

9 June 2021

The Chief Executive Officer
Northern Beaches Council

Dear Sir / Madam,

32 THE STRAND, WHALE BEACH
Modification under Section 4.55(2) to Development Consent DA2019/0913 to
alter the approved development

1 Introduction

Development Application no. 2019/0913 approved demolition works and construction of a dwelling house, including a swimming pool, upon the subject site. It was approved by the Northern Beaches Council on 11 December 2019.

Modification to the development consent is sought to make modest changes to the approved development, including installation of a passenger lift connecting the first and second floor levels and other associated minor changes as described herein.

2 Proposed Modifications

The proposed modifications are depicted in the accompanying architectural plans by Shaun Lockyer Architects and listed in summary below.

1. installation of a passenger lift connecting the second floor level (garage and master bedroom) and the first floor (living) level.
2. the modification of the external south side stairs to delete the top flight (between first floor and garage level)
3. replacing the stair with a planter on the western side of the lift and the lift shaft
4. the deletion of the window into the first floor which the lift core now occupies (L1/W05)
5. the widening of the window/door in the laundry (L1D05)

The proposed modifications will necessitate a modification to the consent, to reflect the architectural plans that accompany this application.

The modification will support the owners' / residents of the home being able to age-in-place and with the site being steep, a lift is the most appropriate means to achieve this outcome.

3 Statement of Environmental Effects

3.1 Section 4.55(2) and environmental assessment considerations

The following is a Statement of Environmental Effects made under the provisions of Section 4.55(2) being modifications involving substantially the same development. Having regard to Section 4.55(2) a consent authority may, 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 the consent was originally granted and before that consent as originally granted was modified (if at all)

In this regard, it is noted that:

- The nature of the proposed modifications are minor and within the scope of Section 4.55(2) being modifications involving substantially the same development for which consent was originally approved on the land.
- The application has taken 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 following Statement of Environmental Effects considers the nature of the proposed modifications and the potential impact of the changes on environmental planning grounds.

4 Environmental Assessment

4.1 Site analysis

4.1.1 Details of the property and subject site

The site is located 32 The Strand, Whale Beach. It is legally described as Lot 70 in Deposited Plan 11067. The site has an area of approximately 1,105m². The site has frontages to both The Strand and Whale Beach Road.

Key features of the site and its development include:

- The site and the adjoining properties have a west to east orientation to The Strand, which also forms the car parking area to Whale Beach.
- The site gains vehicle access from Whale Beach Road.
- The land is characterised by steeply sloping topography, most notably within the western portion of the site. The land slopes significantly from the Whale Beach Road frontage down to the east, with a level difference of approximately 14.13m between Whale Beach Road and the lowest level within the rear of the property (approximately RL20 to RL 5.87). The land also has a 'crossfall' sloping from its northern to its southern side, in some locations upto approx. 2 metres. The site has a slope that ranges from moderate at the eastern end to steep towards the west, displaying grades up to approximately 27 degrees, between 51% to 55%, to the rear of the existing dwelling and where the proposed dwelling is positioned.
- The property is set within a developed hillside location that enjoys eastly views over Whale Beach and the Pacific Ocean.

4.2 Zoning and key environmental affectations

The property is affected by 2 zones under the Pittwater Local Environmental Plan 2014 (LEP). The majority (883m² western portion of the site) is zoned E4 Environmental Living; a smaller eastern portion (222m²) is zoned RE1 Public Recreation and is also affected by a Regional open space land reservation; see map excerpt below.

The site is not affected by key environmental considerations like heritage and bushfire risks. The site is affected by acid sulfate soils, flood, coastal / tidal inundation, biodiversity, and geotechnical issues. These matters are addressed within section 5 of this report. Based on the site investigations that have been undertaken, there are no zoning or environmental characterises that present impediments to the improvements proposed to the land.



Figure 1 - zoning map excerpt from the Pittwater Local Environmental Plan 2014

5 Pittwater LEP

Planning considerations from the Pittwater LEP 2014 that are relevant to the proposed modifications are noted and addressed as follows.

5.1 Zone

The proposal constitutes modifications to the approved new dwelling on the portion of the property that is zoned E4 Environmental Living. No development is proposed by the application within the RE1 Public Recreation zone at the eastern end of the site. The proposal is permitted within this zone with Development Consent.

Clause 2.3(2) of the LEP requires the consent authority to 'have regard to the objectives for development in a zone'. The proposed modifications represent modest changes to the approved development and are therefore assessed as being consistent with the zone objectives.

5.2 LEP Clause 4.3 Height of buildings

Clause 4.3 of the LEP 'Height of buildings' is applicable to the assessment of the proposal. It establishes an 8.5m height limit applicable to the site. The proposed modifications maintain compliance with this development standard.

5.3 Other relevant provisions of the LEP

The proposed modifications do not involve any changes to the floor levels of the approved development, nor any increase in the approved development footprint extent or excavation depth. Therefore, there are no further matters for assessment relating to the following LEP assessment considerations:

- LEP Clause 7.1 Acid sulfate soils
- LEP Clause 7.2 Earthworks
- LEP Clause - 7.3 Flood planning
- LEP Clause 7.5 - Coastal Risk Planning
- LEP Clause 7.6 – Biodiversity
- LEP Clause 7.7 – Geotechnical hazards
- LEP Clause 7.8 - Limited development on foreshore area

6 State Environmental Planning Policies

6.1 State Environmental Planning Policy (Coastal Management) 2018

State Environmental Planning Policy (Coastal Management) 2018 is applicable to the land. The Act is supported by the State Environmental Planning Policy (Coastal Management) 2018 which came into effect on 3 April 2018. It is applicable because, as shown on the map below, the south western section (the majority) of the site is within the designated:

- coastal environment area (Clause 13)
- coastal use area (Clause 14)

The scope of the proposed modifications are modest and not impactful in relation to the various criteria under the Coastal SEPP. The proposed modifications do not involve any changes to the approved building footprint, and therefore the matters for consideration within clause 8 under the SEPP are satisfied by the proposed modifications.

6.2 State Environmental Planning Policy - BASIX

The proposed modifications trigger the need for an updated BASIX certificate which accompanies the application satisfying the SEPP. The accompanying architectural plans include an updated BASIX assessor stamp confirming the above.

7 Pittwater DCP

7.1 Palm Beach Locality

The subject site is within the Palm Beach Locality. The scope of the proposed modifications are modest and not impactful in relation to the proposal's compatibility with the desired future character of the Palm Beach Locality. The modifications maintain a compatible development within the local landscaped setting.

7.2 DCP Principal Built Form Controls

Principal built form controls from the Pittwater DCP relevant to the proposed modifications are noted and addressed as follows:

- Front building line – no change proposed.
- Side setback - the southern side setback to the proposed lift is 2.2m which aligns with the approved setback of the dwelling house and complies with the DCP.
- There are no adverse privacy or view impacts arising from the proposed modification.
- Solar access – the proposal is accompanied and supported by shadow diagrams which demonstrate that the proposal achieves compliance with the DCP control. The building's approved building envelope is modestly extended by the proposed modifications however there are no significant or inappropriate adverse shading impacts arising from this proposed modification.
- Landscaped area – the approved Landscaped area will be maintained by the proposed modifications, satisfying the provisions of the control.
- Character as viewed from a public place - the proposed modifications will largely be obscured from the site's street frontages (figures 3 and 4 below illustrate). The proposal will maintain appropriate material and colours, in keeping with the desired architectural characteristics and qualities of the approved dwelling house.
- Building envelope –. The proposed lift modestly exceeds the boundary envelope for a 2.030m length as depicted within figure 2 below. In support of this exceedance the following points are noted:
 - the location of the proposed exceedance on the site is adjacent to the adjoining property at 30 The Strand. The proposed lift will be adjacent to a vegetated, sloping, rear garden area which is positioned to the west of the adjoining dwelling. It is not used as an area of principal private open space, with such spaces being located within the northern and eastern section of the property where beach views and solar access are gained.
 - an appropriate solar access outcome is achieved.
 - the proposed modifications will largely be obscured from the site's street frontages.
 - the majority of the building's approved envelope will be maintained by the proposed modifications.
 - For these reasons, the proposed exceedance is assessed as appropriate in addressing the objectives of the control. Therefore, there are appropriate circumstances for the consent authority to be flexible in its application of the numerical control.

In summary:

The proposed modifications provide for an appropriate architectural outcome for the property compatible with the established development context. There will be no significant or unreasonable visual, privacy, shading or view loss impacts resulting from the proposed modifications and the provisions of the DCP controls are satisfied by the proposal.

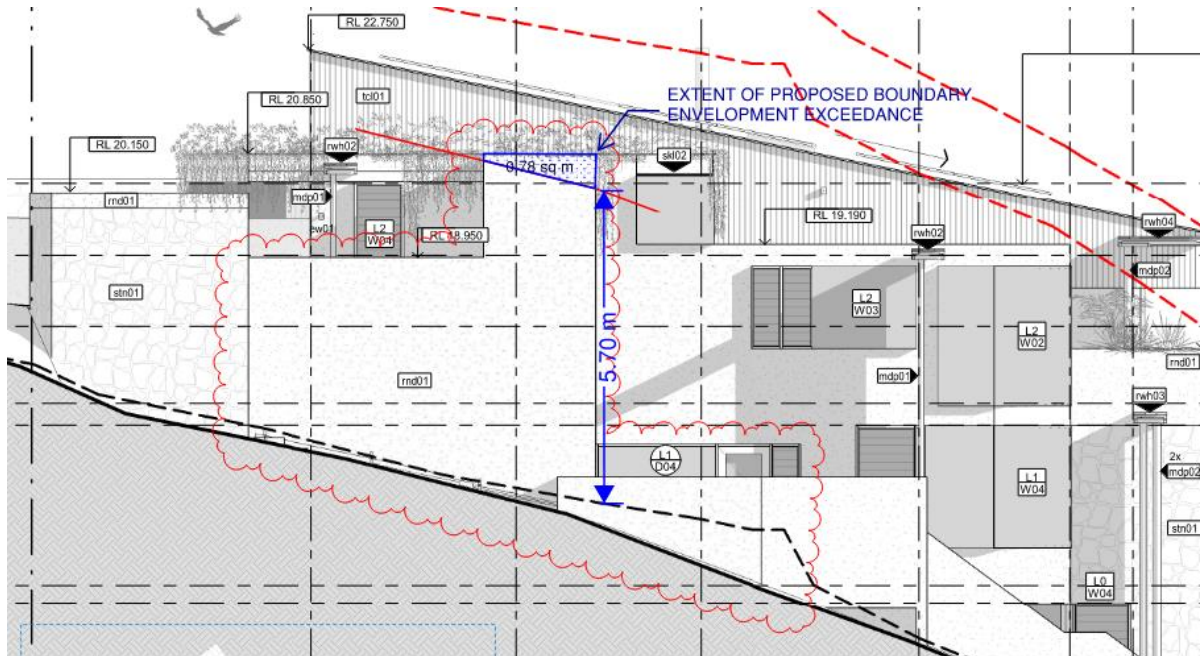


Figure 2 – the proposed lift well is significantly lower than the main roof ridge



ARTISTIC REPRESENTATION ONLY, NOT FOR CONSTRUCTION

Figure 3 – the proposed lift well is significantly lower than the main roof ridge and won't be visible from the Whale Beach Rd streetscape



Figure 4 – the proposed lift well is position behind the rear eastern facade and won't be visible to pedestrians from The Strand and the beach / foreshore

7.3 Section 4.15 Matters for Consideration and 4.55 (2) Modifications

The proposal has been assessed having regard to the matters for consideration pursuant to Section 4.15(1) and 4.55(2) of the Act, and to that extent, Council can be satisfied that:

- The site is suitable and capable of accommodating the proposed modifications based on its area, proportions, topography, and the environmental affectations which have been appropriately investigated and assessed.
- The proposal will not result in any significant unacceptable impacts that limit the use or enjoyment of nearby or adjoining land.
- The proposed modifications to Development Consent no.2019/0913 will provide an improved residential amenity without any unacceptable adverse impacts on the amenity of neighbouring properties of the approved housing development. The modification will support the owners' / residents of the home being able to age-in-place and with the site being steep, a lift is the most appropriate means to achieve this outcome.
- The proposed modifications to Development Consent no.2019/0913 are appropriate changes to the development consent. The development as modified is substantially the same development for which consent was originally granted.
- The likely impacts of the proposed modification have been appropriately identified and considered.
- The public interest will be appropriately served by the approval of the proposed modification.

8 Conclusion

The proposed modification to Development Consent no. 2019/0913, at 32 The Strand, Whale Beach, for changes to the approved dwelling house, represent appropriate modifications.

The proposed development as modified is substantially the same development for which consent was originally granted. The proposed modification is appropriate when considering the relevant matters to the property and the proposal pursuant to Section 4.55(2).

It is our considered opinion that the proposed development, as modified, is satisfactory and the modification may be approved by Council.

Yours sincerely,



Michael Haynes
Director - BBF Town Planners

ANNEXURE 1 – Summary of modifications as compared the DA approved plans (as previously modified)

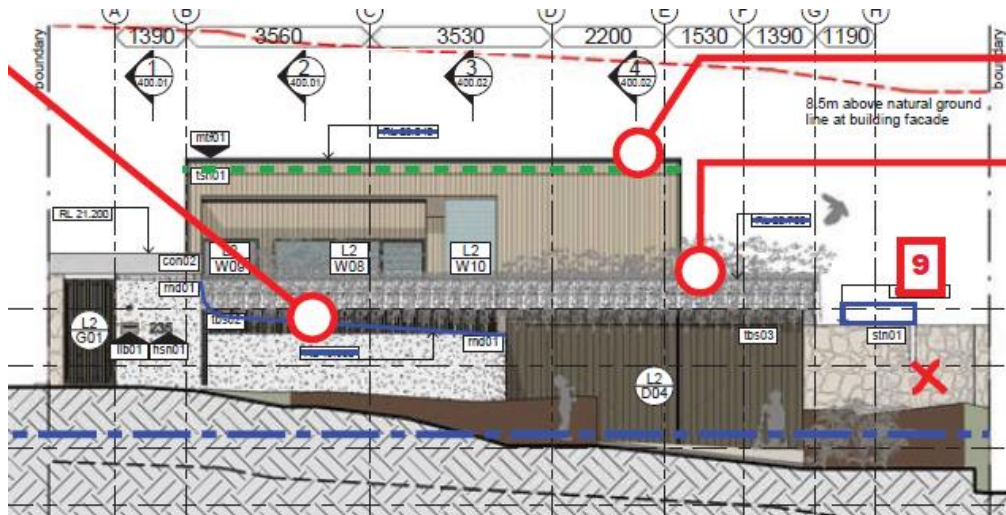


Figure 1 – west elevation approved

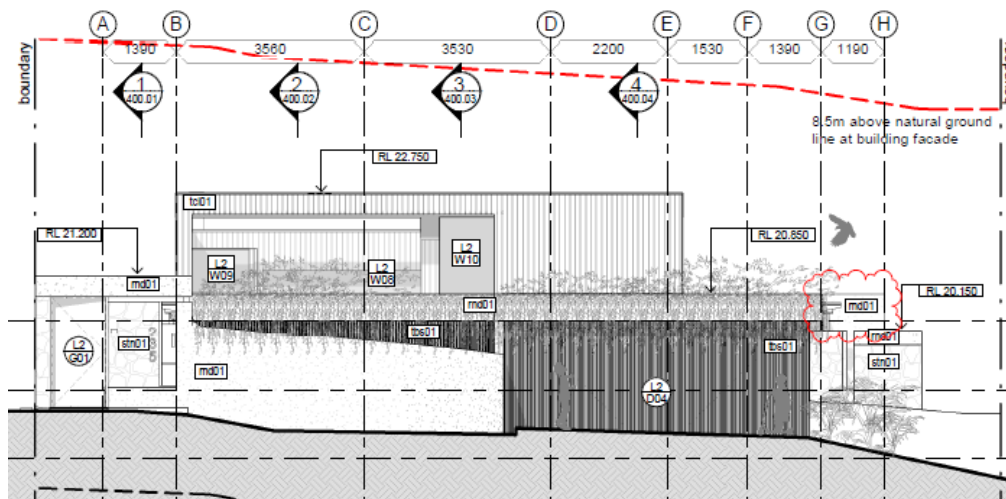


Figure 2 – west elevation proposed modifications





Figure 5 – south elevation approved



Figure 6 – south elevation proposed modification

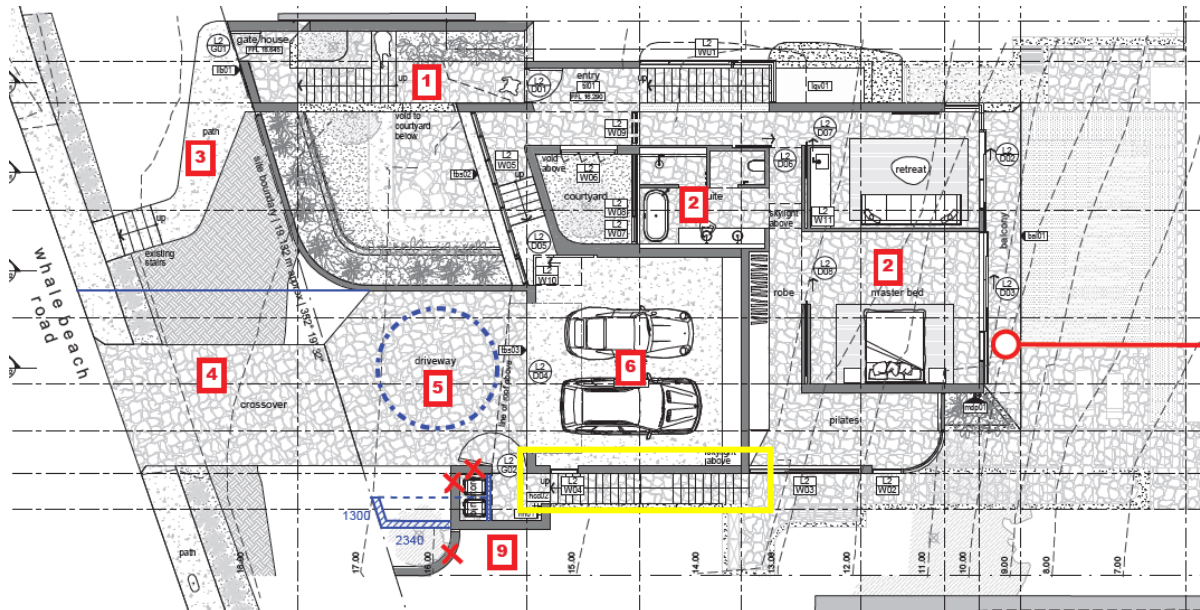


Figure 7 – second level floor plan approved

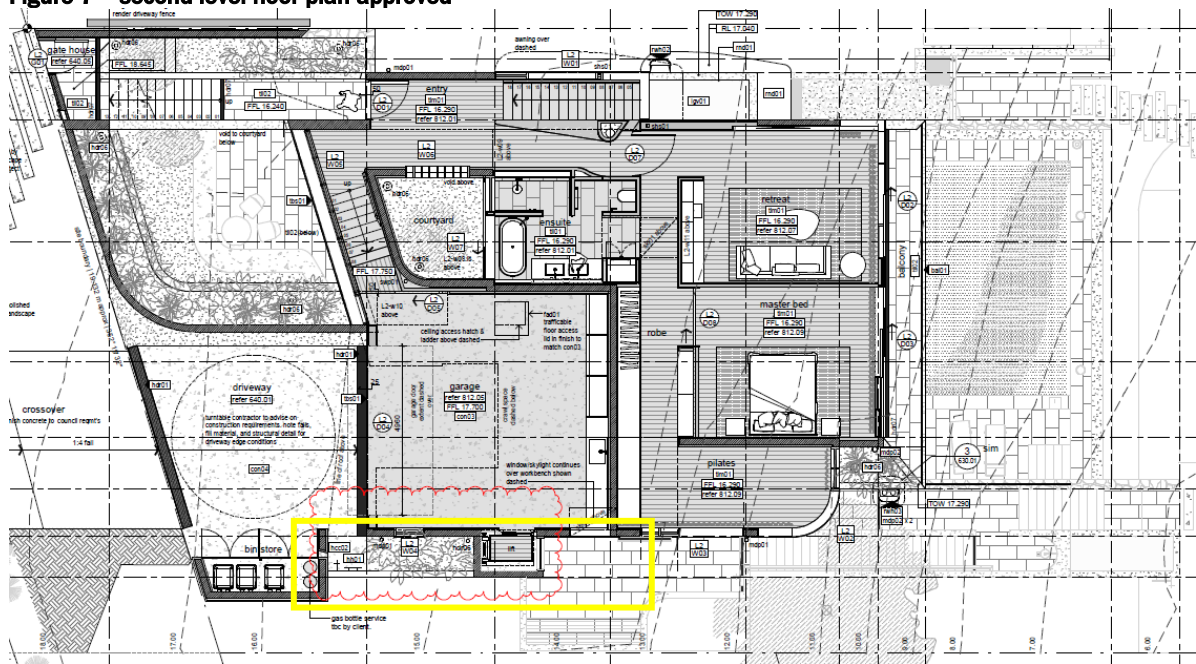


Figure 8 – second level floor plan proposed modification

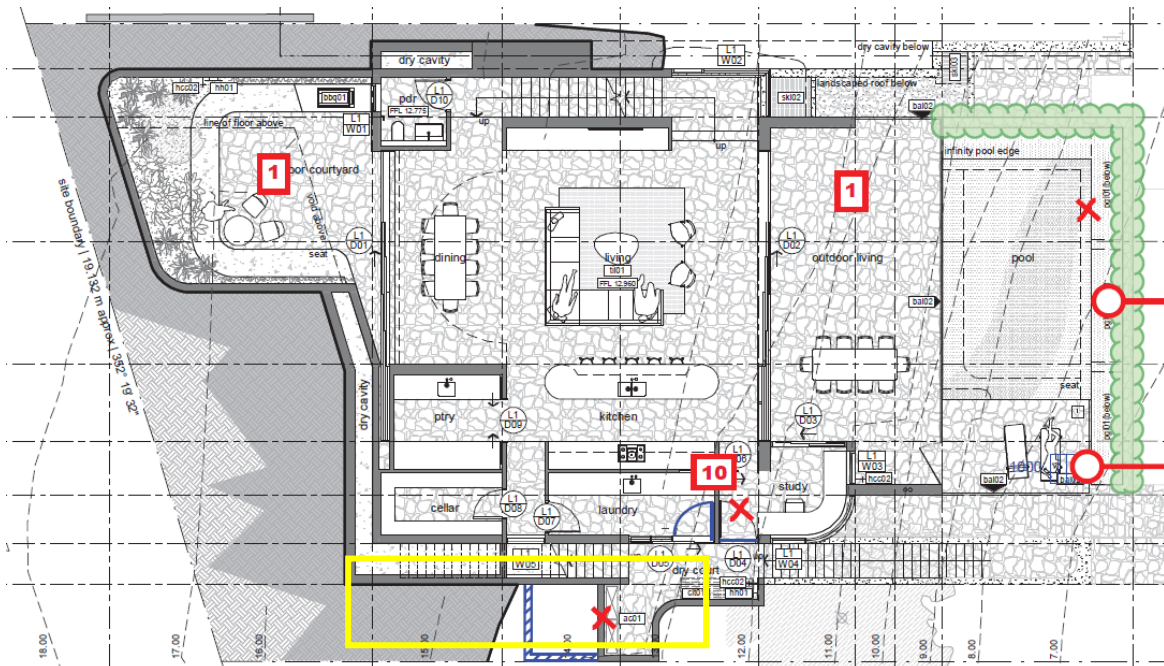


Figure 9 –first floor level plan approved

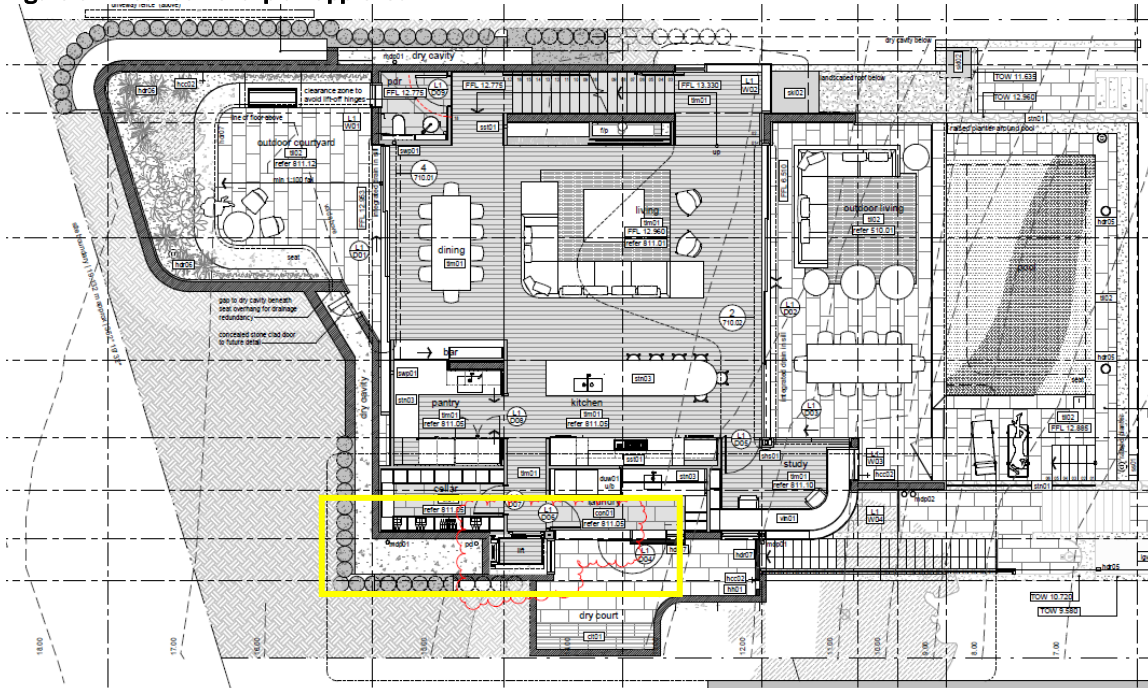


Figure 10 –first floor level plan proposed modification

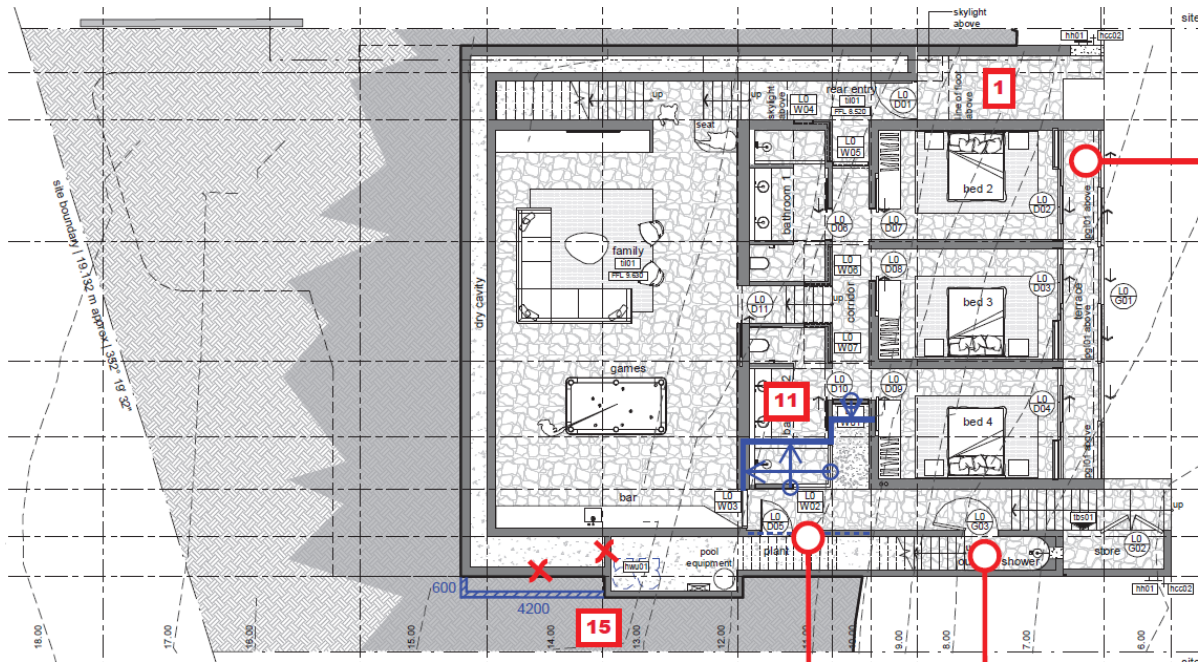


Figure 11 –ground floor level plan approved

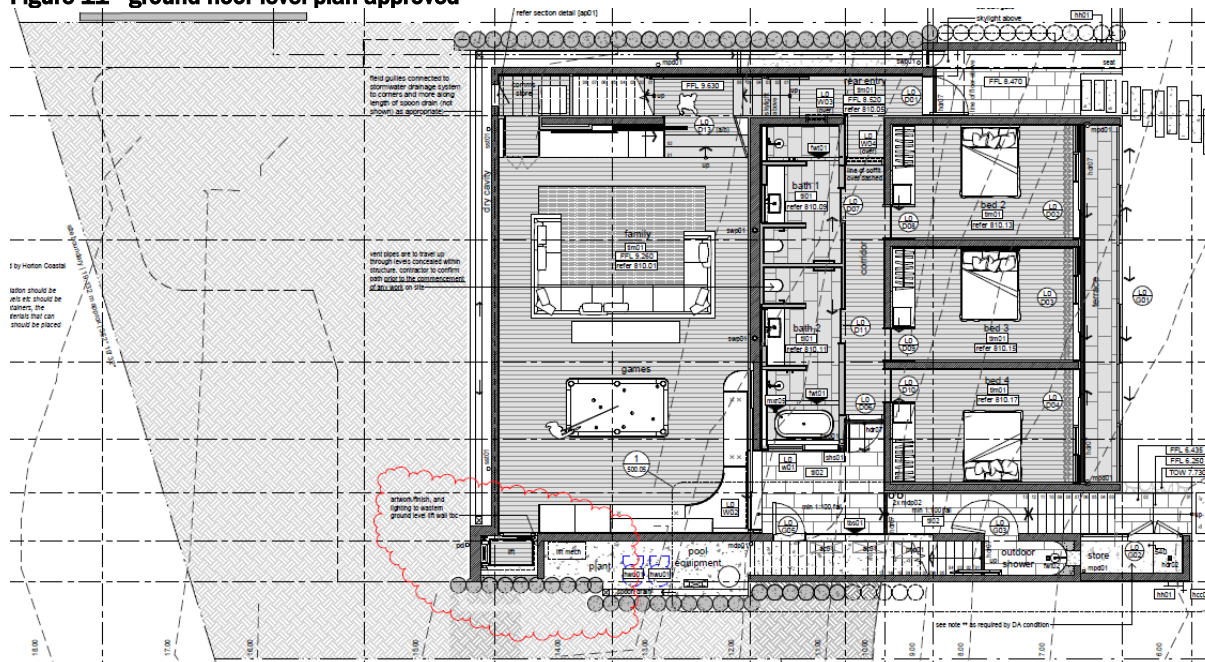


Figure 12 –ground floor level plan– no change proposed