

26 November 2021

Northern Beaches Council  
PO Box 82  
MANLY NSW 1655

Dear Sir/Madam,

## **SECTION 4.55(1a) APPLICATION**

**Premises:** Lot 9 in DP 758044, No. 1 Mulgowrie  
Crescent, Balgowlah Heights  
**Amendments:** Amend Plans – Dwelling Alterations &  
Additions  
**Development Application:** DA2019/0856

## **INTRODUCTION**

On behalf of Mr Richard Balfour 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. DA2019/0856 relating to the construction of dwelling alterations/additions.

## **BACKGROUND**

Development Consent for the construction of alterations and additions to an existing dwelling (DA2019/0856) on the subject site was approved by Council on 27 May 2020.

This application seeks to amend the approved plans to delete the upper balcony, provide internal alterations and window changes.

This Section 4.55(1a) application carries out a detailed assessment against the current relevant provisions of the Manly 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 Sketch Arc, Project No. 1430 and dated 12/11/2021. In summary the amendments incorporate the following:

- Alter skylight location.
- Reduce depth of upper floor level by deleting the balcony.
- Internal alterations to upper floor level to suit client needs.
- Amend windows on upper level of the northwest side elevation to remove louvres and provide either frosted glazing or height light window.
- Reduce windows on upper level of the southeast elevation by increasing the sill height.

The application is also supported by the following documents:

- Bushfire Assessment Report prepared by Bushfire Consulting Services, Ref No. J21/1042 and dated 3/11/2021.
- BASIX Certificate #A355189\_03 and dated 8/11/2021.

## LEGISLATION

Section 4.55(1a) of the Act states:

*Modifications involving minimal environmental consent - 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*

Comment: The proposed amendments delete the upper level deck and there is no change to approved floor space. The proposal also provides for reduction in window sizes which will improve privacy. The internal changes have no impact on the environment. The proposed modification is of minimal environmental impact, if any.

- (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*

Comment: The Consent granted approval for the construction of addition/alterations to an existing dwelling. This application proposes some amendments to delete the upper level deck, internal changes and minor window amendments. These changes are not significant and result in substantially the same development.

- (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**

### **Manly Local Environmental 2013**

The subject site is zoned R2 Low Density Residential under the provisions of the Manly LEP 2011. Development for the purposes of a dwelling alterations/additions are permissible in this zone with the Consent of Council.

The proposed works do not exceed the height of the approved/existing dwelling and comply with the height of building development standard of Clause 4.3 in the LEP. The proposal also complies with the floor space ratio controls of Clause 4.4 the LEP – there is no change to the approved floor space.

The site is also identified as being with in the Foreshore Scenic Protection Land and therefore the provisions of Clause 6.9 apply. In this regard the proposal does not alter the approved floor area. The proposed amendments will not be visible from the foreshore or harbour and does not result in any conflict between land based and water based coastal activities.

There are no other provisions of the LEP which apply to the proposal.

## **Manly Development Control Plan 2013**

The relevant clauses of the DCP as they relate to the proposed modifications are discussed below:

### Clause 3.1.1 - Streetscape

The proposed modifications are not visible from the streetscape and therefore have no impact on the existing or desired streetscape.

### Clause 3.3 – Landscaping

The proposal does not reduce the area of landscaping currently provided on site.

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

The proposed amendments will improve amenity to the adjoining properties for the following reasons:

- The deletion of the upper level balcony, which will improve opportunity for view sharing and minimise overshadowing.
- The changes to windows provide for either frosting or increased sill height to improve privacy of the surrounding properties.

### Clause 3.5 Sustainability

An updated BASIX Certificate is submitted with the application.

### Clause 4.1.2.1 Wall Height

The proposed amendments reduce the depth of the upper level and do not increase the approved wall height.

### Clause 4.1.4 Setbacks

The proposal does not reduce the existing approved boundary setbacks.

### Clause 4.1.5 Landscape Open Space

The proposed amendments do not alter the approved landscaped open space.

## **JUSTIFICATION**

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

- The proposed modifications seek to reduce the upper floor level with deletion of the balcony and some alterations to window sizes. These changes do not result in any detrimental impacts on the adjoining properties and are not visible from the street.
- The works reduce the approved building envelope and do not reduce landscaping nor result in any additional overshadowing.
- The proposal continues to comply with the maximum height and floor space controls of the LEP and DCP. It is noted that the proposed modifications do not alter the approved height or floor space ratio.

## **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**