual bulk impacts
- Improved visual appearance to the building to seek to achieve design excellence
- Visual privacy is maintained for both adjoining properties
- Solar access and natural cross-ventilation are maintained

Accordingly, it is considered that Section 4.55(2) is the most appropriate mechanism for the proposed modifications to the consent, and results in a development that is substantially the same as approved under DA2019/1947 as modified.

4.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The aim of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 is to ensure consistency in the implementation of the BASIX scheme through the State.

In accordance with this SEPP, the application is accompanied by a BASIX certificate that confirms the proposal's compliance with key sustainability targets (refer Appendix C).

4.3 Pittwater Local Environmental Plan 2014

Use and Zoning

The Pittwater Local Environmental Plan 2014 was prepared to meet new State Government guidelines for local planning documents.

The subject site is located in Zone E4 Environmental Living under Pittwater LEP, 2014 and the works and continued use as a residential accommodation is permissible within the zone. The proposal also satisfies the objectives of the zone.

The approved use is not proposed to be modified.



CI 4.3 Height of Buildings

The Pittwater LEP gives provision of a maximum building height on the site of 8.5m. The proposed development results in a maximum building height of 9.19m. It should be noted the proposed building height is less than the approved building height.

Subsequently the proposal is not compliant with Clause 4.3 of the PLEP and is justified as follows.

The proposal is consistent with the objectives of the Clause 4.3 Height of Building standard as follows:

Notwithstanding the proposed variation to the standard, the proposed development is nevertheless consistent with these objectives:

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

- The proposed building is consistent with the prevailing building height. Furthermore, the element of the proposal that represents its highest point is the roof of the proposed master bedroom ensuite which will not be visible from the streetscape. The majority of the building has a lesser height. The portion of the building that exceeds the maximum height standard contributes to the numerical non-compliance.
- The proposed variation to the 8.5m height standard seeks an additional 697mm for over the height standard to a very minor portion of the rear elevation.
- The proposed building forms part of the urban backdrop when viewed from the Pittwater and its foreshores. The building will have no perceptible impact on views to nearby residential development from public places.
- The proposal reflects the topographic landscape, stepping down with the slope of the land.
- The desired streetscape is maintained through the generous front setback and provision of existing landscaping.

(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

- The proposal has a bulk that is commensurate with the expected outcomes of the planning controls and a scale that is less than its neighbours.
- The breaches of the building height relate to relatively minor elements of the building and the majority of the building is substantially below the building height control.
- The proposed building envelope is consistent with the existing building envelope and other similar development. The proposal results in an addition through the provision of a first floor on top of the existing building envelope.
- The bulk and scale of the proposal is consistent with this style of residential building which is common for residential areas.
- In light of the proposals contribution to achieving the desired future character of the area, a reduction of building height would serve no material planning purpose, other than numerical compliance with a generic Council control.
- The proposal will not have any impact on the existing streetscape as the additional height is largely set away from the street.

- Other aspects of the design further reduce the bulk of the building, including a variety of finished surface materials and colours, and varying setbacks.

(c) to minimise any overshadowing of neighbouring properties,

- The shadow diagrams provided demonstrate that only minor overshadowing of will occur in the morning.

(d) to allow for the reasonable sharing of views,

- The Land and Environment Court has established “planning principles” in relation to impacts on views from neighbouring properties. In *Tenacity Consulting P/L v Warringah Council* (2004) NSWLEC 140 Roseth SC, states that “the notion of view sharing is involved when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment”.

- No views will be impacted upon by the proposed new dwelling or the height non-compliance, especially given the elevated nature of the dwellings on the eastern side of Nooal Street.

(e) to encourage buildings that are designed to respond sensitively to the natural topography,

- The proposed existing building is set into the natural topography of the site, and the proposed addition respects this topography.. This objective is achieved.

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

- The proposed building forms part of the urban backdrop when viewed from Pittwater and its foreshores.
- Furthermore the site is not located within a heritage conservation area and is not adjacent any heritage items.

The proposed works are consistent with the E4 zone objectives in that:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

The proposed development is acceptable in terms of its impacts on the ecological and aesthetic values.

- *To ensure that residential development does not have an adverse effect on those values.*

The proposed development is acceptable in terms of its effects on values.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

The proposal integrates with the sloping nature of the site, and remains low density in scale.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

The proposal is considered to be consistent with this objective. The proposal will not impact upon the nearby riparian and foreshore vegetation and wildlife corridors.



CI 4.4 FSR

The Pittwater LEP does not give provision of FSR for the site.

CI 5.10 Heritage

The site is not a heritage item and is not located within a heritage conservation area.

CI 7.1 Acid Sulfate Works

The site is Class 5 acid sulfate soils.

CI 7.10 Essential Services

The site is already connected to all listed essential services.

4.4 Pittwater 21 Development Control Plan 21

The Pittwater 21 Development Control Plan (the DCP) applies to the site.

The Environmental Planning and Assessment Amendment Act 2012, which commenced on 1 March 2013, has clarified the purpose and status of development control plans, being to '*provide guidance*' to proponents and Councils in achieving land use zone objectives and facilitating permissible development under an environmental planning instrument.

Furthermore, to assist in the assessment of development applications, the amended legislation states that where a proposal does not comply with DCP controls, the consent authority is to be '*flexible in applying those provisions*' and allow for '*reasonable alternative solutions*' that achieve the objectives of those standards for dealing with that aspect of the development.

It is important to recall these revisions to the status and application of DCPs in development assessment.

Section 4.15, subsection (3A) of the EP&A Act provides the following:

(3A) Development control plans

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and

(c) may consider those provisions only in connection with the assessment of that development application.

The review of the Pittwater Development Control Plan is applicable to the proposed alterations and additions. In light of this we have addressed the following controls in the table below.

Pittwater 21 DCP Control	Compliance Y/N	Comment
A4.10 Newport Locality	Y	The proposal is consistent with the low density character of the area and maintains the visual character of the locality.
B3.6 Contaminated Land and Potentially Contaminated Land	Y	The site is not contaminated and historically been used for residential accommodation.
B3.7 Estuarine Hazard Low Density	Y	The proposal will not result in any estuarine hazards.
B4.5 Landscape and Flora and Fauna Enhancement Land Category 3 Land	Y	The proposal will not result in any impacts on local flora and fauna.
B4.22 Preservation of Trees and Bushland Vegetation	Y	The proposal does not result in the loss of any significant trees.
B5.1 Water Management Plan	Y	No changes to stormwater.
B5.7 Stormwater Management – On site Stormwater Detention	Y	No changes to stormwater.
B5.10 Stormwater Discharge into Public Drainage System	Y	No changes to stormwater.
B6.5 Off Street Vehicle Parking Requirements	Y	The proposal gives provision of off-street parking as per the existing arrangements on site and the previous approval. A total of two cars are capable of being housed within the garage.
B8.1 Construction and Demolition – Excavation and landfill	Y	No excavation is proposed.
B8.2 Construction and Demolition – Erosion and Sediment Management	Y	No erosion of sediment management will be required as a result of construction.
B8.3 Construction and Demolition – Waste Minimisation	Y	Waste will be managed by the appointed builders, who will dispose of waste using a private contractor.
B8.4 Construction and Demolition – Site Fencing and Security	Y	The site will be fenced and secure during construction.

Pittwater 21 DCP Control	Compliance Y/N	Comment
C1.1 Landscaping	Y	The DCP requires that the applicant plant 2 canopy trees in the front setback and 1 in the rear yard. The provision of these trees is omitted as they have the potential to block views of neighbouring properties.
C1.2 Safety and security	Y	The new addition will add to visual surveillance to the street level for the benefit of the occupiers and their neighbours.
C1.3 View Sharing	Y	No loss of view is likely as the occupiers across Nooal Street to the east are more elevated than the development site, and therefore the proposal maintains view sharing. The modifications to the roof form will also improve views.
C1.4 Solar Access	Y	The alterations and additions will improve existing levels of solar access to the site. The extent of overshadowing to neighbouring dwellings is considered minimal as demonstrated in the attached shadow diagrams at Appendix B.
C1.5 Visual Privacy	Y	No loss of privacy to habitable rooms of adjoining properties is likely to occur. If required privacy louvres can be erected.
C1.6 Acoustic Privacy	Y	No additional noise is likely to occur to surrounding occupiers.
C1.7 Private Open Space	Y	Good provision of private open space is maintained as a result of the proposal. There will be no loss of private open space.
C1.12 Waste and Recycling Facilities	Y	Bin storage will be as per existing arrangements.
C1.13 Pollution Control	Y	No pollution is likely to occur from the site.
C1.23 Eaves	Y	The proposal has provided eaves.

Pittwater 21 DCP Control	Compliance Y/N	Comment
D10.1 Character as viewed from a public place	Y	The proposal will improve the design and appearance of the site when viewed within the streetscape.
D10.4 Building Colours and materials	Y	The proposed materials will improve the visual appearance of the dwelling and are similar to other dwellings within the locality.
D10.7 Front Building line	Y	No changes are proposed to the front building line.
D10.8 Side Rear Building line	Y	No changes are proposed to the side building line.
D10.13 Landscaped Area – Environmentally Sensitive Land	Y	The site is not environmentally sensitive.
D10.6 Construction, Retaining walls, terracing and undercroft areas	Y	No new retaining walls are proposed.
D10.8 Scenic Protection Category One Areas	Y	The proposal does not impact on the scenic quality of Pittwater and its foreshore.
D10.11 Building Envelope	N	The DCP specifies a building envelope control 3.5m up from side boundaries and then pitched at 45°. The existing residence is non-compliant with the building envelope. The proposed design reduces the extent of the non-compliance.
D10.12 Landscaped Area	N	The DCP requires 60% of the site to be landscaped area (including impervious POS upto 6% of site area). The site is 870.3sqm which means 522.18sqm of Landscaped area is required. The existing residence has 398.7sqm. The proposed design has 399.3sqm. The non-compliance is considered minor and compliance is never likely to be achieved without substantial demolition of the existing building footprint.



LIKELY IMPACTS OF DEVELOPMENT

5. Overview

The likely environmental impacts of the proposed development that have been assessed include:

- Context and Setting;
- Amenity;
- Social, Environmental and Economic Impacts; and
- Suitability of the Site

5.1 Context and Setting

- The proposed modifications to the alterations and additions are appropriate to the setting and this is achieved through high quality design of the proposed alterations. The proposed works will upgrade and revitalise the appearance of the site and provide a good quality addition to the site.
- The proposed alterations to the site are located in an area where minimal impact to surrounding land uses will occur, or to the surrounding streetscape.
- The proposal will provide an appropriate urban form and orientation and creates a natural addition to the building.
- The proposal will also provide a good level of amenity for the occupiers through providing good internal living areas that connect with the existing garden.
- The proposal will not exhibit any significant environmental impacts and will not adversely impact on the amenity of any adjoining sites. Therefore, the proposed works are considered compatible with the site context.
- The development as a whole is intended to fit comfortably within the existing streetscape and the character of the surrounding residential area in terms of scale, bulk and function. The proposed design will positively complement the existing character of the area and is appropriate to the site.
- The proposed design of the development achieves an appropriate built form in that it enhances the public domain, maintains the character of the streetscape, enhances the visual appearance of the building.
- The building footprint will not be increased as a result of the proposal.
- The provision of a mix of façade treatments, colour and articulation contribute to minimising the visual perception of bulk and scale of the buildings.

5.2 Amenity

- The proposed additions to the site will receive good provision of solar access to all habitable living areas.
- The shadow diagrams provided at **Appendix B** demonstrate only minor additional shadow from the proposed works, which results in minor overshadowing of neighbouring properties. No neighbouring habitable rooms will be impacted from the proposal. The proposed impacts are considered negligible.
- The proposal will not minimise privacy or have a visual impact and will maintain the environmental amenity of adjacent development.

- *Tenacity Consulting v Warringah [2004] NSWLEC 140* states that “where an impact on views arises as a result of non compliance with one Senior Commissioner Roseth in *Tenacity Consulting v Warringah* (2004) NSWLEC 140, points out that view sharing as a notion is invoked when a property enjoys existing views and a proposed development would share a view by taking some of it away for its own enjoyment. or more planning controls, even a moderate impact may be considered unreasonable”.

In this case, the impact on views from the first floor addition and modifications to the roof form is negligible owing to the elevated topography of the dwellings on the eastern side of Nooal Street, and therefore the proposal maintains view sharing.

- No sense of enclosure will result from the proposed modifications which are very minimal in scale and are separated by large separation distances to adjoining properties.

5.3 Social, Environmental and Economic

The proposal will enable the continued use of the site as a residential use, consistent with its current use as a dwelling house whilst preserving the visual character of the site.

The proposal will not have any adverse economic or environmental impacts.

5.4 The Suitability of the Site for Development

Located within the E4 Environmental Living Zone, the continued use of the premises and the new additions are consistent with the zone objectives, the provisions of relevant statutory and strategic documents and the surrounding context.

The proposal is of a nature in keeping with the overall function of the site. The premises are in a predominantly residential surrounding and amongst similar uses to that on site.

The proposed development is also compatible with surrounding land uses and will achieve a good level of amenity for adjoining land owners and operators.

Accordingly, the site is considered to be suitable for the development.

5.5 Any Submissions Made in Accordance with the Act

No submissions are apparent at the time of writing.

5.6 The Public Interest

The proposed development will have no adverse impact on the public interest.



CONCLUSION

This SEE provides an assessment of the proposal against the relevant environmental planning framework.

The assessment finds that the proposal is consistent with the objectives and controls of the relevant statutory and policy framework. No adverse environmental, economic or social impacts have been identified as resulting from the proposed development.

No additional significant adverse impacts have been identified as likely to arise from the proposed development which has been favourably assessed against the relevant provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

It is therefore considered that the proposal responds to site constraints and provides a suitable outcome. Accordingly, it is requested that Council grant consent to the proposal.



Appendix A – Survey



Appendix B – Plans



Appendix C – BASIX