

STATEMENT OF MODIFICATION

**Re: DA2021/1746
Approved Alterations and Additions at**

9 Pacific Road Palm Beach

For:	Lazy Investments Pty Ltd
By:	Muci Pty Ltd 1/744 Hunter Street Newcastle West NSW 2302 M: 0400 425 124
Date:	February 2022
Issue:	A For S4.55 Application

1 INTRODUCTION

This Statement of Modification accompanies a Section 4.55 application to make minor modifications to approved DA 2021/1746 and has been prepared at the client's request. The application consists of the following documents that describe the proposed changes:

- This letter (Statement of Modification)
- Amended Plans (including updated shadow diagrams and certificate)
- Amended BASIX Certificate
- A letter from the Geotechnical Engineer

2 BACKGROUND OF CONSENT TO BE MODIFIED

Development Application DA 2021/1746 was approved with conditions on 9 November 2021. The approved development was for the minor partial demolition of an existing dwelling and construction of a new deck with better rain and sun protection.

3 PROPOSED AMENDMENTS

The proposed amendment seeks to make the following minor modifications to the approved development:

1. Decrease the pitch of the rear roof plane from approximately 13 degrees to 4 degrees, accommodating an improved ceiling height in the main living areas and an additional high-level window on the north-east façade that will introduce natural light deeper into the floorplate.

4 EVALUATION OF CRITERIA

As outlined in Section 4.55(3), in determining an application for modification of consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development of the subject application. The following compliance table details the extent of modification with respect to the relevant controls only.

PITTWATER LOCAL ENVIRONMENT PLAN 2014	
Policy	Response
CLAUSE 4.3 HEIGHT OF BUILDINGS	
8.5m - 10m (Subject to Clause 2D)	The approved DA 2021/1746 has a maximum building height of 9.7m. The proposed modifications have a maximum building height of 9.92m, which continues to comply with the control, subject to Clause 2D. Subclause 2D allows that development may exceed a height of 8.5m, but not more than 10.0 metres if the consent authority is satisfied that the controls and objectives of the clause are achieved. Detailed justification has been provided in the Statement of Environmental Effects accompanying the original DA 2021/1746 and the proposed minor modifications are consistent with the original justifications, as summarised below:
<u>Controls</u> (2D) Despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if— (a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and (b) the objectives of this clause are achieved, and (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and (d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.	<u>Response</u> (c) As detailed on Section AA within the development plans, the existing slope has a gradient of approximately 20 degrees (that is, 36.4%) and is therefore easily in excess of the 16.7 degree (30%) requirement. (a) We submit that the proposed amendment to the approved design still represents a minor portion of the building above the maximum building height, considering that the minor increase in height is located centrally over the building where it will be less noticeable. Additionally, the maximum building height of 9.92m represents a 'pinch-point' due to the slope of the land, while the majority of the modified roof sits considerably below the 10m height limit. (b) The objectives continue to be achieved, as addressed in the following section of this table. (d) The proposed modification has no impact on cut and fill.

Objectives

(1) *The objectives of this clause are as follows—*

(a) *to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*

(b) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

(c) *to minimise any overshadowing of neighbouring properties,*

(d) *to allow for the reasonable sharing of views,*

(e) *to encourage buildings that are designed to respond sensitively to the natural topography,*

(f) *to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

Response

(a) The proposed modifications are minor and the buildings height and scale continue to be consistent with the desired character of the locality.

(b) The bulk and scale of the proposal is very consistent with surrounding and nearby development as evidenced in the provided site plan, survey, and north-eastern elevations.

(c) The amended shadow diagrams accompanying this application illustrate that there is no increase in overshadowing to the neighbours.

(d) The proposed modifications will have no adverse impact to the views of neighbouring properties or those that may be enjoyed from the street.

(e)(f) No change - consistent with the approved design.

CLAUSE 4.4.6 GEOTECHNICAL HAZARDS

The site is located in Zone W “Geotechnical Hazard H1” on the Geotechnical Hazard Map in the Pittwater LEP.

No change – The submission is accompanied by a letter from the Geotechnical Engineer.

PITTWATER DEVELOPMENT CONTROL PLAN 2014

Policy

Response

4.5.2 SECTION B CONTROLS

B3.1 Landslip Hazard

No change – The submission is accompanied by a letter from the Geotechnical Engineer.

4.5.3 SECTION C DEVELOPMENT TYPE CONTROLS

C1.3 View Sharing

No change –
With regard to neighbours, adjacent properties enjoy general ocean/horizon views directly to the north-east of their own properties, as such there will be no impact by the modifications.
With regard to views from the street, the existing ridge of the dwelling

	sits well below street level due to the slope of the land and therefore has no impact on views enjoyed at street level. The proposed modification continues to sit below the height of the existing ridgeline.
C1.4 Solar Access	No change – the amended shadow diagrams accompanying the application illustrate that there are no additional impacts on solar access to the subject site and neighbouring sites.
C1.5 Visual Privacy	No change – the proposed additional window is at high-level on the north-eastern façade and will have no impact on visual privacy.
4.5.4 SECTION D LOCALITY SPECIFIC DEVELOPMENT CONTROLS	
D12.1 Character as viewed from a public space	No change - The proposed modifications are consistent with the approved design, being located such that there will be little to no visibility of the proposed modifications from a public place, particularly from the street frontage on Pacific Road.
D12.2 Scenic protection – General	No change - The proposed modification to the roofline will have no visual impact on the natural environment when viewed from any waterway, road, or public reserve.
D12.3 Building colours and materials	No change
D12.6 Side and rear building line	No change
D12.8 Building envelope	The Pittwater DCP defines a building envelope control where “Planes are to be projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries to the maximum building height.” However, it also states that “Where the building footprint is situated on a slope over 16.7 degrees (ie; 30%), variation to this control will be assessed on a merits basis. It also notes that “Eaves or shading devices that provide shade in summer and maximise sunlight in winter, shall be permitted to extend outside the building envelope. As detailed previously in this report, the building footprint is situated on a slope of approximately 20 degrees (36.4%). The existing building and approval is very consistent with the bulk, scale, and siting of surrounding development and the proposed minor modifications are consistent with this. There are no impacts on the streetscape or the natural environment, views are preserved from neighbouring dwellings and public spaces, there are no additional impacts on solar access, and all existing vegetation is retained. As such, we consider that the desired outcomes are achieved.

5 CONCLUSION

As outlined in detail in Section 3 and 4 of this report, it is considered that the proposed minor change is consistent with the objectives of the development control plan, continue to comply with the local environment plan, and have no impact on the surrounding dwellings. Therefore, the proposed amendment is considered to be of minimal environmental impact and substantially the same development as previously approved by Council.

We trust this information satisfies Council's requirements in determining this matter; however, should further information be required, please do not hesitate to contact the undersigned on 0400 425 124.

Sincerely

Chris Mullaney
Architect

Muci Architecture Studio

A handwritten signature in black ink, appearing to read 'C Mullaney', with a stylized, cursive script.