

15 May 2019

Our Ref: 18-117

Thomas Prosser
Northern Beaches Council
1 Belgrave Street
MANLY NSW 2095
paulm@cityplan.com.au

Dear Mr Prosser,

**RE: S4.55(1A) MODIFICATION APPLICATION TO DAS 2018/1268 AND 271/2010, 16 BOWER STREET
MANLY**

This report accompanies an application to modify approved development under S4.55(1A) of the Environmental Planning and Assessment Act (the Act).

1. THE APPROVED DEVELOPMENT

Consent to DA 271/2010 was granted on 18 November 2010 for alterations and additions including a new rumpus room on the ground floor and to DA 2018/1268 on 2 November 2018 for further alterations and additions, including replacing the existing garage with a new carport and installing a planter box along the external first floor level.

The consents apply to land in Lot 30 DP 8075, known as 16 Bower Street.

2. PROPOSED MODIFICATIONS

This application seeks approval for the following modifications:

- Addition of nine privacy screens to the exterior eastern first level wall;
- Demolition of internal walls on the ground floor level to create a larger rumpus room and small study; and
- Extension of the eastern boundary fence to enclose the existing clothes drying area.

The proposed works are shown in the architectural plans given in Appendix A.

The details of and justification for each proposed modification and an assessment of potential impacts are detailed below. It is relevant to note that none of the modifications seek any changes to the approved floor area, floor space ratio or building height all of which will remain as approved.

2.1. Privacy screens

Nine privacy screens are to be placed on the exterior first floor wall adjoining the kitchen. The screens will be made of timber, aluminum or a similar material and have dimensions of approximately 1.3m high and 0.4 m wide. They will replace the approved external planter boxes (DA 2018/1268) and provide better privacy with lower maintenance. The screens will not be visible from Bower Street nor will they obstruct views from the adjoining property to the north (14 Bower Street). They will avoid the risk of the planters falling into disrepair and thus becoming unsightly.

The screens will have no material external impacts because they will not be visible to the public except from distant view-points like Fairy Bower headland from which they would be an indistinguishable detail.

2.2. Internal Demolition

Partial demolition of three internal walls is proposed to create a more functional ground floor level. The walls concerned are a small section adjoining the stairway and those on either side of the existing study. In addition, an existing doorway will be infilled, cupboard removed, and retractable wall installed around the study. New structural supports will be provided across the wider spans created and they will be steel beams on supporting steel poles. The result will be a more functional arrangement- a larger open area leading to the rear yard, separation of the laundry, bathroom and bedroom from the living area, and a smaller fit-for-purpose study.

Rearrangement of the internal space as described above will have no external impacts once construction is complete. During construction waste materials will be conveyed by wheel-barrow via the rear yard and southern side path (adjoining 18 Bower Street) to a waste storage skip located in the off-street car port. Waste materials will be removed by truck and disposed of at an EPA licensed facility.

Demolition works will take approximately two days to complete and noisy activities will not be conducted in the sensitive early morning period (ie prior to 9am) in accordance with the EPA's Interim Construction Noise Guideline (2009). Removal of waste will require only two to three truck trips. In summary, external impacts from demolition will be minor and managed to avoid any unacceptable disturbance to neighbours.

2.3. External Wall

The wall adjoining the existing swimming pool will be extended by approximately 3.8m and be approximately 1.4m high. A section of the pool safety fence and gate will be relocated to the southern end of the new wall. The outward northern facing wall will be finished to match the existing wall.

These works will provide improved privacy and outlook for neighbours. Currently no external wall is present, and it is unsightly for neighbours. Also, there is a drop of approximately one metre along the boundary and no safety fence is present. The works will address this safety risk as well. Extension of the external wall will have no negative impacts.

3. MATTERS FOR CONSIDERATION

Section 4.55 of the Act enables a consent authority to modify a previously granted approval. The relevant provisions are as follows:

Modification of consents

(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) under this section, 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 under section 72 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 4.55 (3) states as follows:

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The matters prescribed under Section 4.55 are addressed below.

3.1. Minimal Environmental Impact- S4.55 (1A) a.

The modifications will have some minor beneficial impacts for neighbours primarily improved privacy. The applicants will also benefit from improved privacy, as well as better safety and functionality of the internal building space.

None of the modifications will have material adverse impacts on any external receiver. During the short demolition period neighbours may be aware of the works. However, given their short duration and internal location it is probable that they will be imperceptible.

3.2. Substantially the Same Development- s4.55 (1A) b

The privacy screens will serve the same function as the approved planter box and will have much the same external impact, that is being observable by only the single neighbour to the north. This modification is substantially the same as the originally approved development in DA 2018/1268.

The internal demolition and related works will retain the originally approved functions of a rumpus room. No additional floorspace will be created and the external impacts will be the same as those from the current internal area, that is effectively no impacts. This modification will be substantially the same as the originally approved development in DA 271/2010.

The extended external fence will serve the same functions as the existing fence along the pool that is providing safety and privacy. Its impacts will be entirely beneficial for both the neighbour and applicant. The modification will be substantially the same development as that originally approved in DA 271/2010.

3.3. Development Assessment Considerations- S4.44(3)

Planning controls- S4.15(1)a

The planning controls applying to the modifications are given in:

- Manly LEP 2013; and
- Manly DCP 2013.

The modifications are consistent with all relevant standards and guidelines given in these two documents.

Environmental impacts and site suitability- Ss 4.15(3) b.

The modifications will have generally beneficial impacts being improved privacy, safety and functionality. The works could be noticeable to neighbours during the short demolition period, but no unacceptable impacts would occur. The site is suitable for residential use and the modifications will not change this.

The public interest S4.15 (3) e

The modifications are of little consequence for the public interest. Notwithstanding, the resulting development would be compliant with all applicable standards and guidelines, thus representing orderly development and being in the public interest

4. CONCLUSION

The modifications are generally a rearrangement of existing floor space or minor works to lessen external impacts. They are substantially the same as development originally approved in the two parent DAs.

Impacts from the works will be largely imperceptible except for the neighbour to the north where they will be beneficial.

The modifications will not change the site's suitability for its current residential use and by being orderly development will be in the public interest.

Yours sincerely,



Paul Mitchell
Director Major Projects