



## **37 RADIO AVENUE BALGOWLAH HEIGHTS**

**STATEMENT OF ENVIRONMENTAL EFFECTS FOR A  
SECTION 4.55(1A) MODIFICATION TO VARY  
DEVELOPMENT CONSENT 2021/0617**



**Report prepared for  
Bridget & Phil Holmewood  
June 2022**

## 1.0 Introduction

- 1.1 This statement has been prepared in order to provide information and a planning assessment, in relation to an application under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, to modify existing development consent 2021/0617 at 37 Radio Avenue, Balgowlah Heights.

Development Application 2021/0617 for *Demolition works and construction of a new dwelling and swimming pool*, was granted consent on 23/06/2021.

This modification application seeks to modify DA2021/0617 to allow for minor alterations and improvements to the internal layout and updated windows and doors.

It is proposed that the consent conditions be altered as follows:

Delete condition No 1A and replace it with the following *in red italics*.

*Condition No.1A - Approved Plans and supporting Documentation*

*The development must be carried out in compliance (except as amended by any other condition of consent) with the following:*

*a) Modification Approved Plans*

<b><i>Architectural Plans - Endorsed with Council's stamp</i></b>		
<b><i>Drawing No.</i></b>	<b><i>Dated</i></b>	<b><i>Prepared By</i></b>
<b><i>DA01</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>
<b><i>DA02</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>
<b><i>DA03</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>
<b><i>DA04</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>
<b><i>DA05</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>
<b><i>DA06</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>
<b><i>DA07</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>
<b><i>DA08</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>
<b><i>DA09</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>
<b><i>DA10</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>
<b><i>DA11</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>
<b><i>DA12</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>
<b><i>DA13</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>
<b><i>DA14</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>
<b><i>DA15</i></b>	<b><i>29/04/2022</i></b>	<b><i>Action Plans</i></b>

<b><i>Reports / Documentation – All recommendations and requirements contained within:</i></b>		
<b><i>Report No. / Page No. / Section No.</i></b>	<b><i>Dated</i></b>	<b><i>Prepared By</i></b>
<b><i>BASIX Certificate No. 1216286s_04</i></b>	<b><i>29 April 2022</i></b>	<b><i>Action Plans</i></b>
<b><i>Arboricultural Report</i></b>	<b><i>13 May 2021</i></b>	<b><i>Hugh the Arborist</i></b>
<b><i>Geotechnical Report</i></b>	<b><i>13 January</i></b>	<b><i>Ascent Geotechnical</i></b>

	2021	Consulting
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*b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.*

*c) The development is to be undertaken generally in accordance with the following:*

<b>Landscape Plans</b>		
<b>Drawing No</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	15 May 2021	Bridget and Phil Holmewood

*In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.*

*Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.*

1.2 In preparation of this submission, consideration has been given to the following:

- Section 4.55 of the Environmental Planning and Assessment Act, 1979 as amended
- Manly Local Environmental Plan 2013
- Manly DCP 2012
- The heads of consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).

1.3 This statement of environmental effects has been prepared with reference to the following:

- Site visit,
- Review of the original development application,
- Review of original development consent and assessment report,
- Review of modification documentation.

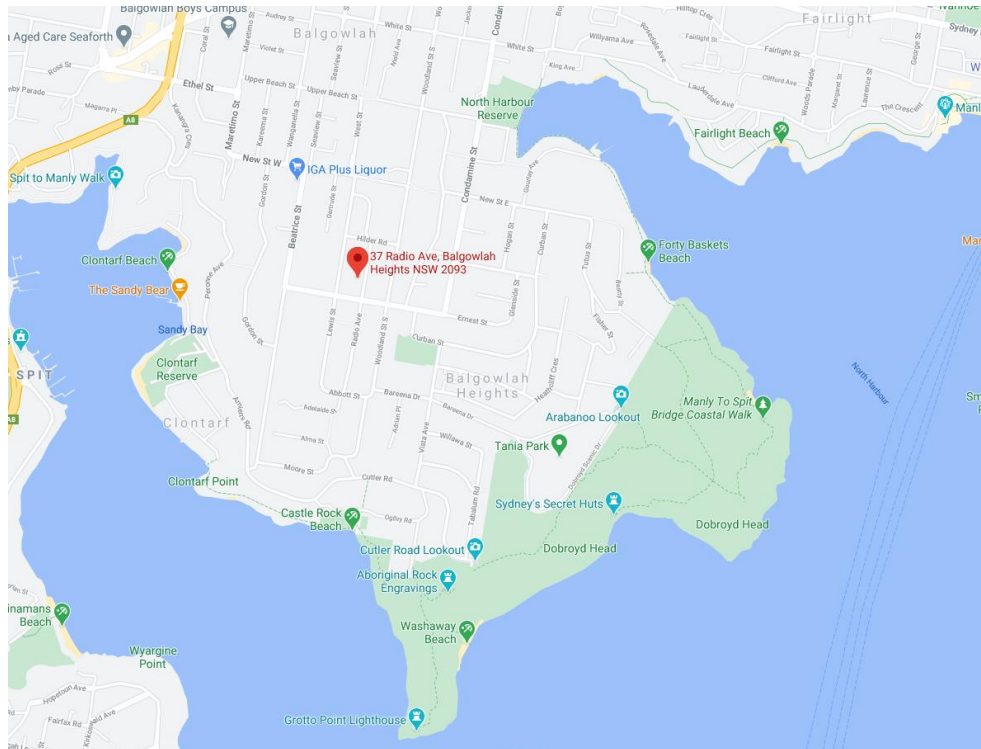
## 2.0 The site and its locality

- 2.1 The subject site is located on the western side of Radio Avenue, approximately 60 metres north of its intersection with Ernest Street. It is legally described as Lot 14 DP 13468 and is known as 37 Radio Avenue.
- 2.2 It is a rectangular shaped lot with a width of 14.325 metres and a depth of 35.28 metres.
- 2.3 The lot has an area of 505.4m<sup>2</sup> and is currently occupied by a two storey (plus garage) rendered house with a tile and metal roof. It slopes to the east (towards the Radio Avenue frontage).
- 2.4 The property is surrounded by detached residential dwellings in all directions. The site is located in close proximity to retail and public transport services in Balgowlah and Manly and public outdoor spaces in Clontarf and Dobroyd Head.

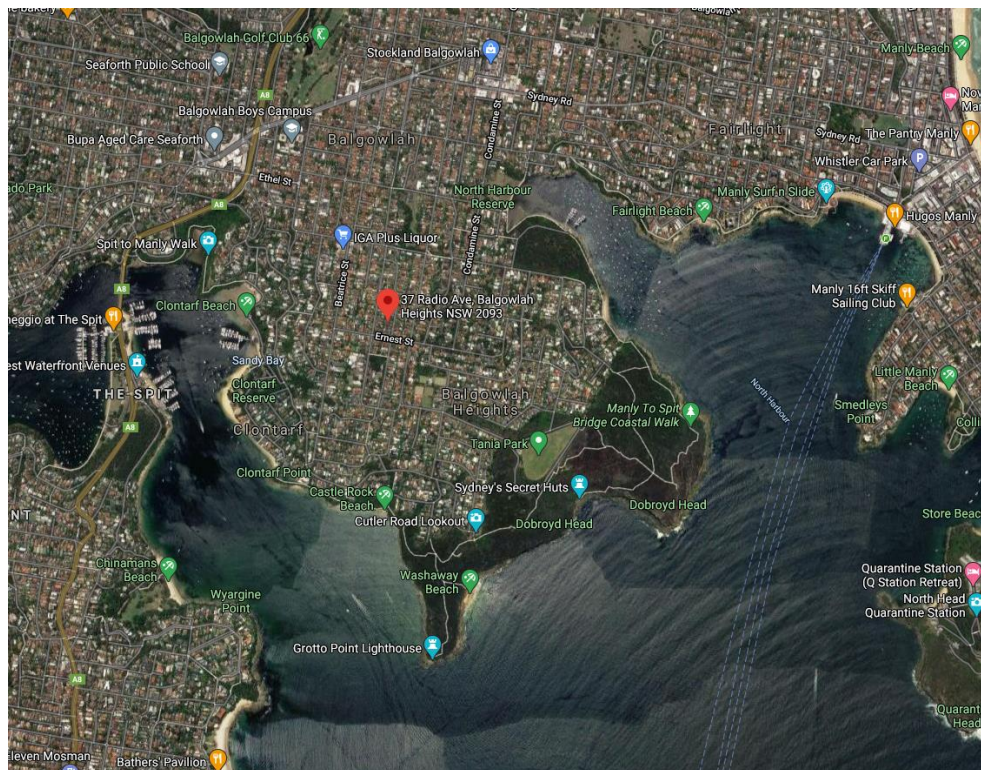


**Figure 1. The site and its immediate surrounds**





**Figure 2. The site within the locality**



**Figure 3. Aerial image of the site within the locality**



### 3. Site Photos



Figure 4. The existing dwelling and adjoining dwellings, looking west from Radio Avenue



Figure 5. The existing dwelling, looking south-west from Radio Avenue





**Figure 6. The rear of the existing dwelling, looking east towards Radio Ave.**



**Figure 7. The rear yard, looking west.**



**Figure 8. The neighbouring dwelling to the north, looking north-east.**



**Figure 9. The neighbouring dwelling to the south, looking east.**



## 4. Proposed Development

4.1 It is proposed to alter the approved development as follows:

### Garage Level

- Reconfigure the garage floor level to include an internal staircase from the garage to the ground floor.

### Ground Floor

- Replace the approved joinery and robe to the study / guest room with a staircase to access the garage level,
- Study / Guest room - reconfigure approved windows 9 & 10 and renumber as windows 10 & 11.
- Living room – remove approved window 1 and infill & reconfigure approved window 2.
- Bathroom – remove approved window 4 and infill.
- Kitchen / dining / living room – reconfigure approved door 2.

### First Floor

- Bed 1 – remove approved windows 12 & 14 and reconfigure approved window 15 (renumber as window 16),
- Bed 2 - remove approved window 18 and reconfigure approved window 17 (renumber as window 18),
- Bed 3 - remove approved window 20 and reconfigure approved window 19 (renumber as window 20),
- Staircase - reconfigure approved windows 21 & 21 (renumber as windows 22 & 23),
- Master Bedroom – reconfigure approved window 11 and door 4 (renumber as window 12 & door 3),
- Ensuite and WIR – revise the approved layout and replace window 13, with windows 13 & 14.

## 5. Statutory Framework

### 5.1 Section 4.55 of Environmental Planning and Assessment Act 1979

Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 (as amended) (the Act) provides that a consent authority may 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 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, of 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.*

The proposed modifications will have minimal environmental impact as demonstrated in this document. The development to which the consent (as modified) applies is substantially the same development, notwithstanding the proposed modifications.

The proposal remains for *demolition works and construction of a new dwelling and swimming pool*, with the modifications limited to providing internal garage access and altering windows and doors.

S4.55(3) of the Act requires Council to consider those matters referred to in Section 4.15(1) of the Act that are of relevance to the development the subject of the application.

It is not believed that the minor modifications proposed will alter the favourable assessment provided to the original Development Consent. In particular, the site and surrounding built and natural environments will remain the same and the amenity for the local residents will be maintained. The changes are primarily to enhance the connectivity of the dwelling and update window and door selections.

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

A revised BASIX Certificate is provided with this modification application.



### 5.3 Manly Local Environmental Plan 2013

The relevant clauses of the Manly Local Environmental Plan 2013 are addressed below.

#### Zoning

The site is zoned R2 Low Density Residential, pursuant to the provisions of the Manly Local Environmental Plan 2013. Dwelling houses are permitted with development consent in Zone R2.

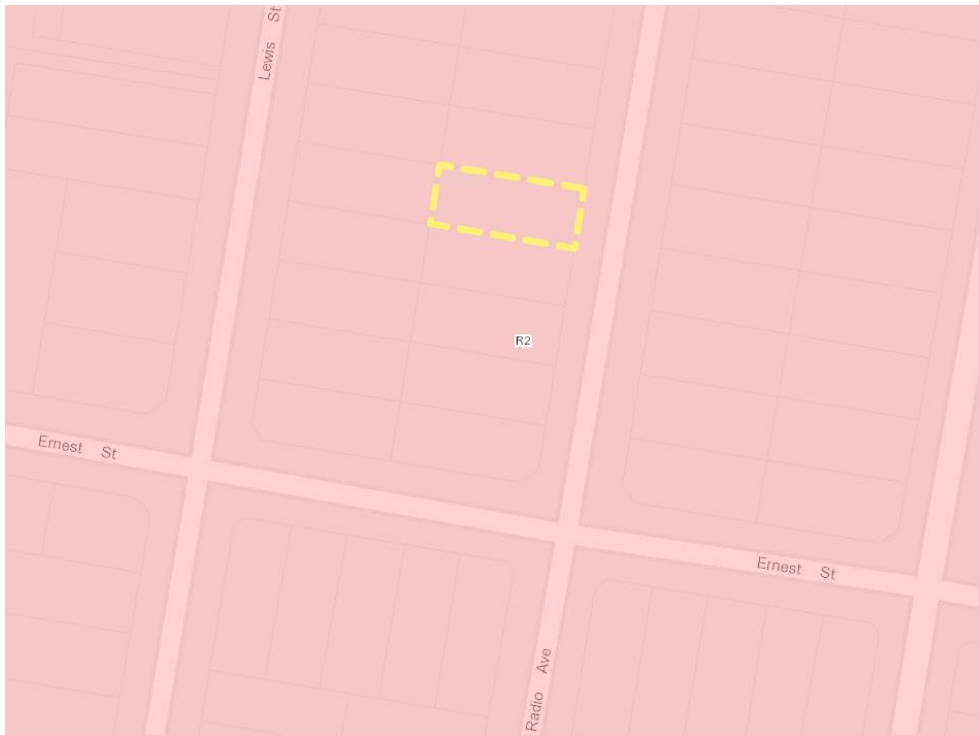


Figure 10. Extract from Manly LEP 2013 zoning map

#### Demolition

This modification proposes minor changes to previously approved demolition works, including the removal of 2 additional windows.

#### Minimum Lot Size

The site is mapped with a minimum subdivision lot size of 500m<sup>2</sup>. The subject site comprises an area of 505.4m<sup>2</sup> and no subdivision is proposed.

#### Building Height

The LEP restricts the height of any development on the subject site to 8.5 metres. The development proposes an unchanged compliant maximum height of 7.758 metres.

### **Floor Space Ratio**

The site is mapped with a maximum FSR of 0.45:1, this equates to a maximum floor area of 227.43m<sup>2</sup> for the site area of 505.4m<sup>2</sup>.

The approved development proposed a floor area of 253.4m<sup>2</sup> or 0.5:1, a variation of 11.4%.

This modification proposes a minor increase to the approved floor area to 261.4m<sup>2</sup> or 0.52:1, to accommodate the internal staircase to the garage. A variation to the approved FSR is considered appropriate, in this case, as the internal staircase will not alter the bulk and scale of the approved dwelling.

While not strictly required for a modification, a clause 4.6 variation is provided with this application.

### **Heritage Conservation**

The site is not a heritage item, located within a heritage conservation area or located in proximity to any heritage items.

### **Earthworks**

Cut to a maximum depth of 2.046 metres is proposed to accommodate the new internal staircase.

Standard erosion and sediment control measures will be implemented and any engineering specifications and conditions of consent adhered to, to ensure best practice procedures are followed.

### **Stormwater Management**

The conditions of consent provided as part of the original consent will continue to be fulfilled. No additional issues arise as a part of the minor modification proposed.

### **Essential Services**

The conditions of consent provided as part of the original consent will continue to be fulfilled. No additional issues arise as a part of the minor modification proposed.



## **5.4 Manly Development Control Plan 2013.**

The relevant sections of the current DCP are addressed below.

### **General Principles of Development**

#### **3.1 Streetscape and Townscapes**

The proposal will remain consistent with the character of the existing approved dwelling and will complement the streetscape.

#### **Garbage Areas**

No changes are proposed to the previously approved garbage areas.

#### **Complementary Design and Visual Improvement**

The proposed development remains consistent with the character and streetscape in the locality. The proposed works will be constructed of materials consistent with the residential use and coastal locality and are of an appropriate scale for the locality. Full details are provided in the attached materials and finishes schedule.

#### **Front Fences and Gates**

No changes are proposed to the previously approved fencing.

#### **Roof and Dormer Windows**

This modification will not alter the previously approved roof design.

#### **Garages, Carports and Hardstand Areas**

No change is proposed to the previously approved driveway and garage.

#### **3.2 Heritage Considerations**

See LEP Heritage comments.

#### **3.3 Landscaping**

The modification will not alter the approved landscaping on the site.

### **3.4 Amenity (Views, Overshadowing, Overlooking/Privacy, Noise)**

#### **Sunlight Access and Overshadowing**

The modifications proposed will not alter the approved shadow diagrams.

#### **Excessive Glare or Reflectivity Nuisance**

All external materials and finishes will be constructed of non-reflective materials in keeping with this clause.

#### **Privacy and Security**

The modification proposes minor alterations to the existing approved windows and doors and the removal of a number of previously approved windows. The modified windows remain in the approved location and will not alter the previously favourable assessment in relation to privacy and security.

#### **Acoustical Privacy (Noise Nuisance)**

No acoustic issues will arise as a result of the modification.

#### **Maintenance of Views**

No views are impacted as a result of the modification.

### **3.5 Sustainability**

A revised, compliant BASIX Certificate is provided with this modification application.

The proposal maintains compliant solar access and ventilation.

### **3.6 Accessibility**

The proposed modification will continue to will meet the relevant Building Code of Australia requirements.

### **3.7 Stormwater Management**

The proposal is compliant with Council's drainage controls and existing conditions will be met.

### **3.8 Waste Management**

The proposal is compliant with Council's waste management controls and existing conditions will be met.



### **3.9 Mechanical Plan Equipment**

No changes are proposed to the approved pool filter which will be located in a sound proof enclosure in the rear yard.

### **3.10 Safety and Security**

The dwelling maintains clear property boundaries and visual surveillance of the street, which is of benefit to the safety and security of residents.

## **Part 4 Development Controls and Development Types**

### **4.1 Residential Development Controls**

#### **Dwelling Density, Dwelling Size and Subdivision**

The residential density will be unchanged by the proposed modification.

#### **Height of Buildings (incorporating wall height, number of storeys and roof height)**

The approved wall heights will remain unchanged and consistent with the controls under the previous development consent.

#### **Floor Space Ratio (FSR)**

The addition of the internal staircase will result in a minor increase in the previously approved FSR, as assessed earlier in the LEP section of the report.

#### **Setback (front, side and rear) and Building Separation**

##### **Street Front setbacks**

The primary front setback is unchanged and compliant at 7.64 metres.

##### **Side setbacks and secondary street frontages**

No changes are proposed to the approved, minimum side setbacks of 1.014 metres (north) and 0.971 metres (south).

##### **Rear Setbacks**

No changes are proposed to the approved rear setback of 8.198 metres.

## **Open Space and Landscaping**

### **Minimum Residential Total Open Space Requirements**

The development will retain the existing approved landscaped area of 149.11m<sup>2</sup> or 63%.

### **Parking, Vehicular Access and Loading (including bicycle facilities)**

This modification does not propose to alter the previously approved driveway and single lock up garage.

### **First Floor and Roof Additions**

The modification retains the complementary addition to the streetscape and is appropriate with its impact on neighbouring properties.

### **Swimming Pools, Spas and Water Features**

No changes are proposed to the approved swimming pool.

## **6. Section 4.15 Considerations**

- 6.1 The amendment to the approved development has been considered with reference to Section 4.15 of the Environmental Planning and Assessment Act 1979.

This assessment has found the proposed modification will not alter the impacts of the proposed development from that which was originally deemed to be acceptable and worthy of approval in the original development.

The impacts of the alterations will be positive and/ or negligible for the subject site, the neighbouring site and the streetscape with regards to all relevant factors including scale, design, amenity, and privacy.

## **7.0 Suitability of the site**

- 7.1 The proposed modifications do not raise any additional issues relating to the suitability of the site.

## **8.0 Development substantially the same**

- 8.1 The alterations proposed by virtue of the modification request do not render the development different in terms of its essential character.

In a comparison of the development as currently approved and as proposed to be modified, the development will remain essentially and materially the same, with only minimal changes proposed. As such the development will be substantially the same notwithstanding the modifications that are sought.

## **9.0 Conclusion**

- 9.1 The development, as modified, represents substantially the same development as was approved by Council in Development Consent 2021/0617. The proposed modifications will have no significant environmental impact.

The proposed modifications to the development do not raise any additional issues relating to the relevant provisions of:

1. Manly Local Environmental Plan 2013
2. Manly Development Control Plan 2012
3. The heads of consideration contained in Section 4.15 of the Environmental Planning and Assessment Act 1979.