



18 August 2023

Northern Beaches Council
PO Box 82
Manly NSW 1655

Attention: Kye Miles / Adam Richardson, Development Assessment

Dear Kye,

Section 4.55(1A) – 25 Osborne Road, Manly

This letter has been prepared in order to provide information and a planning assessment in relation to an application under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, to modify an existing development consent for “*Alterations and additions to a semi-detached dwelling.*”

Development Application DA2022/2134 was granted consent by Northern Beaches Council by Notice dated 28 June 2023.

Proposed Modifications

1. *It is proposed that the existing consent be modified to allow for Condition 7 to be deleted.*

~~7. ***On-site Stormwater Detention Details***~~

~~The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention (OSD) in accordance with Northern Beaches Council's Water Management for Development Policy. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering. The drainage plans must address the following:~~

- ~~i. OSD shall be provided in accordance with Section 9.3.3.2 of Council's Water Management for Policy. OSD can be provided as~~
 - ~~i A separate system or~~
 - ~~i Retrofitting the existing RWT (Rain Water Tank) to operate as retention and detention system.~~

~~ii. PSD shall be determined in accordance with Section 9.3.3.2.3.~~

~~iii. Final discharge from the detention system shall be discharged to Osborne St via gravity.~~

~~Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.~~

~~Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.~~

The proposed development will allow for removal of the requirement for upgraded stormwater and on-site detention on the site.

The deletion of this condition is proposed as the site has existing on site detention that was approved as a part of DA223/11 on 17 January 2012 by Manly Council.

The new approved works do not change the pervious/ impervious areas on the site.

2. The landscape/site plan is to be amended to correspond with the approved plans from DA223/2011.

It has been established in the interim, that there have been some changes since the 2011 consent to pervious areas. Accordingly, this modification, proposes to take the site area back to what was approved in 2011. These changes are marked up on the attached plan, and correspond with the approved plans from DA223/2011. A copy of the approved plans from 2011 are also provided for reference.

Changes include:

- Replace existing concrete path and steps with permeable timber deck or pavers

The owner has advised that:

The marked up modification plan shows the existing landscape (made up of grass & timber deck) & the proposed replacement of the remaining side concrete path & steps with a permeable deck. Also shown is the current planting that extends down the entire side boundary.

Also attached with this application is a copy of the March 2013 approved CC (for comparison reasons). The 2013 CC shows the permeable deck extending to the end of the internal fireplace in Bed 1 (which I have now matched in the amended 2023 landscape plan). The proposed pervious area in the attached amended 2023 drawing is

more than the pervious area in the approved March 2013 CC due to the current planting that extends to the front boundary of the site (in the approved 2013 CC there was no planting past the side permeable decking area). All other pervious areas shown in the approved 2013 CC are now as per the attached amended 2023 site plan.

Justification

We note that the site drains to the street & flows into the harbour. There is zero history of flooding on the site (NSW endured the worst flooding in over 100 years back in March 2022 & we were totally unaffected).

Additionally, the existing drainage system is not old. This is not looking at an historic situation where there are no drainage measures in place. The owner has had advice from NB Consulting, who has confirmed that the OSD requirement is likely to have a minimal impact if installed. Therefore, given an existing approved system is in place, and rectification works will amount to a very significant additional cost for the project, it appears to be an unreasonable onerous condition, given the impact the OSD will have on the catchment.

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) If 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 under section 72 that requires the notification or advertising of applications for modification of a development consent, and*
- (d) If 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 a nil environmental impact with no additional pervious area proposed on the site. The development to which the consent, as modified, applies is substantially the same development, as the development granted consent in Development Consent DA2022/2134, notwithstanding the proposed modifications.

S96(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 revisions will have a positive impact on the amenity for the occupants of the site, without being to the detriment of neighbours or the environment. The development will remain appropriately compliant with all Council controls.

If there are any problems with the application, please do not hesitate to contact me on 0413 341 584.

Yours faithfully,

Sarah McNeilly
Director
Watermark Planning