



STATEMENT OF ENVIRONMENTAL EFFECTS

Section 4.55 application to facilitate minor design changes to the approved dwelling at No.41 Marine Pde , Nth Avalon .

Prepared: Nov, 2018

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1.0

BACKGROUND / THE CURRENT STAGE OF CONSTRUCTION / SUMMARY OF THE MODIFICATIONS

Background

A development application seeking Council's consent to the demolition of an existing dwelling to facilitate construction of a part 3 level dwelling was approved by Council in June, 2017. (N0279/16/R).

A Construction Certificate was issued by a Private Certifier (Form Building Certifiers) , the PCA for this project) Construction Certificate No.CC2017/209, on 14/09/2017.

Site works commenced in Aug, 2017 and the project is approaching lock-up stage.

The approved dwelling comprises :-

At the lower level in the S/W corner of the site –

- a plant room accommodating rainwater storage tanks, static water supply tanks required to assist in the fighting of bushfires, the air conditioning plant and the hot water unit
- 2 bedrooms and a shared bathroom
- a cellar
- a second lounge room
- an internal stairway which services the upper levels of the building
- an internal passenger lift, which services the upper levels of the building

At ground floor level –

- an internal stairway which connects to the upper & lower levels of the building
- an open plan kitchen / dining & lounge room
- a pantry, storeroom and a wall recess for a day bed
- 2 studys
- a hallway & entry foyer
- a laundry & W/C
- the attached double garage with storage & plant room recesses and the garbage receptacle storage area

At 1st floor level –

- the master bedroom & en-suite
- 2 walk-in wardrobes
- an internal stairway which connects to the lower levels of the building
- a hallway & a wall recess for a day bed

The current stage of construction

As advised the project is approaching lock-up stage. As the attached photos



confirm, excavation & site preparation works have been completed, the building footings have been poured and the exterior masonry walls are near complete. The next step is to install the roof, then the windows & doors and complete the internal fit out.

Summary of the modifications

During the course of construction some window openings have been enlarged, some reduced and several deleted. The W/C adjacent to the laundry has been increased in size and the hallway from the main entry leading to the garage has been widened. A bench adjacent to this hallway has been deleted and the area is now to be used as part of the external landscaped area. The N/W facing terrace adjacent to the lounge room has been reduced in width so as to create a stepped facade. The eastern wall of the garage has been amended to a parapet design (*at the time of preparation of this Statement, as advised the external walls of the dwelling & garage are nearing completion so these changes have already been made*).

This application also seeks Council's consent to the following design modifications :-

- the provision of six skylights at roof level
- to install a turn table at the top of the driveway
- relocate the approved gated entry so as to be clear of the drip line of the retained Norfolk Island Pine again at the top of the driveway and extend the approved courtyard garden wall as a consequence.

These amendments to the dwelling are yet to be constructed.

Finally this application seeks Council's reconsideration of Condition 3 in Part A of the consent which requires that :-

"The architectural hood over the western window of that dining room is to be turned down as a vertical blade adjoining and to the full extent of the northern end of that window. That blade is to be no less than 250mm in depth. This is in order to provide additional privacy for neighbouring properties at 37 and 39 Marine Parade."

In this regard as confirmed later in this Statement as the form, scale & location of the building relative to the adjacent properties has been established it is concluded that the blade wall would not be required due to the horizontal separation between the respective buildings and the intervening retained & approved landscaping.

These contextually minor design modifications are discussed in further detail in Part 3 of this Statement.



2.0

SITE DESCRIPTION

This application relates to Lot 6 in DP 553660, known as No.41 Marine Pde, North Avalon.

The site is an irregular hatchet shape allotment with a 3.05m battle axe frontage to the street, the N/E side boundary has a dimension of 102.11m, while the S/E side boundary has a dimension of 60.04m along the access handle and 25.91 along the main body of the site, the rear boundary has a width of 48.73m and the irregular internal boundary separating this site from the property to the north (ie, No.39 Marine Pde) is 35.81m in length, this results in a total site area of 1,515m², (a copy of the site survey is provided over).

As confirmed by the aerial photo and the survey over, the approved dwelling and the associated double garage are located in the central part of the main body of this battleaxe shaped allotment.

The proposed modifications do not alter the existing pedestrian and vehicular access arrangement which is via a 3m wide access handle, the proposed installation of the turntable however will facilitate easier on-site turning manoeuvres as it is essential given the narrowness and the length of the access corridor that vehicles enter & exit the site in a forward direction. The access handle is subject to reciprocal rights of way in favour of Nos.39 & 43 Marine Pde however as confirmed later in this Statement relocation of the gated entry and the consequent extension of the approved courtyard wall does not impinge upon these rights of way.

The site boundaries are unfenced, like many in the locality, other than for a short section of brushwood fencing along the driveway adjacent to the dwelling at No.39 Marine Pde, this provides a privacy screen to that dwelling when viewed from the driveway. The proposed modifications do not involve or require any alteration to the approved boundary fencing arrangements.

As confirmed by the site survey and the aerial photo over, the southern and western sides of the main body of the site are densely vegetated with coastal heath vegetation supplemented by Norfolk Island Pines and a large Coastal Banksia, with prominent sandstone outcrops interspersed with this vegetation. The proposed modifications do not involve or require the removal of any of the retained vegetation or interference with vegetation on any adjoin site. In fact the relocation of the approved gate house and the consequent adjustment of the approved courtyard garden wall will enhance the longevity of the retained Norfolk Island Pine at the top of the driveway.

Surrounding development is a mixture of predominantly 2 storey stepped dwellings, with some newer part 3 level buildings like that currently under construction, these are of a varying age and architectural design. These dwellings are generally located on the higher parts of their respective sites so as to maximise the available Ocean, coastal and district views and are set within a landscaped perimeter. However as confirmed later in this Statement the proposed modifications have no potential to impact upon views currently enjoyed from these surrounding properties.

As discussed later in this Statement the only conceivable amenity impact associated with the proposed modifications are visual & acoustic privacy



which as confirmed are not compromised by the proposed design amendments



Locality plan with the site highlighted.



A recent aerial photo of the site courtesy of the NSW Land & Property Information Service showing the house under construction and its relationship to the adjacent dwellings.



The dwelling under construction viewed from the top of the driveway.



The dwelling under construction viewed from adjacent to the S/W facing wall of No.43 Marine Pde.



3.0

SCOPE OF MODIFICATIONS SOUGHT

This application seeks Council consent to modify Development Consent No. N0279/16/R to accommodate various contextually minor design refinements. For ease of interpretation & understanding it is considered that these changes are best represented by '*before & after*' extracts from the approved plans and those which accompany this Sec 4.55 application

However the following overview may also be of assistance.

The building footprint

These changes occur at ground floor level. As shown on the plan extracts over

- the W/C adjacent to the laundry has been increased in size and the rear wall now extends to the eastern wall of the study
- the hallway from the main entry leading to the garage has been widened
- the previously approved bench on the N/E side of this hallway has been deleted and the area previously occupied by this bench now forms part of the external landscaped area
- the NW facing terrace adjacent to the lounge room has been reduced in width so as to created a stepped facade

The consequences of these building footprint changes on the site coverage & landscaped open space planning controls are discussed over.

The garage

- The internal layout has been altered although it is still a double garage and the approved footprint is unchanged other than for a recess in the eastern wall to accommodate the meter box and the garbage receptacles. Bin storage was previously internal.
- The door at the rear of the garage has been moved to the eastern side
- The roof profile has been altered however still maintains the approved maximum overall height and a parapet has been constructed around the perimeter to conceal the roof mounted solar panels

The driveway & pedestrian entry

- A 5.6m diameter turntable is to be installed at the top of the driveway, adjacent to the double garage
- The gated pedestrian entry is to be located to the east so as to be clear of the dripline of the retained Norfolk Island Pine. The entry width is maintained as is its northern orientation
- As a consequence of the relocation of the entry it is intended to extend the approved courtyard wall. The wall has been curved so as to minimise the potential interference with the root zone of the Norfolk Pine during excavation for the footings. Although the curved wall narrows the approved driveway width this is compensated by the installation of the turntable which will facilitate vehicles entering & exiting the site in a forward direction which is considered to be essential given the length & width of the access corridor.



- A metal vaulted roof has been provided over the pedestrian entry

Amended window locations & sizes

Changes to the approved window locations are many & varied. In some cases windows are deleted, some are reduced in size, some are redesigned to be long narrow windows and some are increased in size, whilst others are altered in terms of the number of panel openings.

These changes occur in the following locations :-

- The N/W facing windows at lower ground floor level
- The N/W, S/W, the northern & eastern facing windows and the southern facing window of the laundry at ground floor level
- The N/W, S/W, the northern & eastern facing windows at the upper floor level

Rather than detail each & every change it is considered to be far more appropriate to rely upon the '*before & after*' extracts from the approved plans and those which accompany this Sec 4.55 application which appear on P.14 & 15 of this Statement.

A comparison of these '*before & after*' extracts will confirm that the glazed area of the dwelling as modified is essentially the same as that of the approved dwelling.

The dwelling

- The building footprint at ground floor level has been altered as detailed earlier
- Through this application it is intended to delete the 250mm wide vertical blade at the northern end of the western facing dining room window. Now that building works have progressed it is apparent that this is no longer necessary to maintain privacy to Nos.37 & 39 Marine Parade as Council will note as during their inspection of the site during the assessment of this application
- 3 new skylights are proposed in the roof over the ground floor and 4 skylights are proposed in the roof over the upper floor
- The roof profile is to be altered to a truncated shape rather than the pitch roof design of the approved dwelling
- The previously approved brick chimney is to be removed and replaced by a metal flue

This proposal does not involve any changes to the approved exterior building materials or colours.

As a consequence of the amendments at ground floor level the building footprint is 3.5m² smaller than that of the approved dwelling. No additional site vegetation is to be removed, the approved boundary setbacks are unaltered, the amended roof profile maintains the approved maximum overall height and the internal room layout remains as previously approved. Accordingly it is appropriate to summarise these changes as design refinements and the



dwelling as modified will comply with all of the relevant controls contained in the LEP & the DCP.

Consequences of the proposed modifications

- The proposal will result in a greater level of functionality and amenity for the future dwelling occupants
- This dwelling as modified will continue to comply with the applicable planning controls
- The dwelling as modified will maintain the approved maximum overall building height
- As the modified proposal complies with the relevant planning controls its approval does not constitute an undesirable precedent for future development
- There will be no adverse impact on the amenity of any adjoining property owner or the broader Community as confirmed by this Statement.
- The proposal does not result in any loss of view or significant privacy impact in relation to the surrounding properties.

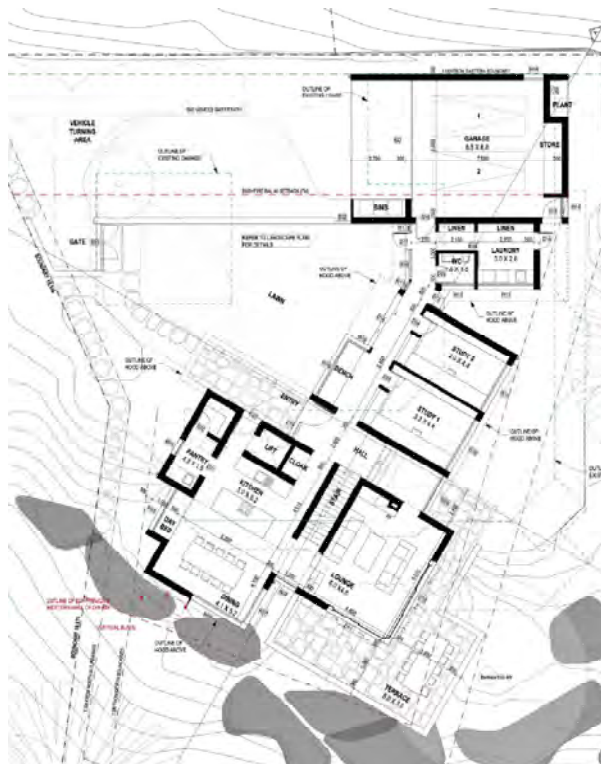
Consequential changes to the development consent

- The plans relied upon to assess the application on P.1 of the consent will have to be amended to reference the amended architectural drawings Nos.S4.55 Ground Level Plan, Lower Level Plan, Upper Level Plan, Roof Level Plan, North – West Elevation, South – East Elevation, Revision 01 with all plans being dated 22/11/2018 and prepared by Casey Brown Architecture.
- Subject to Council's endorsement Condition 3 relating to the provision of a 250mm wide blade wall at the northern end of the dining room window at ground floor level will have to be deleted.

It is not intended or necessary to alter any of the other conditions of development consent and the applicant has indicated their willingness and ability to continue to comply with these conditions of consent for the life of the development.



The building footprint



The approved ground floor plan layout.

Building footprint & landscaped open space calculations.

Building footprint increased by 5m² as a consequence of the proposed cloak room & store & the W/C extension but decreased by 8.4m² due to the narrowing of the N/W facing terrace adjacent to the lounge room.

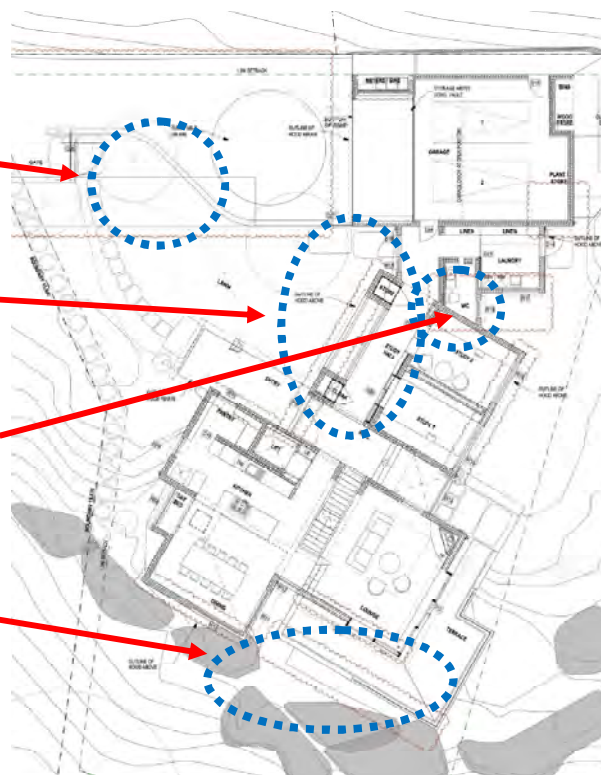
Landsaped open space approved – 961.34m²
Landsaped open space proposed – 973.74m²

Additional landscaped open space created as a consequence of the curved courtyard wall

A cloak room & store are provided internal to the dwelling, the space in between is now external landscaped open space

The approved W/C is increased in size

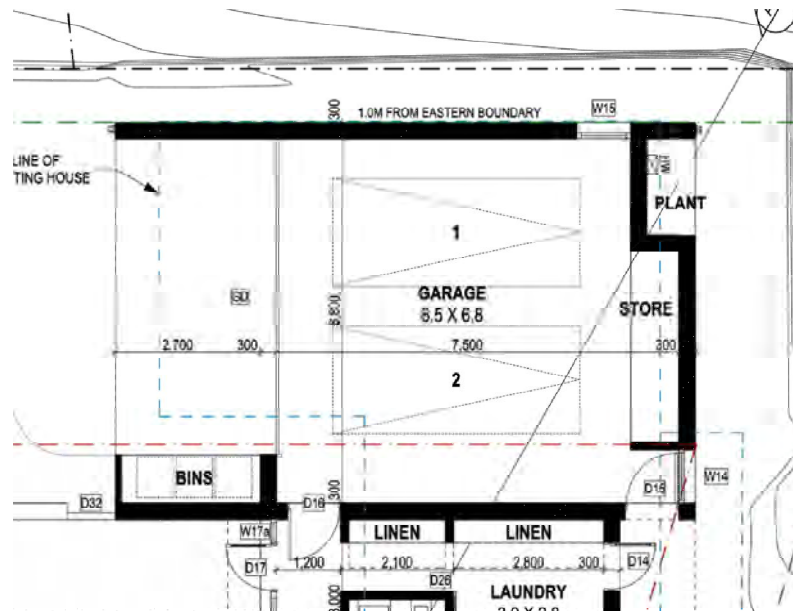
N/W facing terrace adjacent to the lounge room has been reduced in width



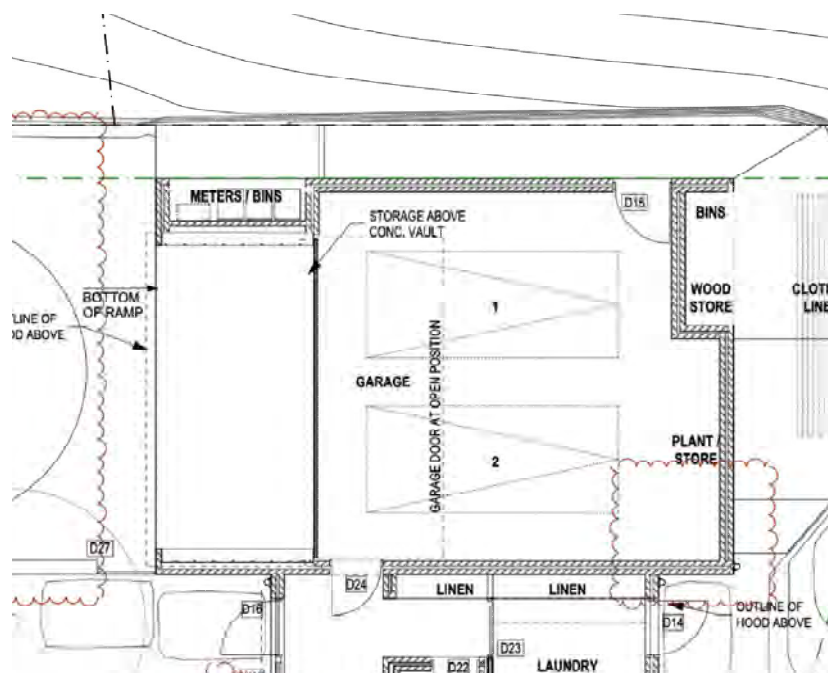
The modified ground floor plan layout.



The garage



The approved garage layout.



The modified garage layout.

[illegible]

1.0M SETBACK

TURN TABLE (35.6M)

OUTLINE OF HOG ABOVE

BOTTOM OF RAMP

GATE

METERS/BINS

STORAGE COND. VA

GARAGE

BOUNDARY

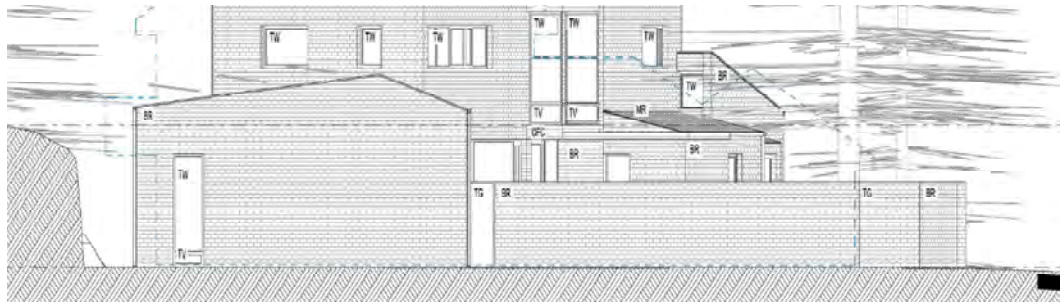
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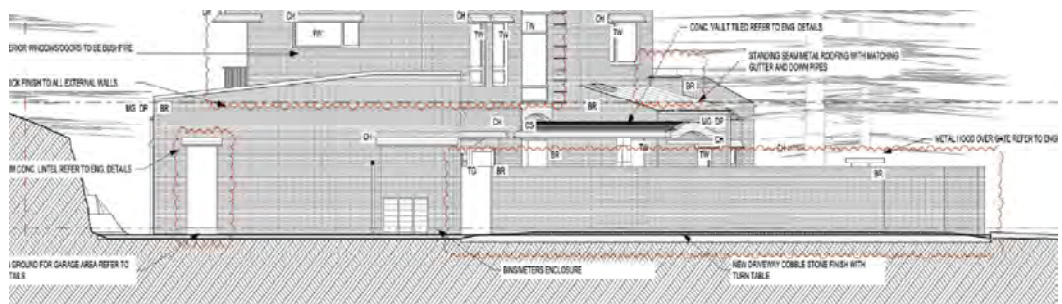
M18

D24

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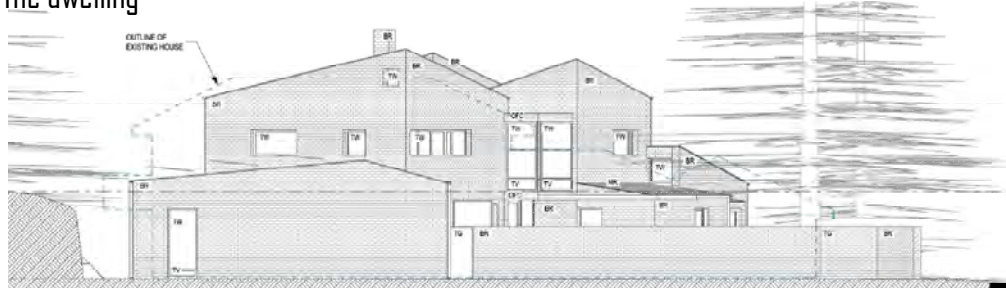
The approved eastern wall & roof profile of the garage and courtyard wall.



The modified eastern wall & roof profile of the garage and courtyard wall.



The dwelling



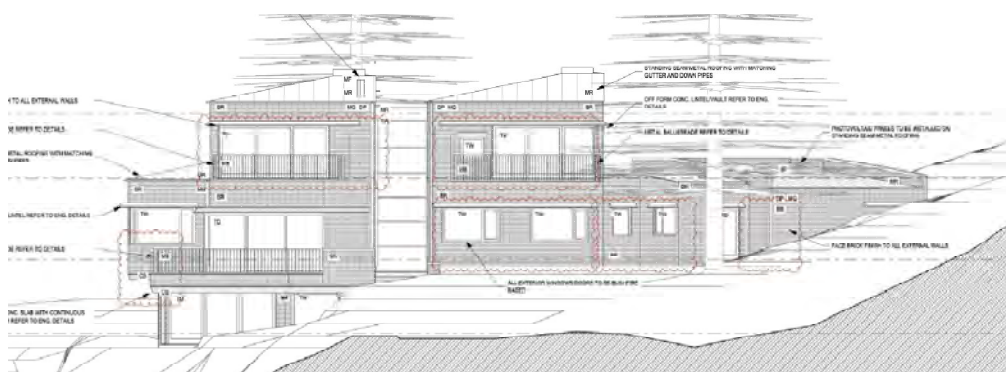
The approved window sizes & locations on the eastern elevation of the dwelling.



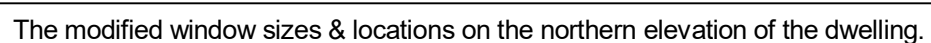
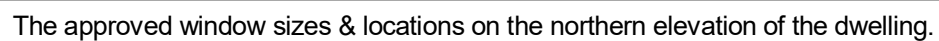
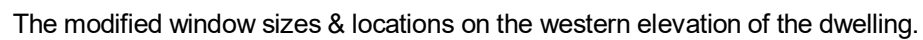
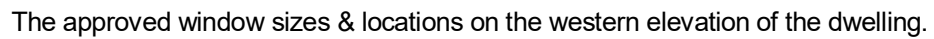
The modified window sizes & locations on the eastern elevation of the dwelling.



The approved window sizes & locations on the southern elevation of the dwelling.



The modified window sizes & locations on the southern elevation of the dwelling.





4.0 THE APPLICABILITY OF SECTION 4.55

I am of the view that Section 4.55(1A) is the appropriate Section of the Act under which this application should be considered on the basis that the modifications proposed are contextually minor.

However I accept that Council may take the view that the application constitutes a Section 4.55(2) application and in this regard I note both of these sections are very similar in operation and intent.

To the extent necessary therefore this application should be read as being made both under Section 4.55(1A) and 4.55(2), as appropriate.

There is little practical difference between the two sections therefore there is no difficulty in applying this application to either section as the same outcome will be reached – the application ought to be approved.

- the proposed modification has a minimal environmental impact as confirmed by this Statement
- the consent as modified will relate substantially to the same development as the development for which consent was originally granted and before that consent as originally granted was modified
- there is no requirement for Council to consult with a relevant Minister, public authority or approval body 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 Council and
- pursuant to the provisions of Council's notification procedures specified in Clause A5.1 of the Pittwater Development Control Plan, (the DCP) surrounding property owners will be notified for a 14 day period and Council will consider any submissions received prior to its determination of the application.

4.1 Section 4.55(1A)

This section 4.55(1A) of the Act applies where the modifications sought involve a minimal environmental impact and in considering such an application Council must satisfy itself in this regard.

Comment : The modifications detailed in Part 3 of this Statement can only be considered to be minor in context with the remaining approved portion of the dwelling. As confirmed later in this Statement the requested modification has no potential for a detrimental effect on any surrounding property owner, occupier or member of the public.

Therefore the proposal satisfies this test of applicability.

4.2 Section 4.55(1A)(b) & 4.55(2)

These sections of the Act require that Council must satisfy itself that the proposal as modified would be substantially in accordance with that previously consented to.

Comment : Clearly the proposed modification relates to the approved new dwelling. The modification sought does not change the approved landuse, the dwelling remains as a part 3 level structure with an attached double



*garage and there is a contextually minor change to the approved built form.
Therefore the proposal satisfies this test of applicability.*

4.3 Section 4.55(1A)(c) and Section 4.55(2)(c)

These sections of the Act require that Council must notify the application in accordance with the provisions of any DCP requiring the notification of such applications.

Comment : As advised Clause A5.1 of the DCP states that surrounding property owners will be notified for a 14 day period and Council will consider any submissions received prior to its determination of the application.

As this is an administrative issue for Council no further comment is required at this stage.

4.4 Section 4.55(1A)(d) and Section 4.55(2)(d)

These sections of the Act require that Council must consider any submissions received arising from the Community notification.

Comment: Similarly this is an administrative / procedural issue for Council no further comment is required at this stage.

4.5 Section 4.55(b)

This section of the Act requires that Council must consult 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.

Comment : There is no requirement to refer this proposal to an external authority and there are no conditions of consent in the current approval which have been imposed by any State Govt Dept or relevant Authority.

4.6 Section 4.55(3)

Section 4.55(3) of the Act requires that Council must take into consideration the relevant matters referred to in Section 4.15 (1) of the Act.

Comment : The Section 4.15 evaluations are addressed in Part 7 of this Statement and were found to be satisfactory.

4.7 Finally, as the Development Consent is still current it is appropriate to deal with this matter under the provisions of Section 4.55 of the Act.



5.0 PERMISSIBILITY OF USE

The land is zoned Environmental Living (E4), under the provisions of the LEP. This zoning permits a range of residential & residentially related, low traffic generating commercial uses and waterfront related uses. As the proposed modifications are ancillary or related to the approved dwelling they are permitted in the zone subject to Council's prior consent, hence the lodgement of this application.

Accordingly there is no impediment to Council granting consent to the proposal on the basis of the landuse classification.

The site has been deemed to potentially landslip and bushfire prone, it possibly contains acid sulphate soils and has been classified as constituting Flora & Fauna Habitat Enhancement Category 2 land.

The proposed modifications have no bearing on geotechnical sensitivity of the site nor do they give rise to any conflict with the recommendations contained in the approved geotechnical assessment

Similarly the proposed modifications do not compromise or conflict with the recommendations contained in the approved bushfire threat assessment.

In relation to acid sulphate soils the site has been classified as Class 5 land which is the lowest risk category and as confirmed later in this Statement the modifications require little additional site excavation / disturbance therefore in the unlikely event that these soils are encountered noting that acid sulphate soils have not been found on the site to date, these would be removed from the site.

Finally in relation to the environmental classification of the site the original proposal was accompanied by a Flora & Fauna Assessment and the report to the Northern Beaches Independent Assessment Panel on Tuesday 16/05/2017 concluded that the proposal enhanced native vegetation on the site and was consistent with Cl 5.5 of the LEP, SEPP 71 and the draft State Environmental Planning Policy (Coastal Management), 2016. As stated earlier and confirmed later in this Statement the proposed modifications do not require the removal of any vegetation or reduction in the landscaped area shown on the approved landscape plan.

Development of the site and this landuse type is subject to State Environmental Planning Policy (BASIX), 2004, State Environmental Planning Policy (Coastal Management), 2018, State Environmental Planning Policy No 19-Bushland in Urban Areas, State Environmental Planning Policy No 44-Koala Habitat Protection, State Environmental Planning Policy No 55-Remediation of Land, the exhibited draft amendments to SEPP 55, State Environmental Planning Policy (Vegetation in Non-Rural Areas), 2017. As confirmed in Part 6 of this Statement these State Govt planning controls do not constitute an impediment to the proposed modifications.



6.0

DISCUSSION OF PLANNING CONTROLS AND POTENTIAL AMENITY IMPACTS

As stated earlier this application for modification of the current consent involves amendments to some window locations & sizes, a change to the roof design of the garage & dwelling, a slight increase in the extent of the approved building footprint, the provision of 6 skylights, the installation of a turn table adjacent to the garage, relocation of the approved gate house and a consequential adjustment to the approved courtyard garden walls.

These contextually minor design refinements have no bearing on the developments ability to comply with the planning controls in the LEP and the modified roof profiles do not alter the approved maximum overall building height.

In relation to the planning controls contained in the DCP the only potential implications are :-

- in relation to the site's geotechnical sensitivity
- its bushfire hazard classification
- access & parking
- the retention of existing & proposed site landscaping
- resident safety & security
- view sharing
- acoustic & visual privacy
- boundary setbacks

These matters are discussed as follows :-

6.1

Geotechnical sensitivity

Clause 7.7 of the LEP and the associated Geotechnical Hazard Map confirm that the site is deemed to potentially landslip prone and an H1 classification has been applied.

The geotechnical assessment lodged with the original application confirmed that the proposed dwelling and its associated infrastructure are suitable for the site and upon completion it would achieve an 'acceptable' risk management level within the terms of the Council's Geotechnical Policy and no geotechnical hazards will be created as a consequence of the proposed works providing they are carried out in accordance with the recommendations detailed in that report.

As advised earlier excavation & site preparation works have been completed, the building footings have been poured and the exterior masonry walls are near complete. The proposed modifications do not involve or require any further excavation / site disturbance other than for the shallow excavation associated with the turn table and the footings for the relocated gate house and courtyard walls. These works are located at the top of the existing driveway hence on the flattest part of the site therefore due to the shallow excavation required there is no potential for site instability or for a lowering of the watertable.

These excavations however will require the installation of appropriate silt &



sedimentation barriers until the paving / installation is complete and this condition is already forms part of the current consent.

6.2

Bushfire hazard

The site and the surrounding properties have been classified as potentially bushfire prone in that they constitute a vegetation buffer zone between the coastal reserve to the rear and east of the site has been classified as Vegetation Category 1.

The bushfire threat assessment lodged with the original application confirmed that the proposed dwelling and its associated infrastructure would satisfy the requirements of Planning for Bushfire Protection, 2006 subject to the maintenance of asset protection zones within the property and the provision of a 5,000lt static water supply to assist in the fighting of fires.

The proposed modifications do not result in the relocation of any part of the dwelling closer to the potential flame zone, there is no change to the approved exterior building materials and the approved static water supply will continue to be stored in the plant room under the S/W corner of the dwelling.

The only potential risk area therefore is the eastern wall of garage which is closest to the predicted flame zone. This wall continues to be of masonry construction, the wall height & roof design are amended and there are no additional wall openings on this eastern facade.

6.3

Access & parking

As indicated earlier vehicular access is obtained from an existing 3m wide concrete driveway located in the access handle and this access is subject to reciprocal rights of way in favour of Nos.39 & 43 Marine Pde however as confirmed later in this Statement relocation of the gated entry and the consequent extension of the approved courtyard wall does not impinge upon these rights of way.

This application seeks Council's consent to relocate the approved gated entry to ensure that it is clear of the drip line of the retained Norfolk Island Pine therefore there is less potential to interfere with the root zone during construction. As a consequence of this relocation to maintain the current level of resident security it is necessary to relocate & extend the approved courtyard wall. This will result in a narrowing of the approved driveway & turning area therefore to maintain the ability to enter & exit the site in a forward direction it is intended to install a turntable with a 5.6m diameter adjacent to the entry to the approved double garage.

It is also noted that another positive outcome of this design refinement is that the area available for landscaping has been increased from that shown on the approved plans.

6.4

Resident safety & security

As advised in the original Statement of Environmental Effects casual surveillance of the public domain from the dwelling is not achievable due to the subdivision configuration, the site topography and the height & location of the new dwelling and those surrounding.



Notwithstanding an appropriate level of safety and security of the future occupants will be achieved in relation to the proposed modifications as :-

- the dwelling entry will still be orientated towards the street frontage
- casual surveillance of the front yard will be possible from the windows on the northern elevation
- the previously approved gated entry although slightly relocated will be retained, and
- the dwelling entry will be clearly visible from the gated entry

6.5 **Retention of existing & proposed site landscaping**

As indicated earlier the proposed modifications do not involve or require the removal or interference with any retained vegetation on the site or those adjoining

The proposed courtyard wall and relocation of the gated entry will result in a greater separation from the retained Norfolk Island Pine and a reduce the potential to impact upon the root zone of this tree.

Finally this relocation / redesign will result in a marginally larger landscaped open space component than that associated with the approved development.

6.6 **View sharing**

The proposed design refinements have no potential to diminish the view corridors associated with the approved dwelling.

In this regard there is no change to the approved building footprint or a reduction in the various approved boundary setbacks.

Although this is a minor element in the assessment of viewlines it is noted that the proposed modification of the roof line is slightly lower than that associated with the approved dwelling.

6.7 **Acoustic & visual privacy**

The modified proposal does not include any noise generating facilities and the plant & equipment will be stored within the foundation area to the east at lower ground floor level as shown on the approved plans. Upon completion noise generated from the dwelling would be commensurate with other residential development in the locality.

Issues related to potential privacy impacts were assessed in the Assessment Planner's report to the Northern Beaches Independent Assessment Panel on 16/05/2017. In that report the Planner notes :-

In relation to the dwelling at No.39 Marine Pde, the (approved) dwelling would be :-

- 24m from the pool
- 33m to the closest boundary
- 28m to the windows of the nearest living room &
- 34m from the windows of the master bedroom

In relation to the dwelling at No.37 Marine Pde the planner indicates that the separation is 17.5m. As shown on the aerial photo on P.5 of this Statement the



separation between these 2 buildings would be approx 30m.

No spatial separation distances are provided in this report in relation to the dwelling at No.43 Marine Pde however these are in the order of 22m to the rear of the dwelling and approx 25m to the side facing, upper floor level western facing balcony.

Notwithstanding any differences in the spatial separation figures the fact remains and is concurred with by the Assessment Planner in the report dated 16/05/2017 the horizontal separation distances are well in excess of the 9m standard specified by Clause 1.5 of the DCP.

The planner also notes that :-

In relation to No.39 Marine Pde *“the setbacks between dwellings ensure compliance with the requirement to restrict overlooking within 9m and the spatial separation, in addition to the existing and proposed landscaping between the two dwellings is considered to ensure an adequate visual privacy for both dwellings”*.

In relation to No.39 Marine Pde the planner notes that the separation is again in excess of the 9m standard. Further, *“it is likely that existing established vegetation between the two dwellings and will provide a buffer and screen any resultant light of sight”*

As stated earlier and indicated below, the proposed design refinements will not alter the approved building footprint or give rise to a reduction in the various approved boundary setbacks therefore the building will remain in excess of 9m from any existing adjoining dwellings and due to the orientation of the approved dwelling there is no potential for direct overlooking as required by Clause 1.5 of the DCP as confirmed by the photos below & over.



Looking to the N/W from the ground level dining room towards the rear of No.37 Marine Pde which is some 24 – 34m from the new dwelling. Note also that there are no direct views available from this aspect



Looking to the north from the upper level master bedroom robe No.1 towards the rear of No.39 Marine Pde with No.43 to the right. At this point the dwelling at No.37 is some 30m from the new dwelling. Note also as this is a walk-in robe its use will be short term

Looking to the north from the upper level from the master bedroom robe No.2 towards No.43 Marine Pde. At this point the exposed section of the dwelling some 25m from the new dwelling. Note also as this is a walk-in robe its use will be short term



Looking to the north from the upper level hallway between the master bedroom and the ensuite towards No.43 Marine Pde. At this point the exposed section of the dwelling some 25m from the new dwelling. Note also this window serves a hallway its use will be short term



Looking to the north from the upper level master bedroom en-suite towards No.43 Marine Pde. This window has been narrowed from that shown on the approved plans. At this point the neighbouring dwelling is again some 30m from the new dwelling. Given that this window serves the en-suite it is unlikely that a building occupant would spend much time looking out this window.

6.8 **Boundary setbacks**

As indicated above the proposed design refinements will not alter the approved building footprint or give rise to a reduction in the various approved boundary setbacks.

6.9 **State Government planning instruments**

This site is also subject to State Environmental Planning Policy BASIX, 2004, State Environmental Planning Policy No 19 - Bushland in Urban Areas (SEPP 19), State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55), the exhibited draft amendments to SEPP 55, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (the Vegetation SEPP), the NSW Coastal Policy, 1997, the associated State Environmental Planning Policy (Coastal Management) 2018.

BASIX

Based on the information available it appears that a revised BASIX assessment is not required as the minor modifications will not alter the commitments associated with the existing approval.

Bushland in Urban Areas

As the site adjoins bushland zoned or reserved for public open space purposes the provisions of SEPP 19 are applicable in relation to the assessment of this application.

The eastern and southern boundaries of the site adjoin bushland on the North Avalon headland. The potential implications of the development were addressed in the Ecologist's report which accompanied the original application



and were found to be satisfactory.

As detailed earlier in this Statement proposed modifications do not give rise to an amendment to the approved building footprint and no additional earthworks are required adjacent to the eastern and southern boundaries of the site.

The proposal as modified therefore will continue to comply with the aims & objectives of this Policy.

Remediation of Land and the exhibited draft amendments

The provisions of SEPP 55 were been assessed in association with the original application and in the absence of any conditions of consent to the contrary were found to be satisfactory.

This policy has been reviewed as part of the NSW Dept of Planning's rolling review program relating to State Environmental Planning Policies.

The draft SEPP was placed on public exhibition which ran from 31 January to 13 April 2018 therefore it has the status of an exhibited draft policy and therefore must be assessed in relation to this application.

The draft Policy whilst maintaining the existing provisions of SEPP 55 will require Councils to consider :-

- whether a site is or is likely to be contaminated
- whether additional information is required to satisfy themselves as to whether the land is contaminated

It will retain the 2 existing categories of remediation work, ie work that requires consent and work that can be carried out without consent. Works that do not require prior consent will have to be reviewed and certified by a certified contaminated land consultant.

Remediation works will be categorised based on the scale, risk and complexity of the work and it will require environmental management plans relating to post-remediation management of sites or for the on-going operation, maintenance and management of on-site remediation measures to be provided to Council.

Further it will include a requirement that Councils consider contamination issues when rezoning land, this will be included as a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979.

The draft SEPP does not include any strategic planning objectives or provisions. Strategic planning matters will instead be dealt with through a direction under Section 9.1 of the Act which is yet to be released.

As this proposal does not involve or necessitate any site excavation or disturbance beyond the shallow excavation associated with the turn table and the footings for the relocated gate house and courtyard walls and the fact that contaminated soils have not been encountered on the site to date the provisions of this draft policy do not constitute an impediment to Council's assessment of this application.

The Vegetation SEPP

This SEPP applies to all land in NSW which is zoned for urban purposes or for environmental conservation / management.



As this proposal does not involve or necessitate the removal of any vegetation the provisions of this Policy have no bearing on Council's assessment of this application.

The NSW Coastal Policy

Although this policy was introduced in 1997 its direct reference has only come about as a consequence of the introduction of the NSW Govt standard template for planning instruments which of course the Randwick LEP is based upon and this Policy is specifically referenced in Clause 5.5 of the LEP.

The Coastal Policy in many ways replicates the aims & objectives of the former Coastal Protection Planning Policy (ie , SEPP 71) in that it seeks to ensure the natural, cultural, spiritual and heritage values of the coastal environment are protected whilst acknowledging and planning for population growth and economic development. Although the management of the coastal zone is the responsibility of a range of government agencies, local Councils and the Community, the Policy provides a framework for the balanced and co-ordinated management of the coast and covers a range of themes including :-

- population growth water quality along the coast, especially in estuaries
- disturbance of acid sulphate soils
- establishment of reserves
- integration of Government agencies and Community organisations involved in coastal planning and management
- respecting indigenous and European cultural heritage
- integrating Ecologically Sustainable Development principles into coastal zone management and decision making

All of these matters were addressed in the original Statement of Environmental Effects either as a consequence of the Council's planning controls or the Coastal Management Policy which is discussed below and were found to be satisfactory. The only matter not previously discussed is in relation to future population growth which of course in this locality is limited by the current zoning of the land, the subdivision layout and the range of permitted uses in this zone. Having regard to these constraints therefore future population growth in this locality is significantly limited to infill or replacement development similar to that involved in this proposal.

State Environmental Planning Policy (Coastal Management), 2018

This Policy applies to land within the NSW "coastal zone".

The foreshore adjoining the subject site has been classified as a 'Coastal Use Area' and the primary risk is the coastline's geotechnical sensitivity.

In relation to potential impacts in the coastal environment area this proposal can be summarised as a minor modifications to the approved single dwelling.

This Statement has confirmed that as the modified proposal does not involve any significant excavation or site disturbance and the walls of the dwelling have been built there will no impact on surface & groundwater, the ecological



environment, coastal environmental values and natural coastal processes, the water quality emanating from the site, marine vegetation, native vegetation and fauna & their habitats are unaffected, the modifications do not intrude upon or restrict existing public open space and access along the foreshore or the use of the surf zone.



7.0 SECTION 4.15 EVALUATIONS

7.1 The provisions of any Environmental Planning Instrument

The land is zoned Environmental Living (E4), under the provisions of the LEP. This zoning permits a range of residential & residentially related, low traffic generating commercial uses & waterfront related uses. As the proposed modifications are related to the approved single dwelling they are permitted in the zone subject to Council's prior consent.

The preceding assessment confirms that the modified proposal complies with all of the relevant provisions and / or the aims and objectives of the LEP, accordingly, there are no landuse or statutory impediments to the requested modifications to the development consent.

The site has been deemed to potentially landslip and bushfire prone, it possibly contains acid sulphate soils and has been classified as constituting Flora & Fauna Habitat Enhancement Category 2 land.

The proposed modifications have no bearing on geotechnical sensitivity of the site nor do they give rise to any conflict with the recommendations contained in the approved geotechnical assessment.

Similarly the proposed modifications do not compromise or conflict with the recommendations contained in the approved bushfire threat assessment.

In relation to acid sulphate soils the site has been classified as Class 5 land which is the lowest risk category and as confirmed in this Statement the modifications require little additional site excavation / disturbance therefore in the unlikely event that these soils are encountered noting that acid sulphate soils have not been found on the site to date, these would be removed from the site.

In relation to the environmental classification of the site the original application was accompanied by a Flora & Fauna Assessment which concluded that the proposal enhanced native vegetation on the site and was consistent with Cl 5.5 of the LEP, SEPP 71 and the draft State Environmental Planning Policy (Coastal Management), 2016. The proposed modifications do not require the removal of any vegetation or reduction in the landscaped area shown on the approved landscape plan therefore the dwelling as altered will continue to enhance the environmental attributes of the site.

Development of the site and this landuse type is subject to State Environmental Planning Policy (BASIX), 2004, State Environmental Planning Policy (Coastal Management), 2018, State Environmental Planning Policy No 19-Bushland in Urban Areas, State Environmental Planning Policy No 55-Remediation of Land, the exhibited draft amendments to SEPP 55, State Environmental Planning Policy (Vegetation in Non-Rural Areas), 2017. As confirmed in Part 6 of this Statement these State Govt planning controls do not constitute an impediment to the proposed modifications.



7.2	The provisions of any Draft Environmental Planning Instrument There are no draft planning instruments which apply to this site or development type.
7.3	Any Development Control Plan Development of the site is subject to the provisions of the Pittwater 21 DCP. This Statement has confirmed that the modified proposal would comply with all of the relevant planning controls and / or aims and objectives of this DCP.
7.4	Planning agreements The site and this proposal are not subject to any planning agreement or draft planning agreement under the provisions of Clause 93F of the Environmental Planning and Assessment Act, 1979.
7.5	Any matters prescribed by the Regulations The subject site is designated as Coastal Land, therefore the provisions of Regulation 92(1)(a) are applicable. This matter was addressed earlier in the Statement when it was concluded that the proposal had no potential for an adverse impact on the scenic quality or the amenity of the coastal zone. The proposed modifications do not involve the demolition of any permanent or structural element therefore the provisions of Regulation 92(1)(b) are not relevant. The development site is not subject to a subdivision order therefore the provisions of Regulation 92(1)(c) are not relevant. The provisions of Regulation 93 are not applicable as the proposal will not result in a change of classification of an existing building under the provisions of the Building Code of Australia. The provisions of Regulation 94 are not directly relevant as the proposal relates to a dwelling which is currently under construction. It is not anticipated that Council in its determination of the application would impose a deferred commencement condition(s) therefore the provisions of Regulation 95 are unlikely to apply. It is unlikely that Council in its determination of the application would impose a condition under Clause 4.16(4) of the Act as there is no ancillary aspect of the proposal therefore the provisions of Regulation 96 are unlikely to apply. The proposal does not involve the modification or surrender of a prior development consent in relation to an existing use therefore the provisions of Regulation 97 are not applicable. Based on the information available the proposal does not appear to have the potential to alter the current BASIX commitments therefore the provisions of Regulation 97A will not apply. Under these circumstances there are no matters prescribed by the Regulations which would prevent approval of the application to modify the current consent as submitted



7.6	Likely impacts of the development, including environmental impacts on both the natural and built environments and social and economic impacts on the locality. As confirmed by this Statement the design refinements within the context of the dwelling are minor and ancillary. The minimal extension to the approved building footprint occurs in the single storey middle portion of the building and will be read against the approved built form accordingly there will be no perceived change to the bulk & scale of the building. The proposed modifications do not involve or necessitate any significant site excavation / disturbance or the removal of any vegetation therefore the proposal it has no potential for an adverse impact on the natural or the built environment. In relation to potential social or amenity impacts as indicated earlier the owners of 4 surrounding properties have provided written support for this minor modification (<i>these are attached as Appendix 1 to this Statement</i>) and this Statement has confirmed that there are no significant privacy or overshadowing consequences. The potential view sharing impacts have also be addressed in this Statement and that discussion has confirmed that the proposal results in an equitable distribution of views between development & neighbouring dwellings and the public domain as promoted by Part 5.6 of the DCP. Under these circumstances I am again able to conclude that the en-suite addition will not result in any social and economic impacts on the locality. The potential social and economic impacts associated with the contextually minor design refinements have been addressed in this Statement and were found to be satisfactory. In this regard the only potential impacts on the surrounding properties are visual & acoustic privacy and in this regard as confirmed by Council's previous assessment the spatial separation between buildings is significantly greater than the 9m standard and due to the orientation of the building and the existing & proposed landscaping there is no potential for an adverse or unreasonable visual & acoustic privacy impact. So again I am able to conclude that the proposal will result in a minimal social or amenity impact upon surrounding property owners or occupiers.
7.7	The suitability of the site for the development As previously advised the site is zoned for residential purposes. This request to modify the consent to incorporate the contextually minor design refinements are clearly ancillary to the approved dwelling currently under construction and as such the dwelling as altered will be consistent with Council's broad objectives for this residential area. Further, it is noted that the modified proposal does not require any significant additional site excavation / disturbance or vegetation removal.
7.8	Any submissions made in accordance with the Environmental Planning and Assessment Act or its associated Regulations There are no submissions that have been made in accordance with the Legislation, which apply to this site or type of development.



7.9

The Public Interest

There are few elements in this proposal which could be considered to be associated with the public's interest or benefit as the design modifications in the main provide an improved level of residential amenity for the future building occupants. From a public perspective though the proposed relocation of the gated entry and the adjacent courtyard wall will further ensure the long term viability of the retained Norfolk Island Pine. Finally this Statement has confirmed that there are no cumulative impacts associated with the requested modifications nor are there any undesirable impacts on the surrounding properties or the broader Community.

7.10

Non-discretionary development standards

This Statement has confirmed that the proposal complies with all of the relevant development standards specified by Council's LEP and DCP.

As confirmed in point 7.5 above there are no matters prescribed by the Regulations which would prevent approval of the application as submitted

This application is not reliant on a performance criteria accreditation.



8.0 CONCLUSION

This application seeks Council consent to modify Development Consent No. (N0279/16/R) relating to a new part 3 level dwelling currently under construction.

The proposed modifications can be summarised as design refinements and in summary involve amendments to some window locations & sizes, a change to the roof design of the garage & dwelling, a slight increase in the extent of the approved building footprint, the provision of 6 skylights, the installation of a turn table adjacent to the garage, relocation of the approved gate house and a consequential adjustment to the approved courtyard garden walls.

The land is zoned Environmental Living (E4), under the provisions of the LEP. This zoning permits a range of residential & residentially related, low traffic generating commercial uses & waterfront related uses. As the proposed modifications are related to the approved single dwelling they are permitted in the zone subject to Council's prior consent.

Accordingly there is no impediment to Council granting consent to the proposal on the basis of the landuse classification.

This modification of consent cannot be classified as either 'Exempt' or 'Complying Development' under the State Government's Housing Code as the site has been classified as being located within an environmentally sensitive area hence the lodgement of this development application to modify the consent. However, notwithstanding this environmental classification this application constitutes 'Local Development' and therefore can be determined by Council without the need to refer this application to any State Government Department or Agency.

In addition to its environmental classification the site has been deemed to potentially landslip and bushfire prone, it possibly contains acid sulphate soils and has been classified as constituting Flora & Fauna Habitat Enhancement Category 2 land.

This Statement has confirmed that the proposed modifications have no bearing on geotechnical sensitivity of the site nor do they give rise to any conflict with the recommendations contained in the approved geotechnical assessment.

Similarly this Statement has confirmed that the proposed modifications do not compromise or conflict with the recommendations contained in the approved bushfire threat assessment.

In relation to acid sulphate soils the site has been classified as Class 5 land which is the lowest risk category and as confirmed in this Statement the modifications require little additional site excavation / disturbance therefore in the unlikely event that these soils are encountered noting that acid sulphate soils have not been found on the site to date, these would be removed from the site.

In relation to the environmental classification of the site the original proposal was accompanied by a Flora & Fauna Assessment which concluded that the proposal enhanced native vegetation on the site and was consistent with Cl 5.5 of the LEP, SEPP 71 and the draft State Environmental Planning Policy



(Coastal Management), 2016. As confirmed in this Statement the proposed modifications do not require the removal of any vegetation or reduction in the landscaped area shown on the approved landscape plan.

Development of the site and this landuse type is subject to State Environmental Planning Policy (BASIX), 2004, the NSW Coastal Policy, 1997 and the associated Coastal Management SEPP, 2018, State Environmental Planning Policy No 19-Bushland in Urban Areas, State Environmental Planning Policy No 55-Remediation of Land, the exhibited draft amendments to SEPP 55 and the Vegetation SEPP,.

Based on the information available it appears that a revised BASIX assessment is not required as the minor modifications will not alter the commitments associated with the existing approval.

In relation to the coastal planning controls this Statement has confirmed that due to contextually minor building addition, its height above ground level, the fact that it is read against the approved built form and its relativity to the coastal interface it has no potential for an adverse impact on the coastal environment.

In relation to SEPP 19 this Statement has confirmed that the proposed modifications have no potential for an adverse impact on the land to the south & east of the site which is zoned for public open space purposes.

In relation to potentially contaminated land this Statement notes that the proposal does not involve any extensive excavation or site disturbance, noting that contaminated soils have not been found on the site to date.

The provisions of the Vegetation SEPP are not relevant as the proposal does not involve the removal of any vegetation.

This Statement of Environmental Effects has addressed all of the various operational and environmental consequences of the proposal and concludes that it complies with all of the relevant provisions and / or aims and objectives of the LEP and the DCP. Further, this analysis concludes that the proposal will have no detrimental impact on surrounding landuses in the locality or the public's perception of the site.

Accordingly, it is submitted that there is no impediment to Council modifying the consent as requested and it is recommended that this application be determined accordingly.

