



3 HOGAN STREET, BALGOWLAH HEIGHTS

**STATEMENT OF ENVIRONMENTAL EFFECTS FOR
SECTION 4.55 (1A) MODIFICATION TO VARY
DEVELOPMENT CONSENT DA2023/1628**



Report prepared for
Katie Jenks & Graeme Evans
September 2024

1.0 Introduction

1.1 This statement 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 dwelling house including associated works”* at 3 Hogan Street, Balgowlah Heights.

Development Application DA2023/1628 was granted consent by Northern Beaches Council by Notice dated 16 April 2024.

1.3 In preparation of this submission, consideration has been given to the following documents:

- Section 4.55 of the Environmental Planning and Assessment Act, 1979 as amended
- Manly Local Environmental Plan 2013
- Manly Development Control Plan
- the heads of consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).

1.4 This statement of environmental effects has been prepared with reference to the following:

- Site visit
- Review of the original development consent
- Review of original development assessment report

1.5 It is proposed that the existing consent be modified to refer to the revised plans dated 12 September 2024 and prepared by Action Plans.

1.6 The proposed development will allow for a minor alteration of the approved development to allow for a new pop up skillion roof at the rear, including skylights above, as well as minor internal adjustments to the floor plan, and to window and door openings. Overall, the development remains substantially the same as approved.

1.7 September 2024 - At the time of writing this report, no construction work has commenced on site

2.0 The site and its locality

- 2.1 The subject site is located on the western side of Hogan Street, approximately 20 metres north of its intersection with Valley Road. It is legally described as Lot 26 DP 36454 and is known as 3 Hogan Street, Balgowlah Heights.
- 2.2 It is a rectangular shaped lot with front and rear boundaries of 15.85 metres (east and west) and side boundaries of 36.565 metres (north and south). The site has an area of 579.5m² and slopes from East (front) to west (rear), resulting in a height difference of approximately 4 metres from the front boundary to the rear boundary.
- 2.3 The site is currently occupied by a one and two storey rendered house with a metal roof and an inground swimming pool.
- 2.4 The property is surrounded by detached and semi-detached dwellings and multi-dwelling housing to the north, east and south, and a public reserve to the west. It is located in close proximity to retail and public transport services in Balgowlah to the north and in Manly to the north-east.



Figure 1. The site and its immediate surrounds

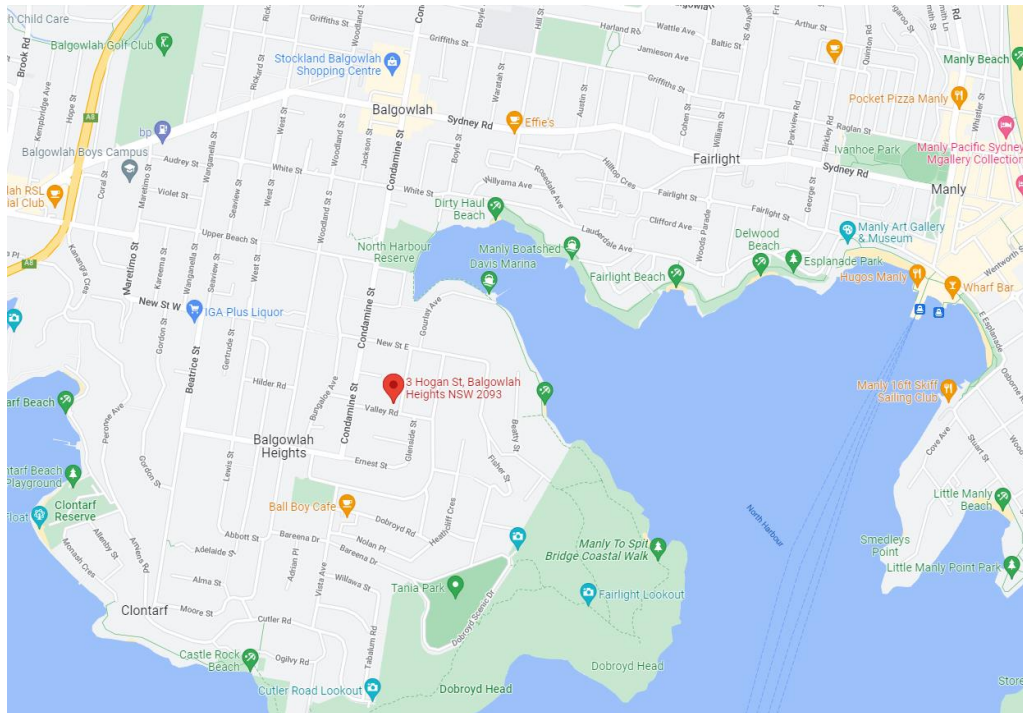


Figure 2. The site within the locality

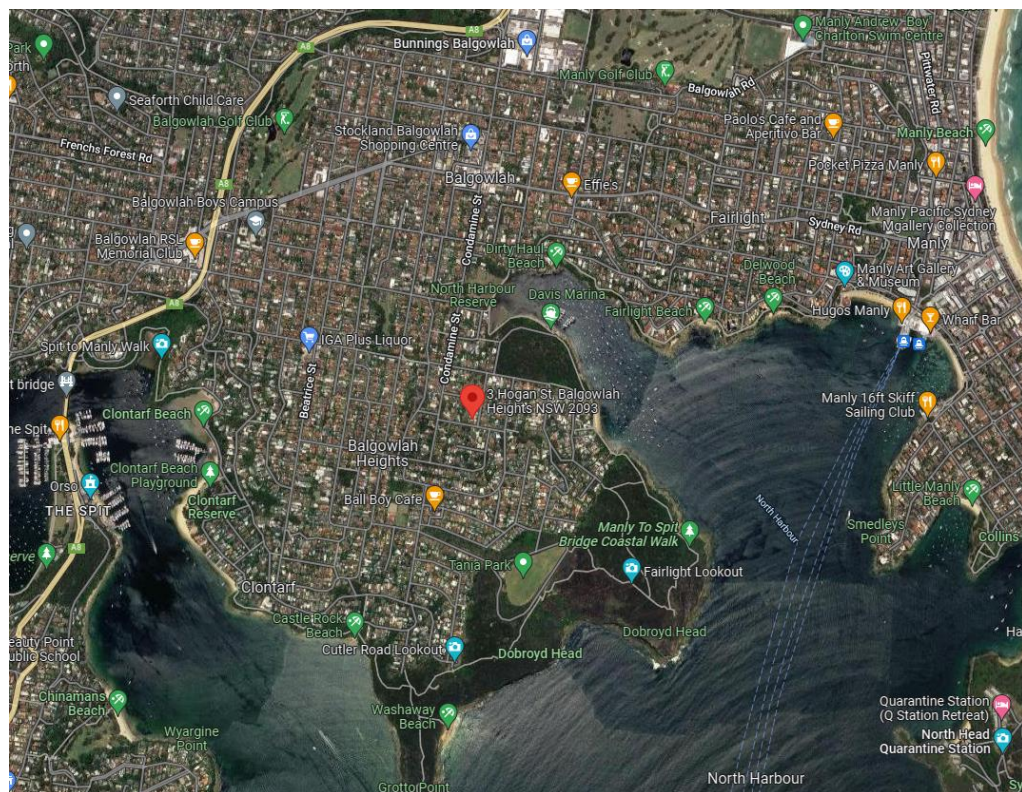


Figure 3. Aerial image of the site within the locality

3.0 Site Photos



Figure 4. Looking west towards the front of the existing dwelling



Figure 5. The existing front entry to the dwelling that is to be modified under this application



Figure 6. Looking east, the existing rear elevation of the dwelling



Figure 7. Looking east towards the rear ground floor level and proposed location of the modified roof form over the alfresco area



Figure 8. Looking south-east towards the rear of the living area, the roof form to be retained as existing.

4.0 Proposed Development

- 4.1 As outlined above, in Section 1.2 of this report (page 2) it is proposed to modify *Condition 1 Approved Plans and Supporting Documentation* of Development Consent DA2023/1628.
- 4.2 It is proposed that *Condition 1 Approved Plans and Supporting Documentation* be amended to include the following plans:

a) Approved Plans

Architectural Plans

MOD02 Site Analysis, dated 12/09/2024, prepared by Action Plans
 MOD03 Site / Roof / Sediment Erosion / Waste Management / Stormwater Concept Plan, dated 12/09/2024, prepared by Action Plans
 MOD07 Proposed Lower Ground Floor Plan, dated 12/09/2024, prepared by Action Plans
 MOD08 Proposed Ground Floor Plan, dated 12/09/2024, prepared by Action Plans
 MOD09 Proposed First Floor Plan, dated 12/09/2024, prepared by Action Plans
 MOD10 North / East Elevation, dated 12/09/2024, prepared by Action Plans
 MOD11 South / West Elevation, dated 12/09/2024, prepared by Action Plans
 MOD12 Proposed Sections, dated 12/09/2024, prepared by Action Plans
 MOD13 Area Calculations / Sample Board, dated 12/09/2024, prepared Action Plans

Reports / Documentation – All recommendations and requirements contained within:

BASIX Certificate	Dated	Prepared by
Certificate Number:	Thursday, 08, August 2024	Action Plans Pty Ltd
A1759126		

- 4.3 It is proposed to modify the approved development as follows:

Ground Floor Level – See Figures 9 to 12 below

- Retain the existing pitched roof over the living room & kitchen, with the addition of 3 new skylights,
- A new pop-up skillion roof sloping north to south (approved development slopes south to north), with four skylights over. The roof is to be designed so that it appears flat from the underside,
- A laundry in the location of the existing office, including the replacement of the existing window with an access door out to the alfresco area.
- Replacement of existing doors from the dining & living onto the alfresco within the same opening,
- A new bathroom layout (adjacent to bedroom 5), and
- Front entry reconfiguration (D07).

The floor plan illustrates a residential development with the following features:

- Proposed Structures:**
 - LIVING ROOM:** 28.800, featuring a fireplace and access to a rear deck.
 - KITCHEN:** 28.800, including a proposed butler's pantry and access to a rear deck.
 - DINING ROOM:** 28.800, featuring a proposed balcony and access to a rear deck.
 - BEDROOM 5:** Existing, located at the rear of the property.
 - BATHROOM:** Existing, located adjacent to Bedroom 5.
 - TV ROOM:** Existing, located at the front of the property.
 - Carport:** Existing, located at the front of the property.
- Existing Structures:**
 - LIVING ROOM:** Existing, located at the front of the property.
 - KITCHEN:** Existing, located adjacent to the living room.
 - DINING ROOM:** Existing, located adjacent to the kitchen.
 - BEDROOM 5:** Existing, located at the rear of the property.
 - BATHROOM:** Existing, located adjacent to Bedroom 5.
 - TV ROOM:** Existing, located at the front of the property.
 - Carport:** Existing, located at the front of the property.
- Boundaries and Setbacks:**
 - Front Boundary:** 15.50m, with a 3.00m setback to the carport.
 - Rear Boundary:** 15.50m, with a 3.00m setback to the rear deck.
 - Side Boundary:** 15.50m, with a 3.00m setback to the side deck.
 - Setbacks:** 2.415m (10 WALL HEIGHT) DO SIDE SETBACK, 2.415m (10 WALL HEIGHT) DO SIDE SETBACK, 2.415m (10 WALL HEIGHT) DO SIDE SETBACK.
- Other Features:**
 - REAR DECK:** Proposed, located at the rear of the property.
 - FRONT DECK:** Existing, located at the front of the property.
 - LAWN:** Existing, located at the front of the property.
 - PAVED:** Existing, located at the front of the property.

3 Hogan Street, Balgowlah Heights

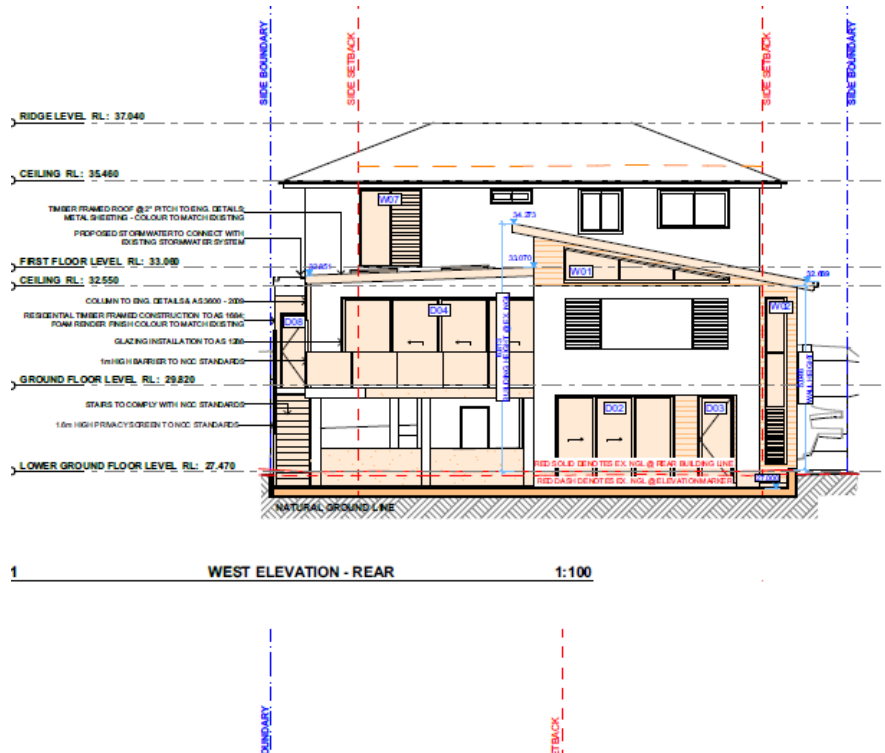


Figure 11. Extract from Stamped Approved Plans showing the Rear Elevation (DA11)

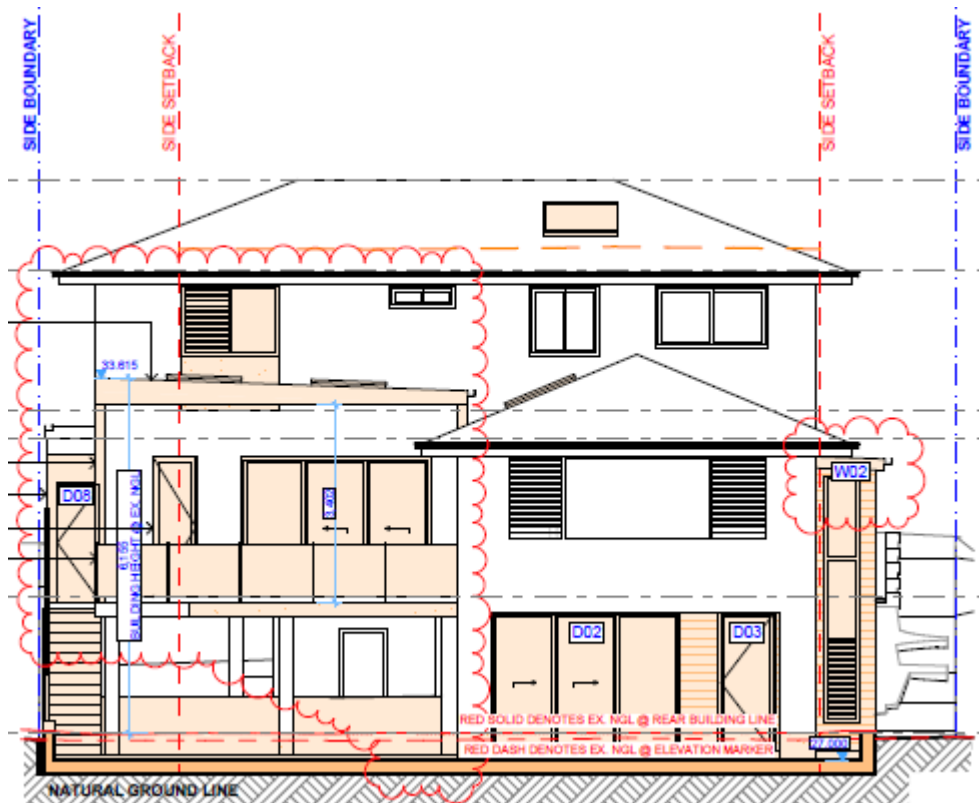


Figure 12. Extract from the Modification Plans (MOD07) showing the rear elevation and changes to the roof form at ground floor level (including retention of roof above living room).

First Floor Level – See Figure 11 & 12 above and 13 & 14 below

- Replace the Juliette balcony door into the master bedroom with a window, the sill height to match the hallway.

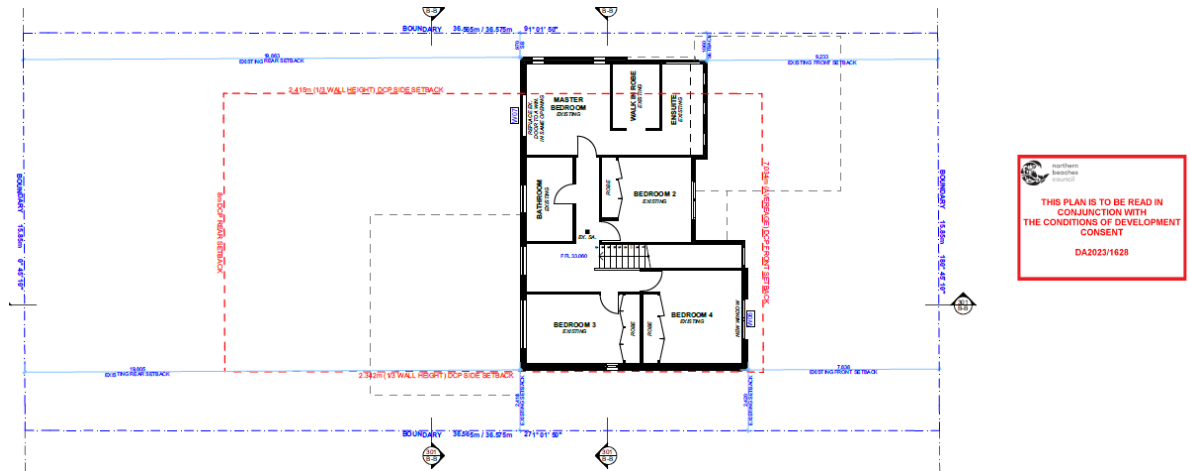


Figure 13. Extract from Stamped Approved Plans Drawing Proposed First Floor Plan (DA09)

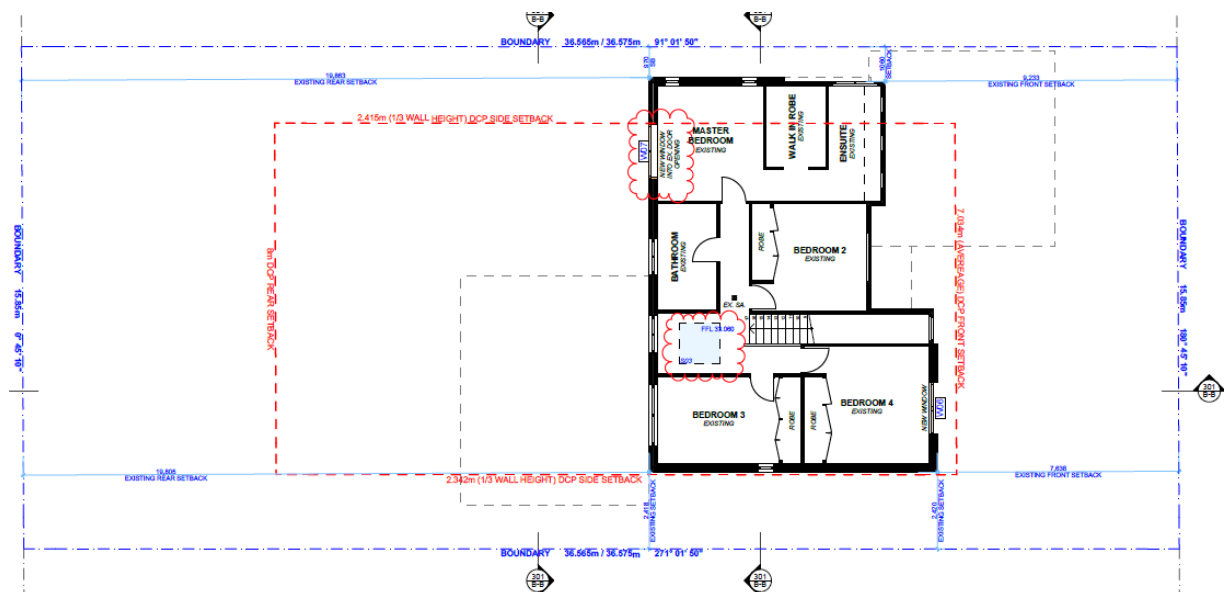


Figure 14. Extract from the Modification Plans (MOD05) showing the Proposed First Floor Level and the changes to W07 off the master bedroom

- 4.4 The proposed changes reduce the scope of alterations and additions to the existing dwelling. They have been designed in a manner which will have minimal and appropriate impact on the bulk of the building with no view, overlooking or solar access impacts for neighbours.

5.0 Statutory Framework

5.1 Section 4.55 of Environmental Planning and Assessment Act 1979

5.1.1 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) It is satisfied that the development to which the consent as modified relates is of minimal 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 the 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 that requires the notification or advertising of applications for modification of a development consent, and*
- (d) It 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.*

5.1.2 The proposed modifications will have minimal environmental impact as demonstrated in this document. The development to which the consent, as modified, applies is substantially the same development, as the development granted consent in Development Consent DA2023/1628, notwithstanding the proposed modifications.

5.1.3 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.

5.2 State Environmental Planning Policies

State Environmental Planning Policy (Sustainable Buildings) 2022

Schedule 1 of SEPP (Sustainable Buildings) 2022 sets out the standards for thermal performance and energy requirements for *BASIX development* in NSW. The proposal is *BASIX development* (as defined by the EPA Regulation 2021), and a compliant BASIX certificate is provided with this modified application.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

The subject site has historically been used for residential purposes and no change of use is proposed. There is no known reason to suspect the site may be contaminated and the consent authority can be satisfied that the land is suitable for the continued residential use. The modified development will have no impact.

Chapter 10 - Sydney Harbour Catchment

The site is located within the Sydney Harbour Catchment and Council is the Consent Authority for land-based development, as is proposed by this application.

The modified development remains consistent with the aims of the SEPP having nil impact on the catchment. It is not visible from critical and valuable areas and the Sydney Harbour Catchment will retain its environmental and cultural significance. No Heritage Items nominated in the SREP are in the immediate vicinity of the site.

The modifications proposed are appropriate for the residential lot and will have no impact on the retention of significant environmental and cultural aspects of the Sydney Harbour Catchment.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in non-rural areas

State Environmental Planning Policy (Biodiversity and Conservation) 2021 aims to protect biodiversity values and preserve the amenity of non-rural areas, through the preservation of trees and other vegetation. The modified development remains consistent with the provisions of the SEPP as it does not propose to remove any trees.

5.3 Manly Local Environmental Plan 2013

The proposed development is a permissible use in the R2 zone, which permits residential dwellings with development consent.

No provisions of the LEP will be impacted by the minor modifications proposed as detailed below.

Height of buildings

The existing height of the dwelling is to be retained. The maximum building height of the new skillion roof at rear ground floor level is 6.155 metres measured from existing natural ground level (see Figure 12 above).

Floor space Ratio

The LEP permits a maximum FSR of 0.45:1 for the site.

The Floor Space Ratio will be reduced as a result of the proposed modifications, with a new compliant FSR of 0.41.2:1 (gross floor area of 250.02m²). This represents a reduction of 6.68m², from the approved GFA of 256.7m² to 250.02m² (approved FSR of 0.44:1 to the modified FSR of 0.41.2:1).

Heritage Conservation

The site is not a heritage item, is not located in a heritage conservation area and is not located in proximity to any heritage items.

Flood Planning

A portion of the subject site is identified as medium and low risk flood precinct on the NBC Flood Hazard mapping.



Figure 15. Extract from NBC Flood Hazard Map

In accordance with Cl. 5.21(2) & (3) of LEP 2013 the consent authority must consider:

(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

The modified development is considered consistent with the LEP, as the works are located outside of the mapped area.

Acid Sulfate Soils

The site is mapped with class 5 acid sulfate soils. The proposed works are minor and are not likely to lower the water table below 1 metres AHD on adjacent Class 1, 2, 3 or 4 land.

Earthworks

There will be no impact from the minor changes to the approved structure.

Stormwater Management

No change to the approved plan is required with the built area unchanged.

Landslide Risk Map

The site is not identified on the Landslide Risk Map.

Terrestrial Biodiversity

The site is not identified on the Biodiversity Values Map.

Foreshore Scenic Protection Area

The site is not identified on the Manly Foreshore Scenic Protection Map.

Essential Services

All essential services are existing on the site.

5.4 Manly Development Control Plan 2013

The sections of the DCP relevant to the modification are addressed below.

3. General Principles of Development

3.1 Streetscapes and Townscapes

3.1.1 Streetscape (Residential Areas)

The subject site has frontage to and is visible from Hogan Street and the rear of the dwelling is visible from the public reserve. The modifications propose changes to the roof at rear ground floor level, including the retention of the pitched roof over the living room, resulting in a lesser visual impact to the approved development. No changes to the approved development are visible from Hogan Street.

Complementary Design and Visual Improvement

The proposed development remains consistent with the local character and streetscape in the locality. The proposed works will be constructed of materials consistent with the residential use and are of an appropriate scale for the locality. Details are provided in the attached materials and finishes schedule.

3.4 Amenity (views, Overshadowing, Overlooking/Privacy, Noise)

The proposed changes are negligible in their impact.

3.5 Sustainability

An updated compliant BASIX Certificate is provided with the attached plan set.

4.1 Residential Development Controls

Height of Buildings (incorporating wall height, number of storeys and roof height)

The proposed modifications do not alter the approved maximum building height or wall heights.

Floor Space Ratio (FSR)

A reduction in the scope of approved alterations and additions to the dwelling results in a reduced GFA and FSR for the site, being 0.41:1 and 250.02m².

Setback (front, side and rear) and Building Separation

Street Front setbacks

The front setback is unchanged.

Side setbacks and secondary street frontages

Side setbacks are unchanged.

Rear Setback

Rear setback is unchanged.

Open Space and Landscaping

Minimum Residential Total Open Space Requirements

The Total Open Space for the site marginally improves from the approved 58% to 58.2%. The approved landscaped open space of 55.57% for the site is to remain as approved and the private open space on the site remains compliant with the DCP requirement.

Parking, Vehicular Access and Loading (Including Bicycle Facilities)

No changes are proposed to approved parking or the driveway.

Fencing

No changes are proposed to fencing on the subject site.

6.0 Section 4.15 considerations

- 6.1 The minor amendment to the approved development has been considered with reference to Section 4.15 of the Environmental Planning and Assessment Act 1979. This assessment has found the proposed modification will not alter the impacts of the proposed development from that which was originally deemed to be acceptable and worthy of approval in the original development.

The impacts of the minor changes will have a negligible impact on the subject site, the neighbouring site and the streetscape, with regard to all relevant factors including design, amenity, landscaping and privacy.

7.0 Expected impacts of the proposed modifications

- 7.1 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.

8.0 Suitability of the site

- 8.1 The proposed modifications do not raise any additional issues relating to the suitability of the site.

9.0 Development substantially the same

- 9.1 The alterations proposed, by virtue of the modification request, do not render the development different in terms of its essential character.

In a comparison of the development as currently approved and as proposed to be modified, the development will remain essentially and materially the same, with only minimal changes proposed. As such, the development will be substantially the same notwithstanding the modifications that are sought.

10. Conclusion

- 10.1 The development, as modified, represents substantially the same development as was approved by Council in Development Consent DA2023/1628. The proposed modifications will have no significant environmental impact.

The proposed modifications to the development do not raise any additional issues relating to the relevant provisions of:

1. Manly Local Environmental Plan 2013
2. Manly Development Control Plan
3. The heads of consideration contained in Section 4.15 of the Environmental Planning and Assessment Act 1979.

Planner Declaration

This report was prepared by:

Senior Planner: Susan May-Roberts

Report Version: Final

Document Control Table

Document Purpose:	Statement of Environmental Effects	
Date	Prepared by	Approved by
12/09/2024	Susan May-Roberts Senior Planner	Sarah McNeilly Director

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