

**SECTION 4.55 MODIFICATION
REQUEST TO MODIFY DA
2018/2029
AT
7 ROCK BATH ROAD, PALM
BEACH**

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1. INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared in support of a Section 4.55 Modification for the proposed modifications to the approved Alterations and additions to the existing dwelling house, including a swimming pool.

The requested modification seeks to amend the list of approved plans for DA 2018/2029 for alterations and additions to an existing dwelling house at No.7 Rock Bath Road, Palm Beach, the subject site.

The proposed modifications are as follows;

Garage Level

- Modified garage design from a single car garage to a double car garage.
- Modified storage area.

Ground Floor Plan

- Proposed landscaping over double garage and skylight.
- New spiral staircase.
- Provision of extended laundry and powder room below ground.

Level 1 Plan

- Increase in bedroom sizes and corresponding reduction in terrace size.
- Window amendments.

I have inspected the subject site and surrounding locality and assessed the plans and supporting documents for the proposed modified development. I consider that the proposed modified development is very reasonable and is worthy of approval of Northern Beaches Council (Council).

It is my professional view that the proposed modifications should be assessed as “modifications involving minimal environmental impact” pursuant to Division 4.55 of the Environmental Planning and Assessment Act, 1979, due to the fact that there are no unreasonable adverse amenity impacts on adjoining properties or the public domain.

Background

The parent Development Application (2018/2029) approved on 20/05/2019 included a number of approved plans and associated documentation for significant alterations and additions to an existing dwelling house and pool.

It should be noted that a double garage of similar design to that now proposed was approved under a 2004 Land and Environment Court decision, however, the works to the garage were never carried out.

The Requested Modification

This modification application is submitted to Northern Beaches Council under the provisions of Division 4.55 – modification of consents– generally, ***Part 1(A) modifications involving minimal environmental impact.***

The proposed modifications have been identified during the demolition of parts of the existing structure On the subject site and generally comprise a modification to the ground floor area to accommodate a laundry and powder room, an extension of the rear bedroom over the existing hard stand area rear of the existing dwelling along with the provision of a two car garage instead of the approved single car garage and adjacent car space.

The proposed modification to the approved garage structure will result in a significant increase in landscaped area on the subject site by virtue of the provision of a continuation of the rooftop landscaping proposed and approved over the garage structure incorporated within the parent consent.

The enhancement of landscaped area which, it should be noted satisfies the provisions of the Pittwater development control plan for landscaped area along with the fact that the two car garage will satisfactorily integrate with the streetscape are supportable modifications.

The minor breach of the rear boundary setback does not result in any material impacts on solar access, views, vegetation or stormwater generation as the proposed works to the approved rear bedroom are over an existing hard stand area and are unlikely to be visible from the street or surrounding properties.

The modification requests supplementing the list of approved DA plans with the following documents to allow modifications to the approved elevations and floor plans as follows-

Plans by Dylan Farrell Design –

AD0000 COVER SHEET & AREA SCHEDULE	AD1300 CONC SETOUT - GARAGE LEVEL PLAN
AD0100 SITE PLAN & ANALYSIS	AD1301 CONC SETOUT - GROUND FLOOR PLAN
AD0101 EXISTING SURVEY	AD1302 CONC SETOUT - LEVEL 1 PLAN
AD0201 DEMOLITION PLAN - GROUND	AD1401 RCP - GROUND FLOOR PLAN
AD0202 DEMOLITION PLAN - LEVEL 1	AD1402 RCP - LEVEL 1 PLAN
AD1100 GARAGE LEVEL PLAN	AD2001 ELEVATIONS - NORTH ELEVATION
AD1101 GROUND FLOOR PLAN	AD2002 ELEVATIONS - EAST ELEVATION
AD1102 LEVEL 1 PLAN	AD2003 ELEVATIONS - SOUTH ELEVATION
AD1103 ROOF PLAN	AD2004 ELEVATIONS - WEST ELEVATION
AD1200 WALL SETOUT - GARAGE LEVEL PLAN	AD3001 SECTION A
AD1201 WALL SETOUT - GROUND FLOOR PLAN	AD3002 SECTION B
AD1202 WALL SETOUT - LEVEL 1 PLAN	AD3003 SECTION C

Division 4.55 of the Environmental Planning and Assessment Act 1979 No. 203.

The relevant provisions of Division 4.55 (1A) are as follows –

A consent authority must, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if;

- a) It is satisfied that the proposed modification is of minimal environmental impact and,*

RESPONSE

The proposal is considered to be of minimal environmental impact due to the general configuration of the approved construction being consistent and the amended layout having no impact on the completed development on the subject site.

- b) It is satisfied that the development to which the consent has 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*

RESPONSE

The development as proposed to be modified will be the same development for which development consent was granted.

- c) It has notified the application in accordance with;*
- i. The regulations, if the regulations so require, or*
 - ii. A development control plan, if the consent authority in the Council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

RESPONSE

The requested modification will be notified to likely affected parties by Northern Beaches Council if deemed necessary however the majority of the works involve reconfiguration of existing built upon area and are unlikely to result in any detrimental environmental or amenity impacts on adjoining owners.

- 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*

RESPONSE

Submissions made in response to the notification of the requested modification will be considered by the consent authority as part of the assessment process.

Reasons for the Proposed Modification

The reasons for the support of the proposed Division 4.55 Modification are due to the fact that refinement of the design has resulted in changes that are outside the ambit of being consistent with the DA approved plans.

The works are a refinement and will not generate any overshadowing, visual or acoustic privacy impacts, or environmental impacts.

Division 4.15 Evaluation

4.15 Evaluation

7.6 Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

(i) any environmental planning instrument, and

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

RESPONSE

The relevant provisions of the PLEP and relevant DCP have been addressed in the body of this Statement.

(iii) any development control plan,

RESPONSE

The relevant provisions of the Pittwater DCP have been considered in the body of this Statement.

The relevant provision of the DCP relating to the rear boundary setback are the provisions of Clause 12.6 of the DCP which sets out the following objectives for side and rear boundary setbacks –

To achieve the desired future character of the Locality.

The bulk and scale of the built form is minimised.

Equitable preservation of views and vistas to and/or from public/private places.

To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.

Substantial landscaping, a mature tree canopy and an attractive streetscape.

Flexibility in the siting of buildings and access.

Vegetation is retained and enhanced to visually reduce the built form.

The subject modification although not in compliance with the numerical standard of 6.5 metres from the rear boundary set out under the above clause, does not offend the objectives sought by this clause and as such is worthy of support.

and

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4,

RESPONSE

The amended proposal will not impact upon any planning agreement.

and

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

RESPONSE

The relevant regulations have been given due regard in the construction of this Statement.

and

(b)the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

RESPONSE

The body of this Statement describes the potential impacts upon the natural and built environments and the mechanisms to be incorporated to reduce or prevent these impacts upon the locality.

(c) the suitability of the site for the development,

RESPONSE

The subject site, by virtue of its existing layout, topography and locality is suitable for the modified proposal.

(d) any submissions made in accordance with this Act or the regulations,

RESPONSE

Any submissions received in response to Councils notification of the proposal will be considered as part of Councils assessment of the proposal.

(e) the public interest.

RESPONSE

The proposal endorses the public interest by limiting the impact of the proposal to the existing developed area of the subject site, with subsequent limited disturbance to the natural and built environment.

(2) Compliance with non-discretionary development standards—development other than complying development

If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

(a) is not entitled to take those standards into further consideration in determining the development application, and

(b) must not refuse the application on the ground that the development does not comply with those standards, and

(c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards, and the discretion of the consent authority under this section and section 4.16 is limited accordingly.

(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:

(a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and

(b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard. Note. The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).

(3A) Development control plans

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and

(c) may consider those provisions only in connection with the assessment of that development application. In this subsection, standards include performance criteria.

(4) Consent where an accreditation is in force

A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.

(5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).

(6) Definitions

In this section: (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and (b) non-discretionary development standards means development

standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

Environmental Planning Instruments

The proposal as approved and as modified remains a permissible development under the provisions of the Pittwater Local Environmental Plan.

Development Control Plans

The proposal is bound by the provisions of Pittwater Development Control Plan. The proposed modification to the Development Consent is mindful of Council's Controls.

Impact on the Natural Environment.

The proposed modification will not impact upon flora and fauna, soil or water quality, air quality or the conservation of natural resources

Impact on the Built Environment.

Scenic qualities – The proposed modification is consistent with the current and future character of the locality.

Compatibility with adjacent land uses –The proposed modification will not materially alter the compatibility with the adjacent land uses.

Bulk and scale – The proposed amendments will not materially impact upon bulk and scale of the approved development of the carpark and associated works.

Overshadowing – The proposed modification will not impact upon the solar access to nearby sites.

Views and vistas – There will be no impacts upon views and vistas across or around the subject site.

Site design – The refinements to the approved works are considered reasonable for the subject site.

Public domain – There are no works proposed in the public domain.

Amenity Impacts – I consider that there will be no unreasonable amenity impacts from the proposed modification.

Impact on the Social and Economic Environment.

The proposal is unlikely to result in any negative social or economic impacts.

Suitability of the Site.

The subject site, by virtue of its existing development, zoning, topography and locality is suitable for the proposal.

Conclusion

For the reasons set out in the preceding sections of this Request, the proposed modification is, by any measure, of minimal environmental impact and will enable the approved proposal to proceed to completion with little material impact upon the approved works.

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15th October 2019