



Section 4.55 (1A) Modification Application to New two storey dwelling (LDA2020/1135)

September 2023

CONTENTS

1.0 INTRODUCTION	3
2.0 SITE DETAILS.....	4
2.1 SITE LOCATION.....	4
2.2 SITE DESCRIPTION.....	4
3.0 MODIFIED DEVELOPMENT	6
4.0 PLANNING CONSIDERATIONS.....	8
4.1 SECTION 4.55 1(A) OF ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979.....	9
4.2 STATE ENVIRONMENTAL PLANNING POLICY (BASIX) 2004.....	8
4.3 WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011 (WLEP 2011)	9
4.4 WARRINGAH DEVELOPMENT CONTROL PLAN 2011.....	10
5.0 SECTION 4.15 (79C)-ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979.	11
6.0 CONCLUSION	12

1.0 INTRODUCTION

Metro Planning Services has been engaged by Nick Guidera to prepare a Statement of Environmental Effects Report (SEE) in support of a Section 4.55 (1A) Modification Application at 14 Lalchere Street, Curl Curl.

The original application for demolition and construction of a new two storey dwelling was approved under LDA2020/1135. Further modified works to the internal layout and window schedule were approved under MOD2022/0038.

The second Section 4.55 (1A) Modification Application for this site seeks very minor amendments relating to internal and external alterations to the approved dwelling. The majority of the alterations relate to the internal configuration of the ground floor, with several new windows as per the amended BASIX Certificate.

The modified works are permissible with the provisions of Warringah Local Environmental Plan 2011 (WLEP 2011) and is consistent with the relevant controls of Warringah Development Control Plan 2011 (WDCP 2011).

The report is intended to assist Northern Beaches Council in its assessment of the Development Application and incorporates the following details:

- Description of site and context;
- Description of proposed development;
- Consideration of relevant planning considerations;
- Consideration of relevant environmental effects; and
- S4.15-Matters for Consideration under EP & A Act

The report should be read in conjunction with the following supporting material:

- Architectural Plans prepared by G J Gardner Homes;
- NATHERS Certificate prepared by KJR Drafting;
- BASIX Certificate prepared by Chapman Environmental Services Pty Ltd.

2.0 SITE DETAILS

The following details of the site's locational and physical characteristics are provided to assist Council in the assessment of the development application.

2.1 Site Location

The subject land is located at No. 14 Lalchere Street, Curl Curl as identified in **Figure 1**.



Figure 1-Site Locality Plan.

2.2 Site Description

The subject land is described as lot 8 DP 25958.

The site is a rectangular shaped lot site with an area of 606.8m² that is located at the northern termination of Lalchere Street. The site has a frontage of 15.24m to Lalchere Street and depth of 39.8m.

We note that the site is constrained by flood affectation as detailed on the Flood level information issued by Northern Beaches Council, however the modified proposal will not impact upon the natural flooding constraints.

The site comprises grass coverage with no significant trees located on the property which require removal.

Figure 2 below provides an aerial depiction of the site.



Figure 2-Aerial view of site

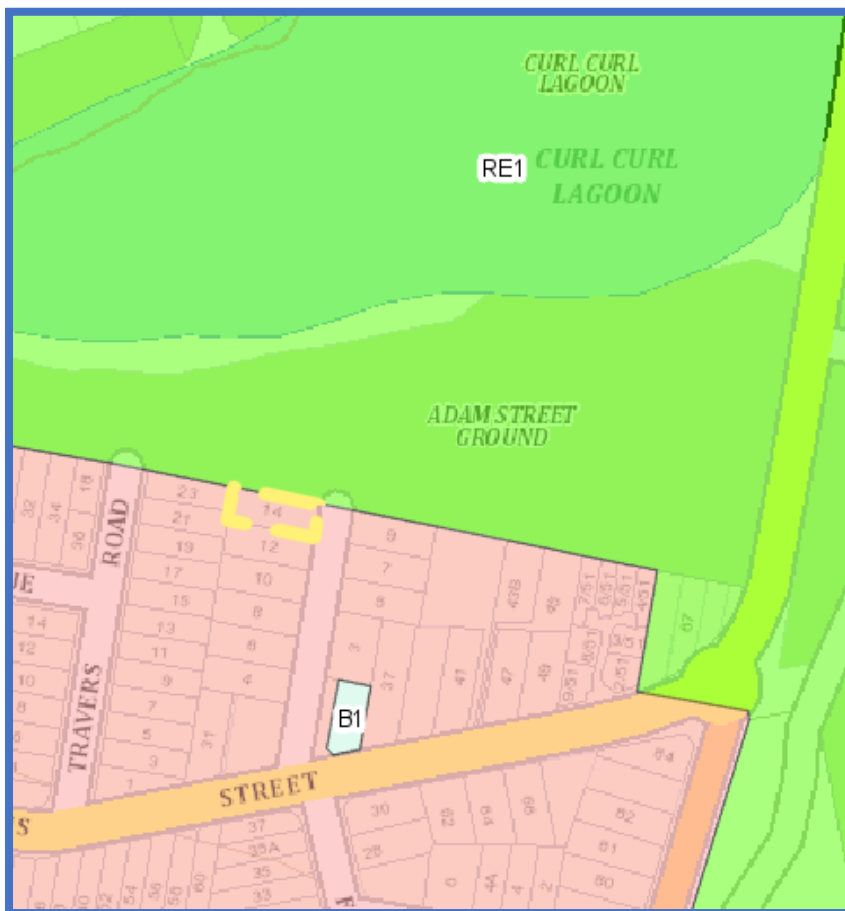


Figure 3- R2 Zoning of site and relation to RE1 zoning at adjacent Curl Curl Lagoon.

3.0 MODIFIED DEVELOPMENT

The Section 4.55 1(A) Modification Application seeks consent to the approved LDA2020/1135 and MOD2022/0038 for minor alterations to the interior floor plans and external appearance.

The amendment focuses on the northern side of the property which borders the park and primarily involves an extension of the eastern part of the northern wall of the living room out to the same location as the northern boundary of the proposed deck. Also encloser of the northern wall with a new wall and window on both the east & west side, which replicates the existing eastern and western boundary of the proposed deck.

The modified works are as follows:

Ground Floor Changes:

- New feature walls in WC and laundry;
- New walls in lounge room area;
- New window (W22, W23 & W24);
- Modified window (W04);

The modified dwelling maintains the same floor layout as approved with minor adjustments and the overall design and building materials is also unchanged. The proposed new changes will not significantly alter the original reasons behind approval and will add extra amenity to the future occupants whilst not impacting the adjoining dwellings visual and acoustic privacy. The additional windows are located on the ground level, and so are not excessively elevated above the natural ground level to provide overlooking to adjoining properties.

The expansion of the living room on the ground floor level will enclose a portion of the external alfresco and as such there is a negligible increase in the floor space ratio. The increase in FSR is 11m² or 2.92% increase in FSR. The site is allocated a 'non-applicable' floor space ratio allowance and as such the increase is acceptable.

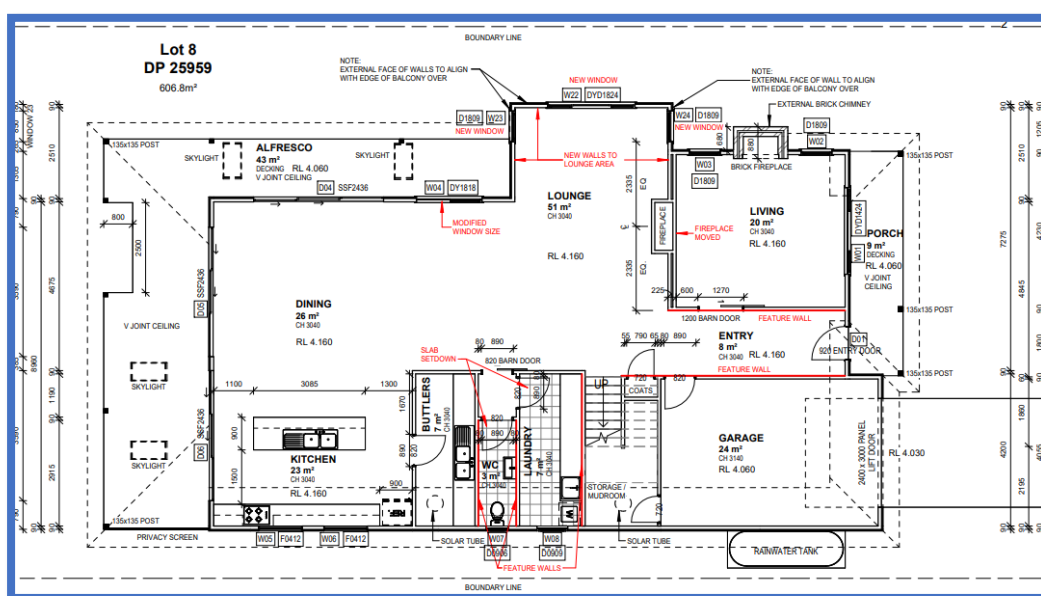


Figure 4 – Ground Floor changes plan.

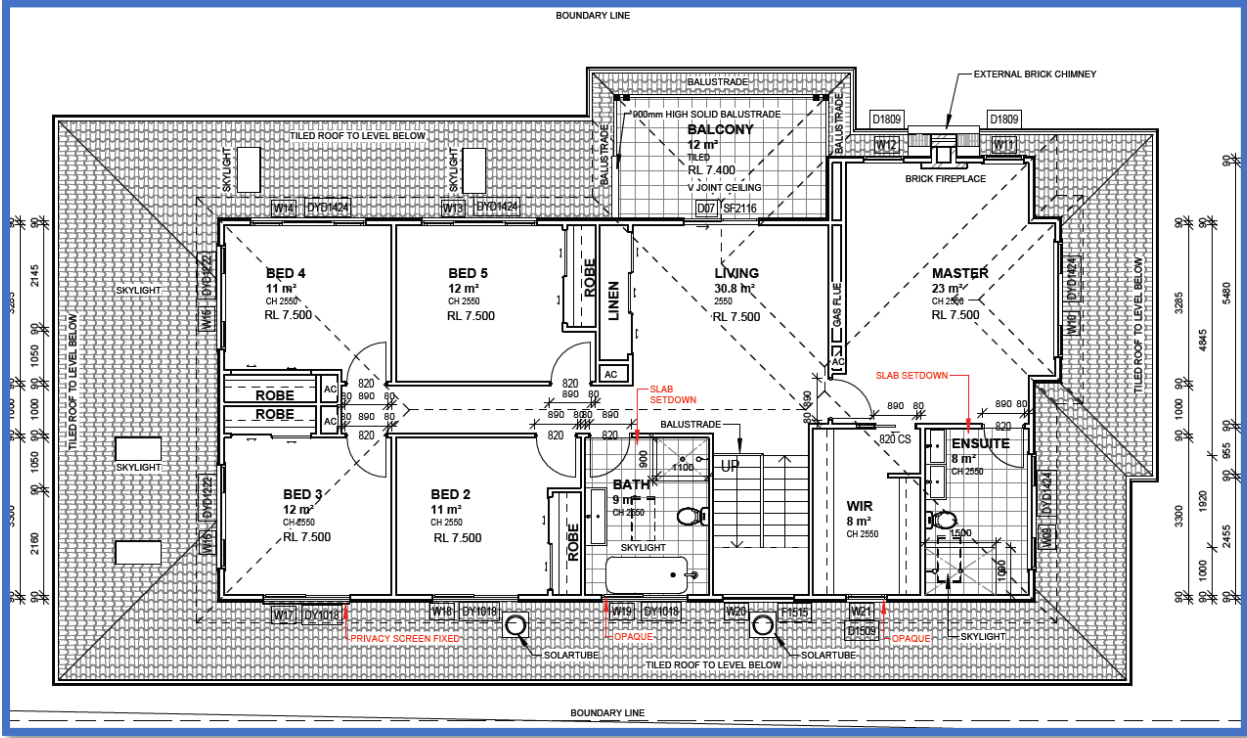


Figure 5 – First Floor changes plan.

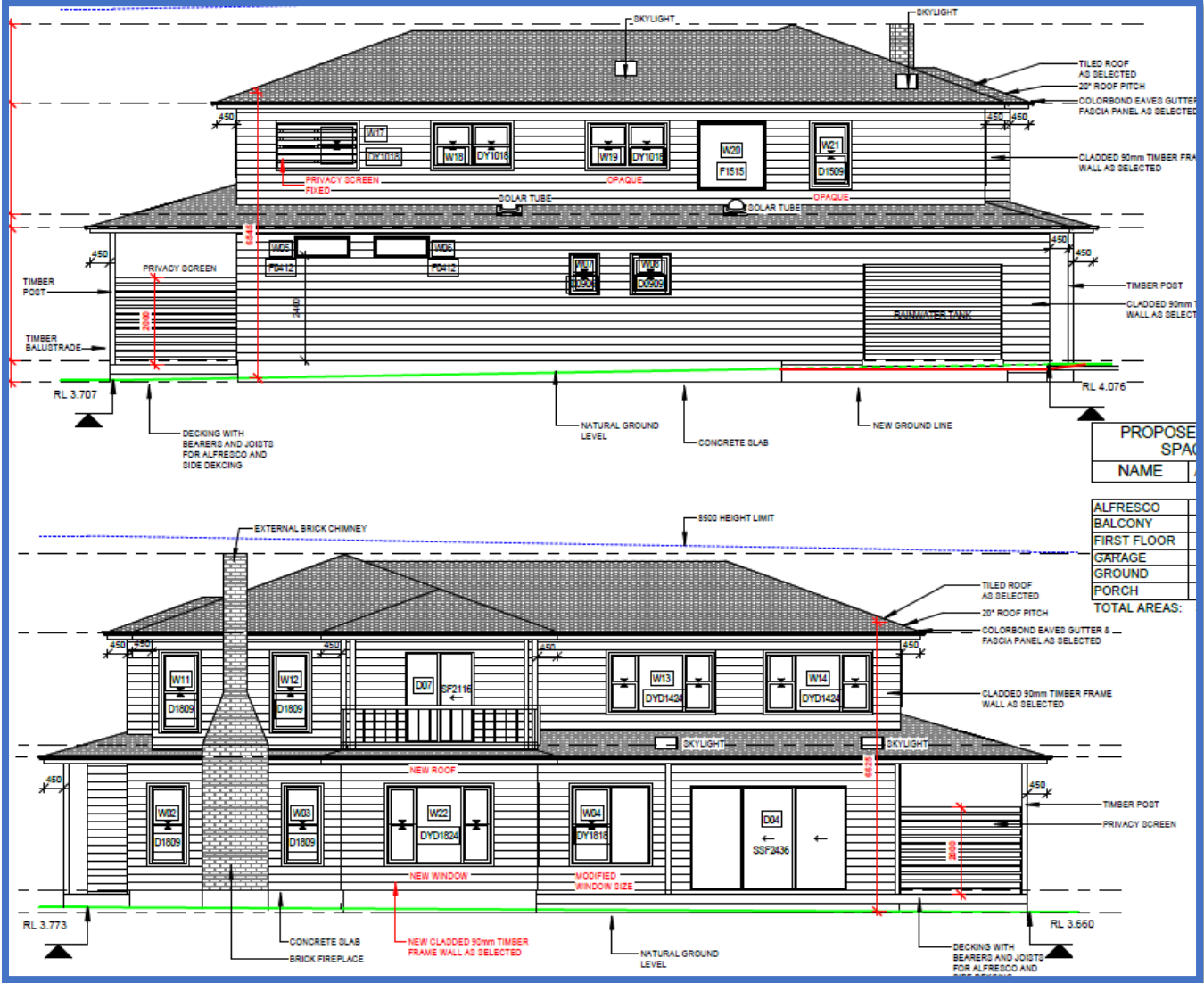


Figure 6 – Side Elevational changes.

4.0 PLANNING CONSIDERATIONS

4.1 Section 4.55(1A) of Environmental Planning & Assessment Act 1979

The proposed amendments are considered to constitute a Section 4.55 (1A) 'Modifications involving minimal environmental impact' and accordingly the proposal has been assessed under Section 4.55 (1A) below.

(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

Response: The modified development is considered to involve minimal environmental impact on the basis that the proposed amendments will have negligible impact upon the environmental amenity of the site and surrounds.

(b) 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

Response: The essence and substance of the modified development remains the same as the original approval being a dwelling house. The modified proposal, involving minor interior alterations and external window changes is considered '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 the period prescribed by the regulations or provided by the development control plan, as the case may be.

Response: Council will determine under the provisions of Warringah Development Control Plan 2011 whether to publicly notify or advertise the modified application.

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

An amended BASIX Certificate is submitted with the development application. The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal.

4.3 Warringah Local Environmental Plan 2011

The subject land is zoned R2 Low Density Residential under the provisions of Warringah LEP 2011 and the proposal is permissible with the consent of Council. An assessment of the modified proposal with relevant clauses of WLEP 2011 is addressed below in **Table 1**.

WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011		
Clause	Comment	Compliance
1.0-PRELIMINARY		
1.2 Aims of Plan	Proposal consistent with aims of the plan.	Yes
2.0-PERMITTED OR PROHIBITED DEVELOPMENT		
2.1 Land use Zones	The site is zoned R2 Low Density Residential.	Yes
2.3 Zone Objectives R2 Low Density Residential zone	The modified proposal still maintains a permissible use that is consistent with the objectives of the R2 Low Density Residential zone. It is considered that the proposed development achieves these objectives by: -Ensuring the proposal compliments the existing streetscape and the existing surrounding properties. -Retaining the existing amenity to the surrounding residences. -Providing a development that is compatible in terms of bulk, scale and height to surrounding properties.	Yes
4.0-PRINCIPAL DEVELOPMENT STANDARDS		
4.3 Height of Building 8.5m	Unchanged.	Yes
4.4 Floor Space Ratio	Increase of 11m ² . No FSR requirement.	N/A
5.0-MISCELLANEOUS PROVISIONS		
5.9 Preservation of trees and vegetation	Repealed.	Yes
5.10 Heritage Conservation	The site does not contain any European heritage items and not in the vicinity of surrounding heritage items or in a heritage conservation area.	Yes
5.21 Flood Planning	The proposed modifications will not impact upon the flood planning requirements and approved design under the original Local Development Application. A copy of the original flood report is submitted with the application and Council's Flood Section have advised that a revised flood assessment is not required.	Yes
6.0-ADDITIONAL LOCAL PROVISIONS		
6.1 Acid Sulfate Soils	The site is not mapped with high acid sulphate soils.	Yes
6.2 Earthworks	N/A there is no excavation proposed with the construction.	Yes

Table 1-Warringah LEP 2011

4.4 Warringah Development Control Plan 2011

The modified dwelling has been designed in accordance with Warringah Development Control Plan 2011. The modified works are minimal in nature and comply with the following controls of the WDCP2011:

Part B – Built Form Controls.

The modified proposal relates to minor internal and external changes and does not seek to alter the built form of the dwelling. The maximum height is unchanged with a minimal 2.92% increase floor space ratio

which is considered acceptable given the FSR allowance for the site. It is considered that the modifications are compatible with the existing Lalchere streetscape.

Part C – Sitting Factors.

The proposed sitting factors (setbacks) are unchanged from the approved state with the exception of a minor reduction in the rear yard alfresco area, with the living room now located 2.1m from the adjacent northern boundary. The extension of the living room towards the northern side boundary still complies with Council's building envelope controls and given the ground floor location of the new windows, no significant impact to overlooking to adjacent POS or living room windows will occur.

Part D - Design (Views, Overshadowing, Overlooking/Privacy, Noise).

The modified dwelling will not result in any reduction of the available views for the neighbouring properties. Furthermore, the modified dwelling has been designed to minimise overlooking opportunities and visual privacy impacts upon adjoining properties via the careful siting of windows, splitting of windows and implementation of privacy screens and obscure glazing to ensure no direct overlooking of windows in adjoining dwellings.

There will be no impact upon overshadowing to adjoining lots as a result of the development.

5.0 SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

(a)(i) – The Provisions of any Environmental Planning Instrument

Statutory assessment of the proposal has been previously addressed in Section 4.0. The site is zoned R2 Low Density Residential under Warringah Local Environmental Plan 2011 and the modified proposal is permissible with development consent.

The proposal is also consistent with relevant State Environmental Planning Policies.

(a)(ii) Any proposed Draft Environmental Planning Instrument subject of public consultation

There are no applicable Draft Planning instruments subject to public consultation.

(a)(iii) – The Provisions of any Development Control Plan

As discussed earlier in the report, the site is subject to assessment under Warringah Development Control Plan 2011. The proposal complies with relevant objectives and controls of WDCP 2011 which are detailed in Section 4.6 of this report.

(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

The proposal is consistent with relevant Regulations.

(a)(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

The proposal is not inconsistent with any coastal zone management plan.

(b) – The likely impacts of that Development

It is considered that the development will provide for a new two storey dwelling without any detrimental impact on the environment, social and economic status of the locality.

(c) – Suitability of the Site for Development

The site is of a suitable size and configuration to accommodate the proposed works. The subject site is zoned R2 Low Density Residential and the modified works are permissible with the consent of Council. The resultant dwelling is of a bulk and scale that is consistent with the existing surrounding development. On this basis, the site is considered suitable for the proposed development.

(d) – Any submissions made in accordance with this Act or Regulations.

Any submissions received will be considered by Council.

(e) – Public Interest

The proposal will provide for housing needs of the community within a low-density residential environment and is in the public interest. The introduction of obscurely glazed windows and a new privacy screen to the Southern elevation will result in a more beneficial outcome for the surrounding area.

6.0 CONCLUSION

The subject land is zoned R2 Low Density Residential under Warringah Local Environmental Plan 2011 and the proposed modifications to the original Local Development Application LDA2020/1135 and Section 4.55 1(A) Modification Application No. MOD2022/0038 are permissible with the consent of Council and the proposal is found to be consistent with the zone objectives. The proposal is furthermore consistent with relevant matters for consideration under Warringah Development Control Plan 2011.

The application before the Council provides no unreasonable impacts to adjoining and adjacent residential properties. The modification is in keeping with the envisaged low density residential character of the locality and no adverse amenity or environmental impacts are foreseen.

The modified proposal is assessed as being satisfactory, having regard to the matters for consideration contained within Section 4.15 of the EP&A Act 1979.

Accordingly, it is recommended that Council support the proposal and grant development consent subject to conditions of consent.