

S U S A N R O T H W E L L

A R C H I T E C T S

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ALTERATIONS AND ADDITIONS AT 40 SUNRISE ROAD, PALM BEACH STATEMENT OF ENVIRONMENTAL EFFECTS ADDENDUM

AMENDMENT B – 13/08/25

1.00 PROPOSAL SUMMARY

A section 4.55(2) has been prepared to modify the Development Consent Conditions of the Approved DA (MOD2023/0109) at 40 Sunrise Road, Palm Beach.

This addendum to the Statement of Environmental Effect is being provided to assess the environmental impacts of the proposed modifications included in the Section 4.55 application.

The schedule of changes being sought by this Section 4.55(2) application include;

General;

- a1. Replacement of all external doors and windows from timber frame to aluminium frame

Lower Ground;

- b1. Minor internal planning modifications
- b2. Lowering the FFL by 170mm
- b3. Enclosing the void under the approved lawn and pool to form a new A/C Plant Room
- b4. Modification of the eastern boundary concrete block retaining wall to be constructed with corten sheets supported by steel framing
- b5. Replacement of windows W101, W106, W108 and W111 with sliding doors
- b6. Deletion of window W112
- b7. Modification to the sizes of windows along the east façade, including windows W102, W103, W104 & W105, and the addition new window W102a, W105a and W105b
- b8. Modification of the south-west terraced concrete block planter walls to stone boulder garden walls
- b9. Addition of external steps at the northern end of the eastern setback passage
- b10. Addition of external access steps on the western façade to the lawn area
- b11. Increasing the length of the pool by decreasing the width of the concourse on the western end of the pool
- b12. Extension of the lawn area on the eastern side of the pool
- b13. Modification of the external pool wall finish from stone cladding to painted banded render

Ground floor;

- c1. Lowering the FFL by 170mm
- c2. Deletion of the Dining Room fireplace (including associated flue to roof)
- c3. Replacement of windows W210 and W211 with sliding doors
- c4. Replacement of bifold door W212 with sliding doors
- c5. Replacement of bifold door W204 with a window

First Floor;

- d1. Minor planning modifications, including shifting the location of an external pier on the northern facade
- d2. Replacement of bifold doors W304 and W306 with sliding doors
- d3. Modification to the sizes of windows W301 and W301c
- d4. Deletion of façade glazing panels located on the lift shaft
- d5. Replacement of the timber framed pergola with a retractable pergola
- d6. Raising the height of the western fireplace flue

Roof Level;

- e1. Deletion of the turret on the pyramid roof, and raising the gutter level, pitch and ridge height of the associated roof.
- e2. Deletion of the Dining Room fireplace flue

1.01 JUSTIFICATION FOR CHANGES;

Aside from the minor planning modifications, the purpose of the proposed modifications are to;

- Provide additional ceiling height amenity to the Lower Ground and Ground Floor without raising the approved height of the dwelling (b2, c1)
- Provide a more structurally efficient means of retaining the excavation along the eastern boundary (b4)
- Provide additional services amenity within the approved envelope (b3)
- Provide a more natural means of landscaping treatment (b8)
- Provide a more uniform detail to the roof and more articulation to the street facing façade (e1)

Due to the nature of the proposed works, the proposal will remain relatively the same as the current approval, given the dwelling's footprint remains unaltered, and will therefore have minimal additional environmental impact as described by the following.

1.02 SECTION 4.55(2) MODIFICATION APPLICATION ACT;

The provisions of the s4.55(2) EPA Act allow to "modify the consent", which bears the onus of establishing that the proposed development, as modified, will be substantially the same, with the term *substantially* meaning "essentially or materially having the same essence"¹ and the term *modify* meaning "to alter without radical transformation"². This statement has been provided to demonstrate that the proposed modifications have been considered pursuant to s4.55(2) of the EPA Act, being that proposed modifications will remain 'substantially the same to the original development' to benefit from s4.55(2) of the EPA Act.

Statutory Test – Substantially The Same;

There are two limbs that Council must consider when determining whether a modification application is substantially the same as the original approval pursuant to s4.55(2) of the EPA Act,³ which are:

1. Following the comparison of the development as currently approved and the development as proposed to be modified, one must be satisfied that the modified development is essentially or materially the same as the current approved development; and

¹ *Vacik Pty Ltd v Penrith City Council* [1992] NSWLEC 8; *North Sydney Council v Michael Standley & Associates Pty Ltd* (1998) 43 NSWLR 468 at 440.

² *Sydney City Council v Ilence Pty Ltd* [1984] 3 NSWLR 414; *North Sydney Council v Michael Standley & Associates Pty Ltd* (1998) 43 NSWLR 468 at 474.

³ *Moto Projects (No. 2) Pty Limited v North Sydney Council* (1999) 106 LGERA 298 paragraphs [55]-[56].

2. Any comparison must involve an appreciation that is qualitative as well as quantitative of the developments being compared in their proper contexts and must include the circumstances in which the original consent was granted.

The proposed modifications are substantially the same as the current approval, which satisfies the statutory test, for the reasons outlined below.

Qualitative Test

The original development approved by council relates to the construction of a new dwelling house, including a new swimming pool and spa.

The proposed modification application relates to the same dwelling house and does not propose to change the external envelope aside from the modification to the roof form over the lift.

Accordingly, the proposed modification application satisfies this limb of the statutory test pursuant to s4.55(2).

Quantitative Test

This limb requires an assessment of the quantitative modifications between that which is proposed by this modification application when compared to the Council Approval.

In quantitative terms, the proposed modification application results in development that is essentially or substantially the same as the Council Approval for the following reasons:

1. The building height, setbacks, and envelope of the approval will remain unaltered.

Accordingly, the qualitative limb is satisfied.

2.00 LOCALITY IMPACTS

2.02 HERITAGE IMPACT STATEMENT

It is recognized that the subject property is within the vicinity of four heritage item "Villa D'este" at 3 Northview Road. As addressed in the original statement, due to the distance and topography between the sites, the subject site 40 Sunrise Road does not contribute to the immediate streetscape of the heritage item, nor is the item visible as a backdrop from the street view of the subject site. As such, any proposed works at No. 40 have minimal impact towards the historic quality of the heritage item. Given the overall massing of the proposed envelope will remain relatively unchanged from the approval, the modifications will not result in any additional impact to the heritage item.

2.02 PALM BEACH SCENIC PROTECTION & SUNRISE ROAD

Within the locality of Pittwater, the protection and perception of the bushland as the predominant feature of a site is the key objective of the locality's desired future character. The proposed modifications will maintain this objective as the proposal's relationship to the streetscape will remain relatively unaltered. The proposed modifications which will be visible to the streetscape include the deletion of the turret on the pyramid roof, and raising the gutter level, pitch and ridge height of the associated roof. Although the envelope of the approved roof form will be slightly altered by the proposed modification, the proposal will have minimal impact on the approval's relationship to the streetscape as the external material selection will remain unaltered, and the detailing of the modification will remain relatively similar to the proposal, with the only difference being the height and pitch of the pyramid roof. As such, the visual character of the dwelling will remain a subservient feature of the streetscape and recede in comparison to the locality's bushland environment, as per the council's objectives for desired future character.

3.00 BUILDING CONTROL COMPLIANCE:

3.01 LEP CONTROLS:

MAXIMUM BUILDING HEIGHT

Control	Approved	Proposed Modifications	Compliance
8.5m (10m Concession for sloped site)	10.4m at highest point 9.2m @ Lift Roof Turret	9.2m @ Lift Roof	YES

As this is a modification application where the application is generally consistent with the original determination, a clause 4.6 written variation request is not required. The merit of the variation has been considered consistent with the objectives of the LEP and minor in scale as outlined by the table below. The exceedance to the 8.5m building height line is only due to the roof over the lift being modified, with the volume of roof exceeding the height plane tapering and reducing proportionally with the roof height. It does not impact access to views, has minimal impact on the solar amenity of the adjoining properties and remains consistent with the scale of the streetscape as outlined within the table below. Based on these circumstances, the volume of the raised roof which exceeds the 8.5m building height line is considered minor and reasonable for approval.

Objective	Proposed Performance	Objectives Met
(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,	As illustrated by Fig 1 below, the volume of the raised roof which exceeds the 8.5m building height is minor in scale in comparison to the volume of the approved building form and appearance within the streetscape. As the modification to the roof will have minimal impact on the scale of the approved dwelling, the approvals relationship with the surrounding dwellings and to the character of the locality will remain consistent.	YES
(c) to minimise any overshadowing of neighbouring properties,	Although the raised roof height will result in additional overshadowing over the front setback area of No. 42 Sunrise Road, the overshadowing only occurs between the hours of 9am to 12pm, and will not impact on the solar amenity of the dwelling as the overshadowing does not affect the dwellings principle primary open space.	YES
(d) to allow for the reasonable sharing of views,	The roof modification has no impact of the neighbouring properties view corridors	YES
(e) to encourage buildings that are designed to respond sensitively to the natural topography,	As the modification to the roof will have minimal impact on the scale of the approved dwelling, the approvals relationship with the surrounding environment will remain unaffected	YES
(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.	As the visual appearance of the approval from the streetscape will remain relatively unaltered by the proposed modification, the approvals relationship to the surrounding environment will remain unaffected	YES



Above: (Fig 1) 3D Perspective Diagram of 40 Sunrise Road from the public domain highlighting the volume of roof exceeding the 8.5m height plane

3.02 DCP CONTROLS;

As the proposed modifications do not alter the approvals site footprint, the modifications will not result in modifications to the approval's Building Control compliance

4.00 NEIGHBOURING AMENITY IMPACTS

4.01 SOLAR ACCESS;

As the envelope of the approval remains relatively unchanged, the works result in minimal additional shadows being cast, and therefore have minimal impact on the solar amenity of the adjoining properties.

- 9am: The proposed roof modification will cast a minor area of additional shadow over the front setback garden of No. 42; the principle private and habitable windows of the adjoining property will remain unaffected.
- 12pm: The proposed roof modification will cast a minor area of additional shadow over the landscape strip; the principle public amenity will remain unaffected
- 3pm: The proposed roof modification will cast a minor area of additional shadow over the landscape strip; the principle public amenity will remain unaffected

4.02 PRIVACY;

The proposed new window W102a located on the Lower Ground Floor directed east will be unable to achieve views towards the private open spaces of No. 38 due to its elevation below the existing ground line.

4.03 VIEW SHARING;

As the proposed modifications do not result in any change to the approved side setback between the dwellings, the view corridors from the adjoining properties and public domain will remain unaffected.

5.00 ENVIRONMENTAL IMPACTS

5.01 ENERGY EFFICIENCY

An amended BASIX has been provided to note the modification of window frames being changed from timber to aluminium to demonstrate the modification still achieves a sufficient level of sustainability.

5.02 SEDIMENT CONTROL

As the proposed works result in no change to the approved building footprint, the protection measures outlined in the previously provided 'Sediment Control Plan' and approved 'Statement of Environmental Effects' remain current.

5.03 STORMWATER

As the works result in no change to impervious area on the site, the approved stormwater system remains current.

5.04 WASTE

As the proposed works result in no change to the approved building footprint, the waste collection and disposal measures outlined in the previously provided 'Waste Management Plan' and approved 'Statement of Environmental Effects' remains current.

5.05 TREES

The proposed modifications do not require the removal or pruning of any trees

5.06 EXCAVATION

The proposed modifications includes lowering the FFL of the Lower Ground floor by 170mm, resulting in additional excavation. As the footprint of the excavation will remain the same as the approval and the volume of additional excavation is minor, the proposed work will have minimal additional impact on the surrounding environment, meaning the construction methodology outlined in the approved geotechnical report remains current.

CONCLUSION

As the proposed modifications are minor in scale, with minimal environmental impact on the surrounding dwellings and streetscape, they represent an appropriate response to the relevant controls of overall scale, shape, form and density of the DCP and LEP. Considering these key factors, which have been discussed in depth within this statement, the proposal is considered reasonable and worthy of approval.