

Memo

Environment

To:	Lashta Haidari , Acting Development Assessment Manager
From:	Jordan Davies, Planner
Date:	19 April 2021
Application Number:	Mod2021/0184
Address:	Lot 4 DP 550893 , 45 Marine Parade AVALON BEACH NSW 2107
Proposed Modification:	Modification of Development Consent DA2019/0802 granted for alterations and additions to a dwelling house and studio including garage and secondary dwelling

Background

The abovementioned development consent was granted by Council on 13 September 2019 for alterations and additions to a dwelling house and studio and secondary dwelling.

Details of Modification Application

Under Section 4.55(1) of the EPA Act 1979, a consent containing an error or mis-description may be amended. The Northern Beaches Community Participation Plan does not require the notification of Section 4.55(1) modification applications as they are considered to be of minimal environmental impact.

The application seeks to modify condition 9 and delete condition 23, 24 and 25, which reads as follows:

9 On-site Stormwater Detention Compliance

Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's Clauses B5.7 PITTWATER DCP21. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

23 An Application for Authorisation of Legal Documentation Required for Onsite Detention

Submission of an Application for Authorisation of Legal Documentation Required for Onsite Detention together with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council for approval, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

24 Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

25 Positive Covenant and Restriction as to User for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

Consideration of error or mis-description

The application was determined with Condition 9 which required on-site detention to be provided.

The applicant has begun the detailed CC stage and engaged a civil engineer to carry out the stormwater design. During this process, the civil engineer has noted that On-site detention is not required for the development as the increase in impervious is below 50sqm with an overall increase of only 26.42sqm. This is also demonstrated in the approved architectural plans (Dwg A.09 Rev B).

The applicant has provided an advice letter from the consulting civil engineer stating that OSD is not required, as per Clause B5.7 PDCP due to the increase in impervious areas being less than 50sqm.

Therefore, condition 9 is to be replaced with the following standard condition:

Stormwater Disposal

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all

details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the kerb at Marine Parade.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

Conditions 23, 24 and 25 are to be deleted as these relate to the provision of on-site detention.

As the development did not increase impervious areas by more than 50sqm, the condition is considered to be placed in error and may be dealt with via this Section 4.55(1) application.

Conclusion

It is considered that the modification is minor in nature and consistent with the provisions of section 4.55(1) of the EPA Act 1979 and is therefore recommended for approval.

Recommendation

THAT Council as the consent authority approve Modification Application No. Mod2021/0184 for Modification of Development Consent DA2019/0802 granted for alterations and additions to a dwelling house and studio including garage and secondary dwelling on land at Lot 4 DP 550893,45 Marine Parade, AVALON BEACH, as follows:

A. Modify Condition 9 to read as follows:

Stormwater Disposal

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the kerb in Marine Parade.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

B. Delete Condition 23 "An Application for Authorisation of Legal Documentation Required for Onsite Detention"

C. Delete Condition 24 "Registration of Encumbrances for On-site Stormwater Detention"

D. Delete Condition 25 "Positive Covenant and Restriction as to User for On-site Stormwater Detention"

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Jordan Davies, Planner

The application is determined on 19/04/2021, under the delegated authority of:



Lashta Haidari, Acting Development Assessment Manager