



29 INNES ROAD MANLY VALE

**STATEMENT OF ENVIRONMENTAL EFFECTS FOR A
SECTION 4.55(1A) MODIFICATION TO VARY
DEVELOPMENT CONSENT 2024/1811**



Report prepared for
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May 2025

1. Introduction

- 1.1 This statement has been prepared in order to provide information and a planning assessment, in relation to an application under the provisions of Section 4.55 of the Environmental Planning and Assessment Act 1979, to modify existing development consent DA2024/1811 at 29 Innes Road, Manly Vale.

Development Application 2024/1811 was determined on 12 March 2025.

This modification application seeks to modify DA2024/1811 for *“Alterations and additions to a dwelling house including a swimming pool”*. The changes proposed will allow for minor alterations and improvements to the swimming pool and dwelling.

It is proposed that the consent be altered to reflect the modified plans and documents listed below.

- Site visit,
- Site Survey prepared by CMS Surveyors,
- Architectural Plans prepared by Action Plans,
- BASIX Certificate prepared by Action Plans,
- Stormwater Plans prepared by Taylor Consulting,
- Waste Management Plan.

- 1.2 In preparation of this submission, consideration has been given to the following:

- Section 4.55 of the Environmental Planning and Assessment Act, 1979 as amended
- Warringah Local Environmental Plan 2011
- Warringah Development Control Plan 2000
- The heads of consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).

- 1.3 This statement of environmental effects has been prepared with reference to the following:

- Site visit,
- Review of the original development application, and
- Review of original development consent and assessment report.

- 1.4 The works that are the subject of the modification have not commenced and are appropriate when considered in accordance with *Ku-ring-gai Council v Buyozo Pty Ltd* [2021] NSWCA 177.

2. The site and its locality

- 2.1 The subject site is located on the southern side of Innes Road, approximately 45 metres west of its intersection with Quirk Road. It is legally described as Lot 21 in DP 9392 and is known as 29 Innes Road, Manly Vale.
- 2.2 It is a generally rectangular shaped lot with front and rear boundaries of 15.24 metres (north and south) and side boundaries of 40.425 metres (east) and 40.415 metres (west). It has frontage to, and vehicular access from, Innes Road.
- 2.3 The site comprises an area of 616m² and is currently occupied by a single storey clad dwelling house, with a tile and metal roof, a detached studio, a detached garden shed and a hardstand parking area.
- 2.4 The property is surrounded by a mix of detached residential dwellings and residential flat buildings in all directions. It is located in close proximity to shops and services in Manly Vale to the south-west and Balgowlah to the south.

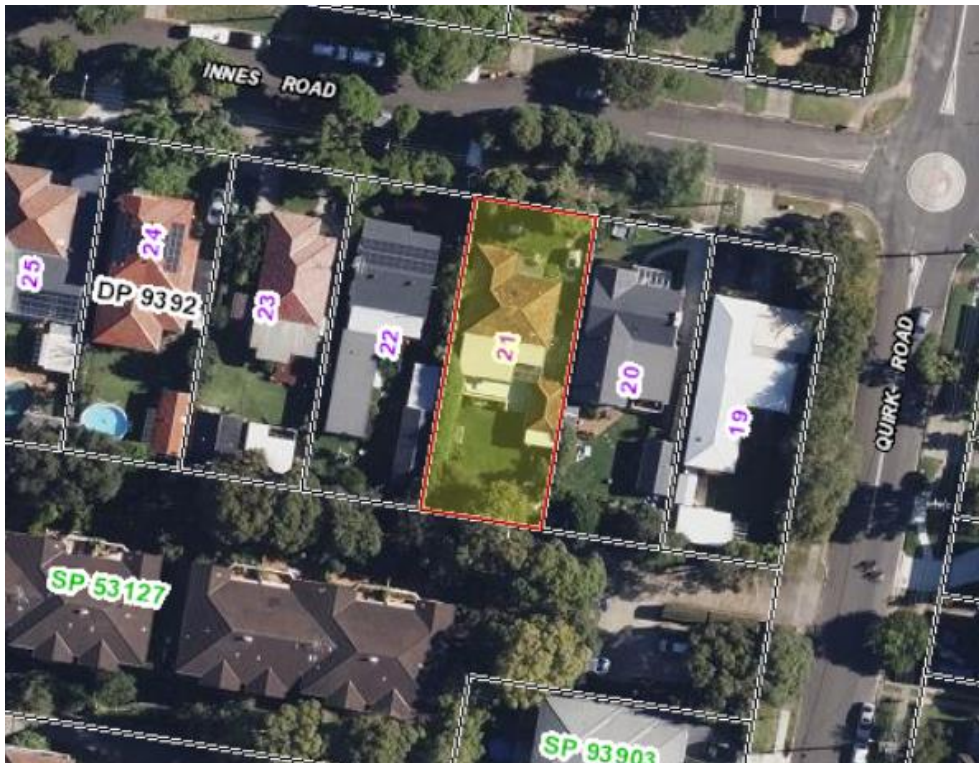


Figure 1. Aerial Image of the subject site

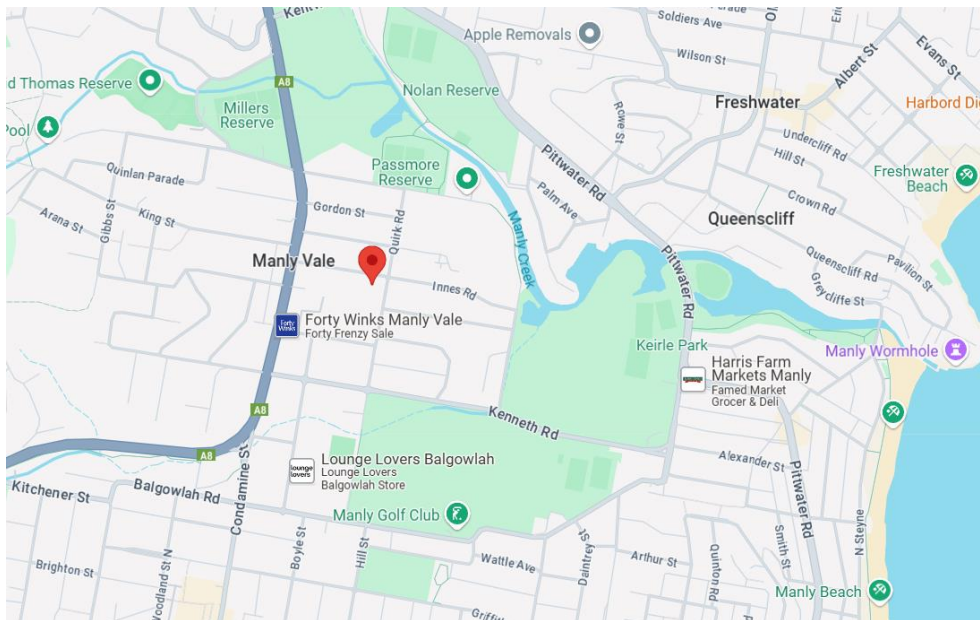


Figure 2. The site within the locality

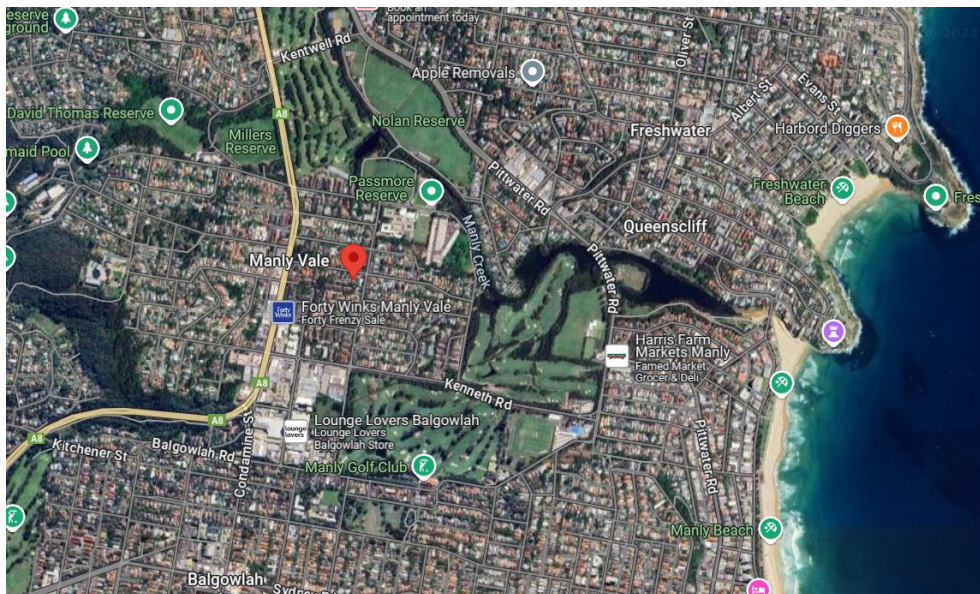


Figure 3. Aerial Image of the site within the locality

3. Site Photos



Figure 4. The rear of the dwelling and existing studio, looking north.

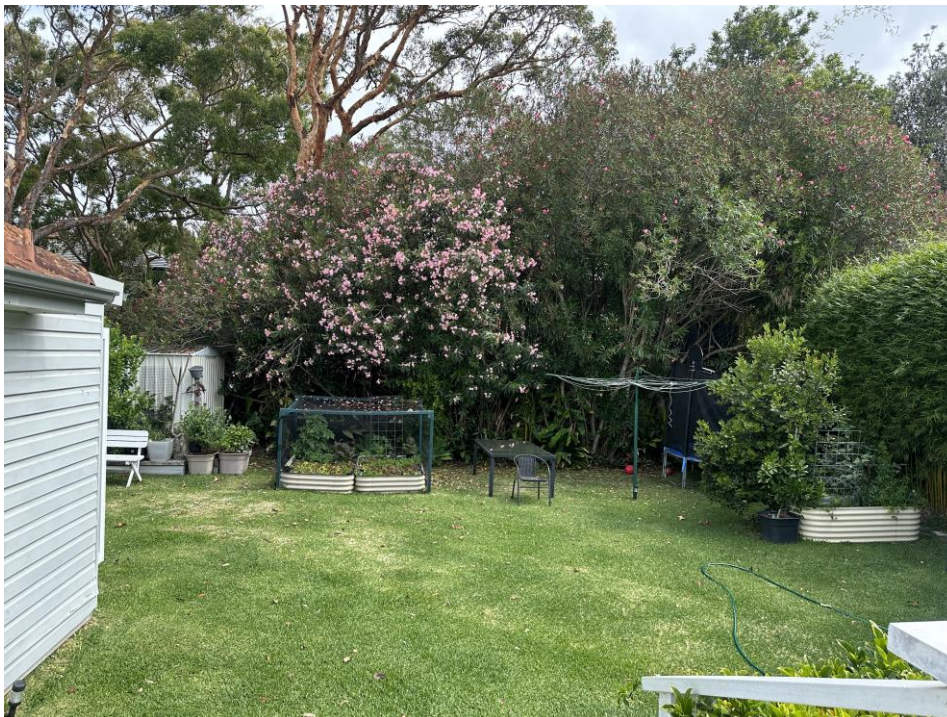


Figure 5. The rear yard, looking south.

4. Proposed Development

- 4.1 It is proposed to alter the approved development to revise the pool siting and dimensions and amend one window.

Pool

- Amend pool dimensions
- Amend pool and associated paving siting

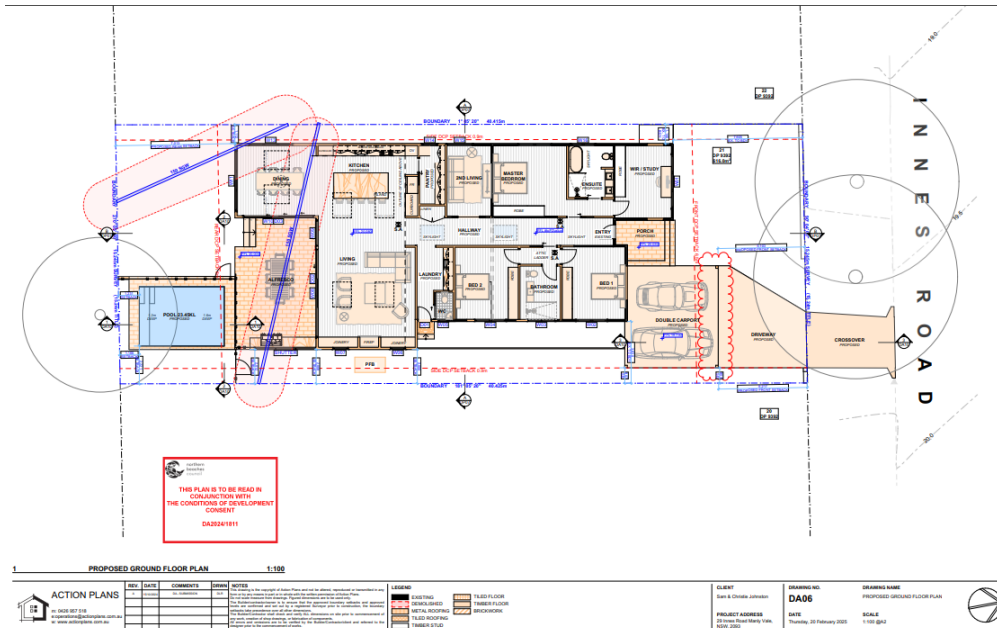


Figure 6. Approved Site Plan

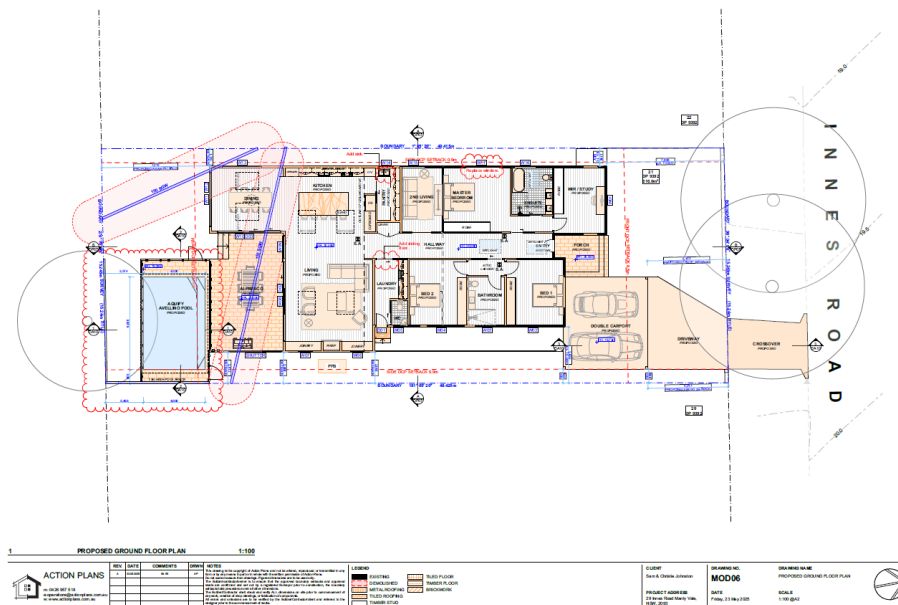


Figure 7. Modified Site Plan

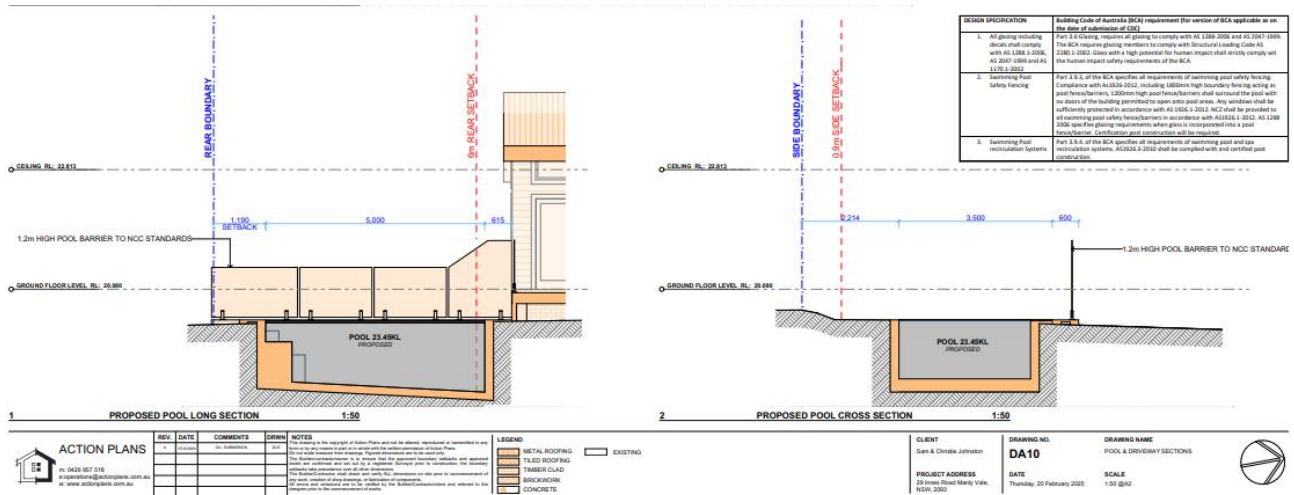


Figure 8. Approved Pool Plan

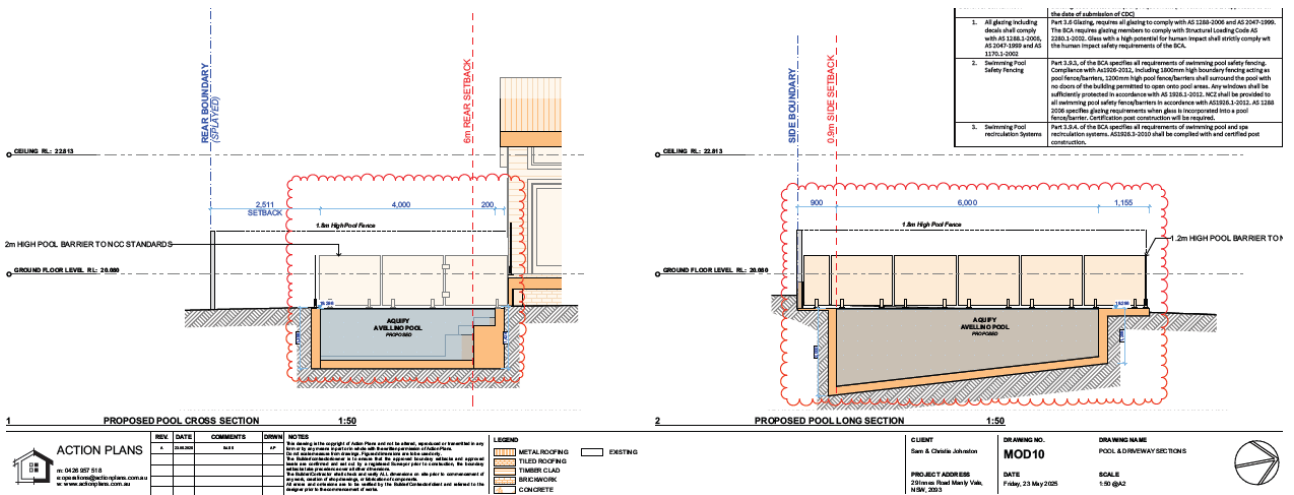


Figure 9. Modified Pool Plan

Dwelling

- Replace window W17
- Add sliding door to laundry
- Add sink to butler's pantry

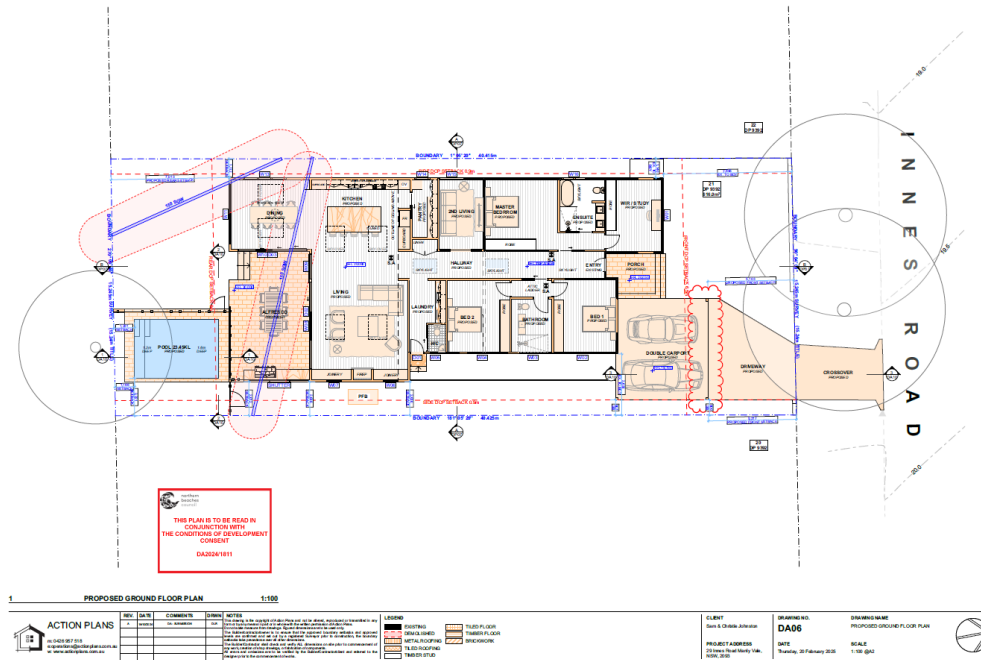


Figure 10. Approved Floor Plan

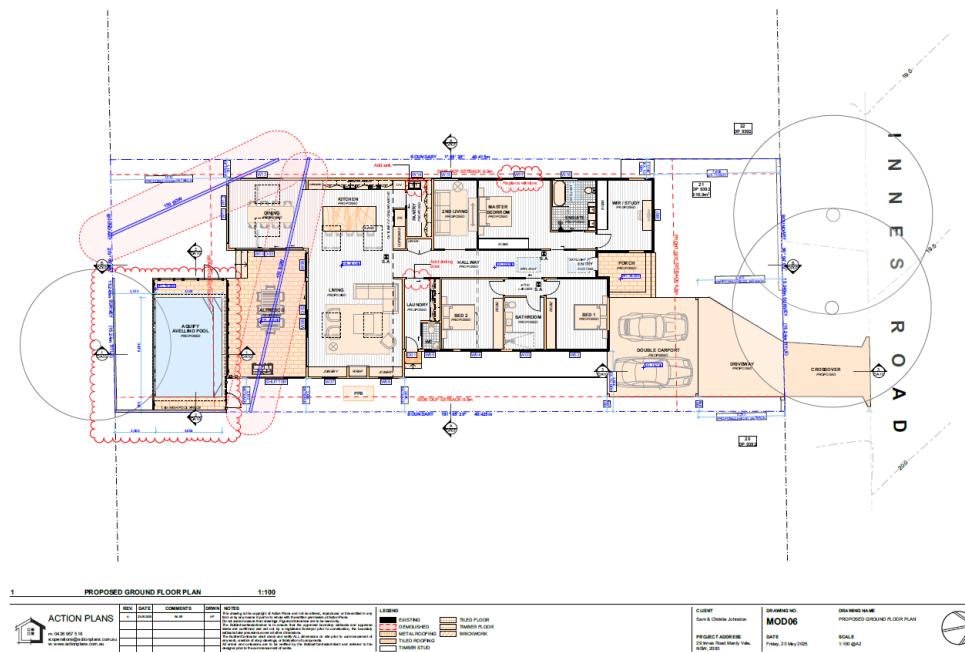


Figure 11. Modified Floor Plan

5. Statutory Framework

5.1 Section 4.55 of Environmental Planning and Assessment Act 1979

Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 (as amended) (the Act) provides that a consent authority may 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 consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) It has notified the application in accordance with:*
 - (i) The regulations, of 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.*

The proposed modifications will have minimal environmental impact as demonstrated in this document. The development to which the consent (as modified) applies is substantially the same development, notwithstanding the proposed modifications.

The proposal remains for alterations and additions to a dwelling and the implications are minimal.

S4.55(3) of the Act requires Council to consider those matters referred to in Section 4.15(1) of the Act that are of relevance to the development the subject of the application.

It is not believed that the minor modifications proposed will alter the favourable assessment provided to the original Development Consent. In particular, the site and surrounding built and natural environments will remain the same and the amenity for the local residents will be maintained.

The minor changes are primarily internal and to allow for a different pool design, and will retain a positive streetscape whilst allowing for additional amenity for residents.

5.1 State Environmental Planning Policies

State Environmental Planning Policy (Sustainable Buildings) 2022

A revised BASIX is provided.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in non-rural areas

State Environmental Planning Policy (Biodiversity and Conservation) 2021 aims to protect biodiversity values and preserve the amenity of non-rural areas, through the preservation of trees and other vegetation. The development remains consistent with the provisions of the SEPP as it does not propose to remove any trees.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 Coastal Management

The site is mapped as 'Coastal Environment Area' and accordingly the consent authority must consider clause 2.10 of the SEPP.

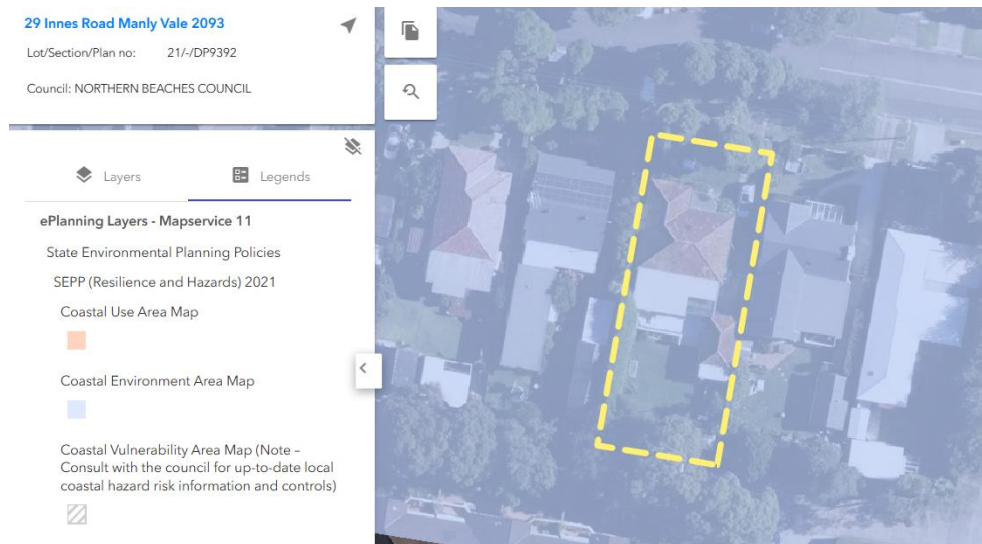


Figure 12. Extract – SEPP Resilience and Hazards, Coastal Environment area map

2.10 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—*
- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) coastal environmental values and natural coastal processes,*
 - (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) Aboriginal cultural heritage, practices and places,*
 - (g) the use of the surf zone.*
- (2) *Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that—*
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or*
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The modified development will not result in any adverse impacts.

Chapter 4 Remediation of Land

The subject site has historically been used for residential purposes and no change of use is proposed. There is no known reason to suspect the site may be contaminated and the consent authority can be satisfied that the land is suitable for the continued residential use.

5.3 Warringah Local Environmental Plan 2011

The relevant clauses of the Warringah Local Environmental Plan 2011 are addressed below.

Zoning

The site is zoned R2 Low Density Residential, pursuant to the provisions of the Warringah Local Environmental Plan 2011. The proposed development is for alterations and additions to the existing dwelling house and dwelling houses are permitted with development consent in the R2 zone. The modified development remains appropriate.



Figure 13. Extract from Warringah LEP 2011 Zoning Map

Demolition

Minor demolition works are approved, and similar works will result from the proposed modification.

Minimum Lot Size

The site is mapped with a minimum lot size of 600m². The subject site comprises a compliant area of 616m² and no subdivision is proposed.

Height of Buildings

The LEP restricts the height of any development on the subject site to 8.5 metres and the approved development has a maximum height of 5.966 metres for the new single storey works. This is unchanged by the revisions proposed.

Floor Space Ratio

The site is not identified on the FSR map.

Heritage Conservation

The subject site is not a heritage item, is not located within a heritage conservation area and is not located in close proximity to any heritage items.

Flood Planning

The site is not identified on the NBC flood hazard map.

Acid Sulfate Soils

The site is not affected by Acid Sulfate soils.

Earthworks

Minimal earthworks are proposed to prepare the site for construction, including cut to a maximum depth of 2 metres to construct the swimming pool.

Standard erosion and sediment control measures will be implemented, and any engineering specifications and conditions of consent adhered to, to ensure best practice procedures are followed.

Development on Sloping Land

The site is identified as Area A – Slopes < 5 on the Warringah Landslip Risk Map. An updated geotechnical report is provided with the application.

5.3 Warringah Development Control Plan

The relevant sections of the DCP are addressed below.

Part A Introduction

Objectives

The modified development remains consistent with the ecologically sustainable, environmental, social, and economic objectives as specified in the DCP. The proposal is appropriate to the site and the locality and has been designed with fulfilment of these objectives as essential criteria.

Part B General Controls

Wall Heights

This is unchanged by the revisions to the pool.

Side Building Envelope

This is unchanged by the revisions to the pool.

Side Boundary Setbacks

This is unchanged by the revisions to the pool.

Rear Setback

This is unchanged by the revisions to the pool.

Part C Siting Factors

Traffic, access and safety

The subject site has existing vehicular access from Innes Road and the development proposes a new driveway in the same location.

Parking facilities

This is unchanged by the revisions to the pool.

Stormwater

The approved stormwater is unaffected by the changes to the swimming pool.

Excavation and Landfill

Minimal earthworks are proposed to prepare the site for construction, including cut to a maximum depth of 2 metres to construct the swimming pool.

Standard erosion and sediment control measures will be implemented, and any engineering specifications and conditions of consent adhered to, to ensure best practice procedures are followed.

Demolition and Construction

Minor demolition works are proposed, as described above, and illustrated in the attached Modification plan set, to allow for the construction of the proposed alterations and additions.

Waste Management

This is unchanged by the revisions to the pool.

Part D Design

Landscaped open space and bushland setting

The DCP requires 40% landscaped area on the site which is equivalent to 246.4m² for the site area of 616m².

The approved development has landscaped area of 227.97m² or 37% (excluding areas with dimensions less than 2 metres).

The modified plans will reduce the landscape area to 227.54m², or 36.9% (excluding areas with dimensions less than 2 metres). If areas with a width of less than 2 metres are also considered, then an area of 263.76m² or 42.8% is provided.

A merit assessment for the variation is provided.

Objectives of the control:

- *To enable planting to maintain and enhance the streetscape.*

Comment

The site maintains sufficient landscaped area to enable or retain onsite planting for the enhancement of the streetscape. The development retains the approved new landscaping within the front setback to enhance the street frontage.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment

Not relevant to the subject site.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low-lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment

There is sufficient area for the retention and establishment of low-lying and medium shrubs and canopy trees, including the retention of the existing mature street tree. Ample landscaped area is also still maintained in the rear yard with the pool tucked into a private corner.

- *To enhance privacy between buildings.*

Comment

Privacy will be retained for neighbours with compliant setbacks and no direct overlooking into private open space or living areas.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment

The amended development proposes a new alfresco area and inground swimming pool, while retaining a landscaped rear yard, providing compliant private open space and recreational opportunities for the enjoyment of the residents.

- *To provide space for service functions, including clothes drying.*

Comment

There is sufficient area to accommodate service functions including clothes drying.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment

Stormwater from the proposed development will be connected to new drainage infrastructure on the site, which drains to Innes Road. Full details are provided in the stormwater plan provided with this application.

Private open space

The DCP requires a minimum private open space area of 60m², for a dwelling with 3 or more bedrooms (with minimum dimensions of 5 metres). The modified development retains a compliant private open space area of 60m².

Noise

The development will not result in noise levels inappropriate to the residential area and the site is not located in close proximity to a noise generating activity.

Access to sunlight

This is unchanged by the revisions to the pool.

Views

A site visit has been undertaken and it is considered the proposed alterations and additions will not result in any view loss impacts.

Privacy

This is unchanged by the revisions

Building Bulk

This is unchanged by the revisions.

Building Colours and Materials

All materials and finishes remain complementary to the existing dwelling and residential surrounds.

Roofs

This is unchanged by the revisions to the pool.

Glare & Reflection

Materials have been chosen to ensure no glare or reflection issues.

Front Fences and Front Walls

This is unchanged by the revisions to the pool.

Site Facilities

The existing dwelling has appropriate waste, recycling areas and drying facilities which will be retained.

Side and Rear Fences

No changes are proposed to the existing side and rear fences on the site.

Swimming Pools and Spas

The amendments to the inground swimming pool proposed in the rear yard are consistent with the DCP.

Safety and Security

This is unchanged by the revisions to the pool.

Conservation of Energy and Water

The design has achieved a compliant BASIX Certificate which accompanies this application.

Part E: The Natural Environment

Preservation of Trees or Bushland Vegetation

No significant trees are to be removed or detrimentally impacted as a result of the proposed development.

Wildlife Corridors

The subject site is not mapped as a wildlife corridor.

Native Vegetation

The subject site is not mapped as native vegetation.

Retaining unique Environmental Features

No unique environmental features will be impacted by the proposal.

Waterways and Riparian Lands

The subject site is not mapped as waterways and riparian land.

Landslip Risk

The site is identified as Area A – Slopes < 5 on the Warringah Landslip Risk Map. An updated geotechnical report is provided.

6. Section 4.15 Considerations

- 7.1 The amendment to the approved development has been considered with reference to Section 4.15 of the Environmental Planning and Assessment Act 1979.

This assessment has found the proposed modifications will not alter the impacts of the proposed development from that which was originally deemed to be acceptable and worthy of approval in the original development.

The impacts of the alterations will be negligible for the subject site, the neighbouring site and the streetscape with regards to all relevant factors including scale, design, amenity, and privacy.

8.0 Suitability of the site

- 8.1 The proposed modifications do not raise any additional issues relating to the suitability of the site.

9.0 Development substantially the same

- 9.1 The alterations proposed by virtue of the modification request do not render the development different in terms of its essential character.

In a comparison of the development as currently approved and as proposed to be modified, the development will remain essentially and materially the same, with only minimal changes proposed. As such the development will be substantially the same notwithstanding the modifications that are sought.

10. Conclusion

- 10.1 The development, as modified, represents substantially the same development as was approved by Council in Development Consent DA2024/1811. The proposed modifications will have no significant environmental impact.

The proposed modifications to the development do not raise any additional issues relating to the relevant provisions of:

- Section 4.55 of the Environmental Planning and Assessment Act, 1979 as amended
- Warringah Local Environmental Plan 2011
- Warringah Development Control Plan 2000
- The heads of consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).