

10 April 2022

Northern Beaches Council
PO Box 82
MANLY NSW 1655

Dear Sir/Madam,

SECTION 4.55(1a) APPLICATION

Premises:	Lot 40 in DP 11828, No. 21 Wattle Avenue, Fairlight
Amendments:	Amend Plans
Development Application:	DA 2019/1108
Date of Determination:	18/12/2019 (as modified 25/01/2021)

INTRODUCTION

On behalf of Ms Baker and Mr Earl I seek Council consent pursuant to Section 4.55(1a) of the *Environmental Planning & Assessment Act 1979* to amend the approved plans specified in Development Application No. DA2019/1108 relating to the construction of dwelling alterations and additions.

BACKGROUND

Development Consent for the construction of additions/alterations to an existing dwelling (DA2019/1108) on the subject site was approved by Council on 18 December 2019. A subsequent application to modify the Consent (MOD2020/0641) was granted consent on 25/01/2021.

This application seeks to amend the approved plans to meet the needs of the applicant.

This Section 4.55(1a) application carries out a detailed assessment against the relevant provisions of the Manly LEP and DCP. It is considered that the proposed amendments are consistent with the relevant planning controls and is worthy of the approval.

PROPOSED MODIFICATION

This proposal seeks to amend the approved plans as detailed on the plans prepared by SketchArc dated 21/02/2022 and as summarized below:

Ground Floor

- Demolish rear timber deck and replace with paved terrace.
- New BBQ area.
- Replace tiled roof over rear ground floor with colorbond roof. Extend roof over the terrace with openable vergola.

The proposed amendments do not extend above the approved maximum height, and no part of the amendments exceeds the maximum 8.5m height control.

The proposed amendments result in the following development indices:

Site Area:	431.8m ²
Floor Area:	223.4m ² or 0.51:1 (no change)
Total Open Space:	233.11m ² or 53.9% (no change)
Landscaped Area:	173.07m ² or 72.8% of total open space (no change)

LEGISLATION

Section 4.55(1a) of the Act states:

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*

Comment: The Consent granted approval for the construction of alterations and additions to an existing dwelling. This application proposes minor amendments to the approved plans. The proposed amendments have minimal environmental impact, if any.

- (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*

Comment: The original consent granted approval to the construction of alterations and additions to an existing dwelling. The proposed amendments are relatively minor, are at ground level and merely aim to improve the rear terrace/outdoor living area. The proposed amendments are considered to be substantially the same development.

- (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.*

Comment: The application will be notified in accordance with Council guidelines.

LEGISLATION

Planning for Bushfire Protection 2006

The subject site is not identified as bushfire prone vegetation buffer on Council's Bushfire Prone Land Map and therefore the provisions of Planning for Bushfire Protection 2006 do not apply.

Manly Local Environmental Plan 2013

The site is zoned R1 General Residential under the provisions of the Manly Local Environmental Plan. Development for the purpose of alterations to an existing dwelling house are permissible with Consent in this zone.

The following provisions of the LEP apply to the proposed development:

Clause	Development Standard	Proposal	Compliance
Clause 4.3 Height of Buildings	8.5m	The proposed amendments do not exceed the maximum 8.5m height control.	Yes
Clause 4.4 Floor Space Ratio	0.6:1	223.4m ² or 0.51:1 (no change)	Yes

The following clauses also apply:

Clause 6.1 Acid Sulfate Soils

The subject site is identified as Class 5 of the Acid Sulfate Soil map. The proposal is supported by a geotechnical report and it is not considered that the proposal will have any impact on the water table. No further information is required in this regard.

Clause 6.2 Earthworks

An updated Geotechnical Report has been prepared by White Geotechnical which in summary provides:

We have reviewed the existing geotechnical report, the original plans, the previous Section 4.55 Letter, and the 11 amended plans by SketchArc, Project number 1712, drawings numbered C4.55-3 to 13, dated 21/2/22.

The changes are as follows:

- *Construct a new vergola roof over the patio on the uphill side of the house.*
- *Various other minor interior and exterior modifications.*

The changes are considered minor from a geotechnical perspective and do not alter the recommendations or the risk assessment in the original report carried out by this firm numbered J1886 and dated the 14th August, 2018.

Clause 6.4 Stormwater Management

All collected stormwater will continue to discharge to the approved stormwater system in accordance with Council controls.

There are no other specific clauses that specifically relate to the proposed development.

Manly Development Control Plan

The following controls of the Manly DCP apply:

Clause 3.1.1 – Streetscape (Residential Areas)

The proposed amendments are located at the rear of the dwelling and do not have any on the existing streetscape.

Clause 3.4 - Amenity (Views, Overshadowing, Overlooking/Privacy, Noise)

The proposed amendments are considered to comply with this clause for the following reasons:

- The proposed amendments do not alter the approved height and will not obstruct any existing views from the surrounding properties. All works are located at ground level.
- Shadow diagrams have been prepared depicting only minor additional overshadowing. The works are at ground level and do not have a detrimental impact.

- The proposed amendments will not reduce privacy to the adjoining properties. The changes are relatively minor and located at ground level.

Clause 3.5 - Sustainability

The proposed amendments do not alter the approved BASIX certificate.

Clause 3.7 - Stormwater Management

There is no increase in hard surface area and all collected stormwater will continue to drain to the approved stormwater system.

The following numerical provisions of **Part 4** are considered relevant to the proposal:

Clause/ Design Element	DCP Requirement	Compliance/Comments
Residential Density & Subdivision	Density Area D3 – 1 dwelling per 250m ²	Yes Site area is 431.8m ² . There is no change to the density.
Floor Space Ratio	Refer to LEP 0.6 :1	Yes The proposed additions do not alter the approved FSR.
Wall Height	Height – 6.5m	The proposal does not increase the approved wall height.
Number of Storeys	Two Storeys	Yes The proposed continue to results in a two-storey dwelling. The modification relates to the single storey element at the rear of the dwelling.
Roof Height	2.5m above wall height	Yes The new roof form over the rear of the dwelling complies with this clause.
Parapet Height: 600mm above wall height.	600mm above wall height	Not applicable

Clause/ Design Element	DCP Requirement	Compliance/Comments
Maximum Roof Pitch	35°	Yes – roof pitch matches existing.
Building Setbacks	<p>Front Setback – Min. 6.0 metres or consistent with neighbouring.</p> <p>Side Setback – 1/3 of the height of wall.</p> <p>Rear Setback – Minimum 8.0 metres</p>	<p>The proposed amendments do not encroach the approved front setback.</p> <p>The proposed amendments relate to the rear terrace and roof form only. The works do not provide for any additional enclosed rooms. The terrace is an open structure with the roof form setback in accordance with the existing roof over the single storey element.</p> <p>Yes Terrace is setback 8.188m to the rear boundary.</p>
Landscaping/Open Space	<p>Open Space Area 3: Minimum total open space: 55% of site area.</p> <p>Minimum soft open space as % of total open space: 35%</p> <p>Minimum number of endemic trees: 1 additional tree required</p> <p>Private open space to be directly accessible from living areas. Minimum dimension 3m. Minimum area of 18m².</p>	The proposed amendments do not alter the approved open space or landscaped area calculations.

Clause/ Design Element	DCP Requirement	Compliance/Comments
First Floor Additions	<p>Additions may follow the existing ground floor wall setbacks providing adjoining properties are not adversely impacted by overshadowing, view loss or privacy issues.</p> <p>Must retain the existing scale and character of the street and should not degrade the amenity of surrounding residences</p>	Not Applicable

There are no other provisions of the Manly DCP that apply to the proposed development.

JUSTIFICATION

The proposed amendments to the approved plans are considered to be justified for the following reasons:

- The proposed amendments are relatively minor and will not impact on the streetscape or the amenity of the adjoining properties
- The proposal does not result in any reduction of the existing landscaped area nor increase floor space ratio.

It is therefore considered appropriate that the amendments to the plans should be supported.

CONCLUSION

For the reasons stated above it is considered that this application to amend the plans as detailed. Should you require any further information please do not hesitate to contact me.

Yours faithfully,



Natalie Nolan