

22 December 2020

Northern Beaches Council
PO Box 82
MANLY NSW 1655

Dear Sir/Madam,

SECTION 4.55(2) APPLICATION

Premises: Lot 61 in DP 771456, No. 188 McCarrs Creek Road, Church Point
Amendments: Amend Plans – New windows, balcony extension, roof alteration
Development Application: BA A1101-77

INTRODUCTION

On behalf of Mrs Thorp 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 Consent No. BA A1101-77 relating to the construction of dwelling alterations and additions.

BACKGROUND

Development Consent for the construction of additions to an existing dwelling (BA A1101-77) on the subject site was approved by Council.

This application seeks to amend the approved plans and has been lodged at the request of Council as part of the Council's assessment of a Building Information Certificate (BC2020/0093).

This Section 4.55(2) application carries out a detailed assessment against the current relevant provisions of the Pittwater LEP and DCP. It is considered that the amendments are consistent with the relevant planning controls and is worthy of the approval.

PROPOSED MODIFICATION

This proposal seeks to amend the approval as detailed in the plans prepared by Absolute Building Designs dated 18.05.20. In summary the amendments incorporate the following:

- New window placement including new larger windows on the northern elevation (lower and upper ground floor) and delete three existing windows; remove windows on south elevation and new high light windows installed.
- Alter roof form, existing ridge retained pitched altered to 6.5 degrees.
- Alter balcony to lower and upper ground floor plans. Square off approved balcony and reduce portion.

LEGISLATION

Section 4.55(2) 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 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*

Comment: The Consent granted approval for the construction of alterations and additions to an existing dwelling. This application proposes some minor amendments to the plans as detailed above. These amendments result in a similar dwelling which is considered to be substantially the same.

- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comment: Concurrence or referral is not required.

- (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 identified as bushfire prone land on Council's Bushfire Prone Land Map and therefore the provisions of Planning for Bushfire Protection 2006 apply to the proposal. A Bushfire Assessment Report has been prepared by Australian Bushfire Consulting Services which in summary provides:

The subject property is determined to be bushfire prone land and the proposal must achieve compliance with the NCC by meeting the aims and objectives of PBP 2019. This is achieved by providing construction (where applicable) measures to mitigate against the impacts from bushfire including smoke, embers, radiant heat and flame contact and also including suitable access, services supply and means of maintaining the bushfire protection measures for the life of the development.

This bushfire hazard and determination has been made on a site-specific basis which includes an assessment of the local bushland area and its possible impact to the subject property. The highest Bushfire Attack Level to the building footprint was determined from to be BAL 19 (dwelling) and BAL 29 (garage). The works required to achieve compliance with these requirements are listed in detail within section 8.7 of this report.

In consideration of the bushfire risk posed to the proposed development in conjunction with the recommended bushfire protection measures contained within this report I am satisfied they will provide a reasonable and satisfactory level of bushfire protection to the development subject to the Building Information Certificate application.

Pittwater Local Environmental Plan 2014

The subject site is zoned E4 Environmental Living under the provisions of the Pittwater LEP 2014. Development for the purposes of dwelling alterations/additions are permissible in this zone with the Consent of Council.

The following development standards of the **Pittwater LEP** are applicable to the works as constructed.

Clause	Development Standard	Proposal	Compliance
4.3 Height	8.5m	Maximum 8.495m.	Yes

The following clauses also apply:

Clause 5.7 Development Below Mean High Water Mark

All works carried out were above mean high water mark. This clause is not applicable.

Clause 7.6 Biodiversity

The subject site is identified on Council's Biodiversity Map. However, all works constructed were contained within the existing footprint and did not require the removal of any vegetation nor have any impact on existing trees. No further information is required in this regard.



Extract of Biodiversity Map

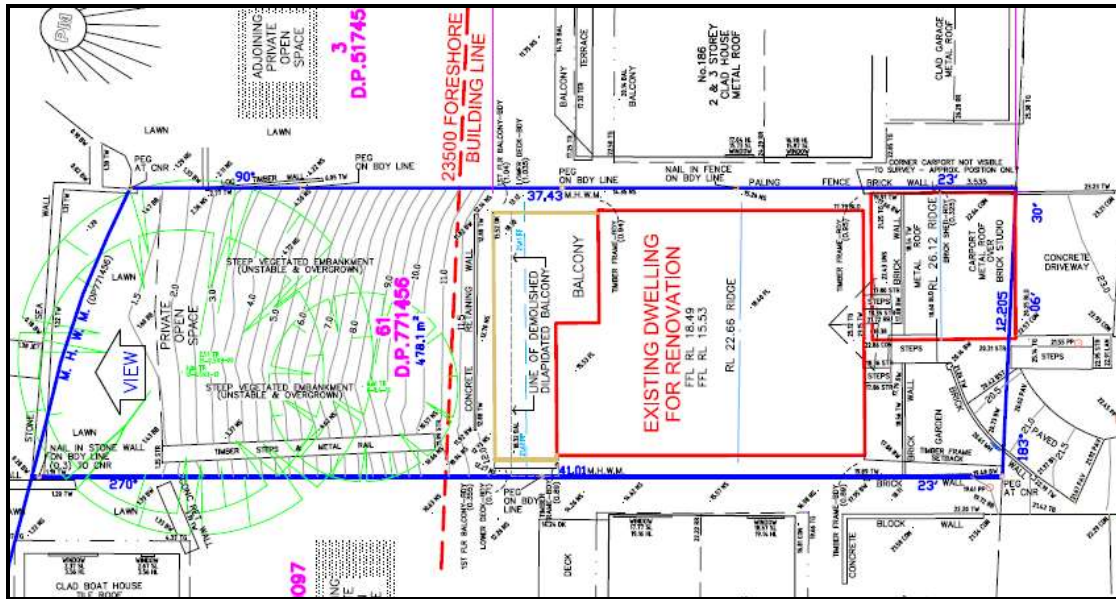
There are no other controls of the Pittwater LEP that apply to the subject site.

Clause 7.7 Geotechnical Hazards

The site is identified as Geotechnical Hazard 1. A Geotechnical Report has been prepared by White Geotechnical and is submitted with this application.

Clause 7.8 Limited Development on Foreshore Area

The foreshore building line has been identified on the survey and the architectural plans. The works as constructed do not encroach the foreshore building line. No further information is required in this regard.



Extract of Site Plan Depicting Foreshore Building Line

There are no other provisions of the LEP that apply to the subject development.

Pittwater Development Control Plan

Council's Pittwater DCP 2014 Part B (General Controls), Part C (Design Criteria) and Part D4 Church Point & Bayview Locality Statement and D15 Waterways Locality provides a range of outcomes and controls which form the primary criteria for the control for development within the subject locality.

B3.1 Landslip Hazard

A Geotechnical Report has been prepared and submitted with the application.

B3.2 Bushfire Hazard

A Bushfire Assessment Report has been prepared and submitted with the application.

B5.11 Stormwater Discharge into Waterways and Coastal Areas

The works carried out did not increase the footprint of the existing dwelling. All collected stormwater continues to discharge into the adjoining waterway.

C1.1 Landscaping

The controls seek to achieve the outcome:

*A built form dominated and complemented by landscaping.
Landscaping that reflects the scale and form of development.
Retention of canopy trees by encouraging the use of pier and beam footings.
Development does not result in significant loss of the urban forest.
Reduced risk of landslip.*

The works did not require the removal of any vegetation.

C1.3 View Sharing

The controls seek to achieve the outcomes:

*A reasonable sharing of views amongst dwellings.
Views and vistas from roads and public places to water, headland, beach
and/or bush views are to be protected, maintained and where possible,
enhanced.
Canopy trees take priority over views.*

The upper level deck was slightly extended to the west. However this is a light weight structure. Further it is considered that the works as constructed will not unreasonably impact on views from the adjoining properties. Both adjoining properties continue to adjoin direct views to the west with oblique views to the northwest and southwest. It is envisaged that the deck does not obscure any significant view.

C1.4 Solar Access

The works carried out were generally within the existing footprint, with the ridge height of the existing dwelling not being exceeded. It is not considered that the works resulted in any additional overshadowing to the adjoining properties.

The proposal complies with the requirements of this clause.

C1.5 Visual Privacy

The works carried out were generally within the existing envelope. The deck refurbishment provides for a 1.8m high privacy screen along the northern elevation to prevent overlooking to the adjoining property. The windows and doors provided replaced existing windows, with the southern elevation windows now all being highlight. The sills of two windows on the northern elevation have been reduced to maximise water views. It is considered that the works as constructed ensure appropriate visual privacy.

The proposal complies with this clause.

C1.6 Acoustic Privacy

It is considered that the works as constructed are provided with appropriate setbacks and the considered design will ensure that acoustic privacy to the adjoining properties is provided.

C1.7 Open Space

The works did not alter the existing open space. No further information is required in this regard.

D4.1 Character as Viewed from a Public Place

The works were required to ensure the structural integrity of the existing dwelling and to replace termite damaged members. The works also involved an upgrade of existing external materials to provide for a more aesthetic building and in keeping with the existing surrounding development. The deck provides articulation. The works did not require the removal of any vegetation.

D4.3 Building Colours and Materials

The works have been constructed of materials that complement the existing surrounding environment.

D4.6 Side and Rear Building Lines

The works as constructed retained the setbacks currently provided to the existing dwelling on site.

D4.8 Building Envelope

The required controls to achieve the outcomes are to maintain the development within a height envelope which provides for a height of 3.5m with an angle projected at 45°. Whilst the works slightly encroach this envelope, it is noted that the works retain the side setbacks and maximum height of the existing dwelling. Therefore it is unreasonable to require compliance with this clause.

D4.10 Landscaped Area – Environmentally Sensitive Land

This clause requires a landscaped area of 60% of the site. The works were constructed over the existing footprint. Therefore, there is no reduction in landscaped area.

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

JUSTIFICATION

The works as carried out are considered to be justified for the following reasons:

- The works as constructed comply with Building Code of Australia.
- The works are compatible with the existing surrounding development and do not reduce amenity to the adjoining properties.
- The works do not result in any loss of significant views or solar access to the adjoining properties.
- The resultant dwelling complies with the current LEP and the objectives of the DCP.

CONCLUSION

For the reasons stated above it is considered that this application to amend the plans as detailed should be approved.

Should you require additional information to support the proposal or wish to discuss the merits of the structure, please do not hesitate to contact me on 0403 524 583.

Yours faithfully,



Natalie Nolan