

Memo

Environment

To:	Adam Richardson , Development Assessment Manager
From:	Nick England, Planner
Date:	10 October 2023
Application Number:	Mod2023/0519
Address:	Lot 1 DP 1092166 , 1 Undercliff Road FRESHWATER NSW 2096 Lot 2 DP 1092166 , 1 Undercliff Road FRESHWATER NSW 2096
Proposed Modification:	Modification of Development Consent DA2021/0504 granted for Demolition works and construction of a dwelling on lot 1 and 2

Background

The abovementioned development consent was granted by Council on 8 December 2021 for "Demolition works and construction of a dwelling on lot 1 and 2".

Details of Modification Application

Under Section 4.55(1) of the EPA Act 1979, a consent containing an error or mis-description may be amended. The Northern Beaches Community Participation Plan does not require the notification of Section 4.55(1) modification applications as they are considered to be of minimal environmental impact.

The application seeks to modify condition No.11 - External Finishes to Roof, which currently reads as follows:

11. External Finishes to Roof

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

to read as proposed:

11. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

Consideration of error or mis-description

The application contends that Condition No.11 was applied in error and occurs in respect to i) a reference to a Building Code of Australia / National Construction Code specification that no longer exists ("M" and "D"); and (ii) the requirement in the condition for the Certifying Authority to be provided with detail to satisfy the condition is also in error, due to the archaic references to Parts D and M.

Advice has been sought from Council's Building Compliance unit in regard to the proposed modification. Building Compliance have confirmed that the particular classifications for roof colours no longer exist in the BCA / NCC. At the time consent was granted (December 2021) the classifications were likely to have applied. Whilst at the time consent was granted this aspect of the consent was likely not in error, the subsequent revisions of the BCA / NCC have since rendered this part of the condition to be in error.

However, in regard to the requirement for submission of adequate detail to be provided to the Certifying Authority, this is not considered to be applied in error. The reasons for this are: (i) the purpose of the condition is to govern the adverse impacts of glare and/or reflectivity and the condition is still relevant (it is worth noting that the applicant has not sought to delete the condition in its entirety, hence the application in itself acknowledges its continued relevance); and (ii) it is the statutory role and responsibility of the Certifying Authority to ensure the proper function of this condition. Therefore, it is certainly no error for the condition to require this.

Hence it is recommended that the proposed modification be approved, however not in exact form the applicant has requested. Condition No.11 is therefore recommended to be amended, to read as follows:

11. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

Conclusion

It is considered that the modification is minor in nature and consistent with the provisions of section 4.55(1) of the EPA Act 1979 and is therefore recommended for approval.

Recommendation

THAT Council as the consent authority approve Modification Application No. Mod2023/0519 for Modification of Development Consent DA2021/0504 granted for Demolition works and construction of a dwelling on lot 1 and 2 on land at Lot 1 DP 1092166, 1 Undercliff Road, FRESHWATER, Lot 2 DP 1092166, 1 Undercliff Road, FRESHWATER, as follows:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-373422 - MOD2023/0519	10 October 2023	Modify Condition No.11 External Finishes to Roof

Modified conditions

A. Modify Condition No.11 External Finishes to Roof to read as follows:

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Nick England, Planner

The application is determined on 10/10/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments