

*The General Manager
Northern Beaches Council
PO Box 1336
DEE WHY NSW 2099*

**RE: *Modification Application to Development Application 2018/0563 –
Construction of new dwelling house with internal lift and garage at Lot 27
DP28669, 950 Barrenjoey Road Palm Beach***

Dear Sir/Madam

*This Statement of Support has been prepared to support an application made pursuant to
Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, in relation to
the above mentioned Development Application.*

*It satisfies the requirements of Clause 115 of the Environmental planning and Assessment
Regulation 2000 in providing the appropriate information to enable Council to
appropriately assess and determine the application.*

*The application seeks to amend the originally approved plan for construction of a new
dwelling house with internal lift and garage by:*

- *Deletion of Condition 14; and*
- *Deletion of Condition of 22a.*

Approved Development Application

*Development Application 2018/0563 was initially approved 14 December 2018 for the
specific purpose of:*

Construction of a new dwelling house with internal lift and garage.

The consent was granted with a suite of standard conditions of consent.



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Approved Modification Application.

Modification Application Mod2020/0447 was approved 21 December 2020. the Modification was approved with a suite of conditions of consent.

This Statement of Support provides the appropriate consideration of the proposed modification against the relevant planning legislation to allow Council to be satisfied pursuant to s4.55(1A), that the development, as modified, will remain substantially the same development as approved.

With direct reference to the provisions of Clause 115 of the Regulations, the following information is provided:

{1} An application for modification of a development consent under section 4.55(1), (1A) or (2) or 4.56(1) of the Act must contain the following information:

(a) the name and address of the applicant;

Refer to the application form.

(b) a description of the development to be carried out under the consent (as previously modified);

The approval issued under Development Approval 2018/0563 was for Construction of a new dwelling house with internal lift and garage. The approved modification to the consent did not make any changes and nor does the proposed modification contemplate any change to this.

(b) the address, and formal particulars of title, of the land on which the development is to be carried out;

Refer to application form. The land is legally described Lot 27 DP 28669 with an address of 950 Barrenjoey Road, Palm Beach.

(d) a description of the proposed modification to the development consent;

The proposed modification is described in this Statement of Support.

(e) a statement that indicates either:

(i) that the modification is merely intended to correct a minor error, misdescription or miscalculation;

The modification is intended to:

- ❖ Remove a condition/s that will make the construction of the dwelling unworkable and will create on-going maintenance issues

Or

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- (ii) *that the modification is intended to have some other effect, as specified in the statement;*

The modification is not intended to have any other effects other than providing less bulk and scale and increasing privacy whilst remaining compliant with all of Council's planning requirements.

- (f) *a description of the expected impacts of the modification;*

It is not expected that the proposed modification will result in any impacts different to or greater than the impacts already accepted by Council in approving the original development application. If the approved plan of proposed alterations is amended as requested, there will be no consequential impacts on any other facet of the development as approved, with no consequential changes to any conditions of development consent.

- (g) *an undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved.*

The development, as to be modified, will remain substantially the same as that originally approved. The approval issued was for construction of a new dwelling house with internal lift and garage and that has not changed.

- (h) *if the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to the making of the application (except where the application for the consent the subject of the modification was made, or could have been made, without the consent of the owner);*

Refer to application form.

- (i) *A statement as to whether the application is being made to the Court (under section 4.55) or to the consent authority (under section 4.56), and, if the consent authority so requires, must be in the form approved by that authority.*

Not relevant to this application.

Description of the Modifications being sought.

Council is requested to consider modifying the consent as issued, by:

Deleting condition14:

14. Delineation Asset Protection Zone

Prior to the commencement of any onsite building works or commencement of vegetation clearance/modification for Inner Protection Zone establishment, the boundary between the natural bushland zone and the construction area is identified on Drawing DA.01(Rev B) is to be surveyed and marked clearly on the ground. A temporary 2.0 metre steel mesh fence is to be erected on the

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surveyed boundary between the natural bushland zoned the construction area for the duration of construction work. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of works.

Reason: *To ensure that vegetation identified for retention and management during and after construction.*

Reason for deletion of condition 14.

The proposed condition of consent requires a fence to be erected which is up a very steep hill behind the proposed house. Due to the extreme steepness of the incline and rugged nature of the landscape is near impossible to access this area, let alone construct a 2 metre high steel mesh fence. To construct a fence of this magnitude, in an area that is not readily accessible would involve a huge impact upon the flora and fauna of the area for no long term outcome. The natural steepness provides the best barrier for protection of the area.

Deleting condition 22a:

22a. Garage Roof

The proposed gravel roof and planters over the garage and lobby are to be deleted and natural ground levels reinstated as previously approved. The reinstated soil area is to be landscaped generally in accordance with the approved landscape drawings L-001, L-002 & L-003 dated 4 September 2018.

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

Reason *To ensure suitable vegetation screening is provided and that the modified development remains substantially the same as the approved development.*

Reason for deletion of condition 22a:

The latest amendment approved a skylight above the stairwell that provides a natural light to that area of the proposed dwelling. To re-install the soil cover will require the removal of the skylight which will create a "cave like" effect in the stairwell.

To re-install the soil over the concrete slab creates an ongoing permanent maintenance problem and there are difficulties to waterproof the slab to the requirements of the Building Code of Australia. Re-instating the soil reduces the visual coverage of plants, planter boxes at the parapet edge makes the screen plants more of a feature than if they are planted on the natural ground.

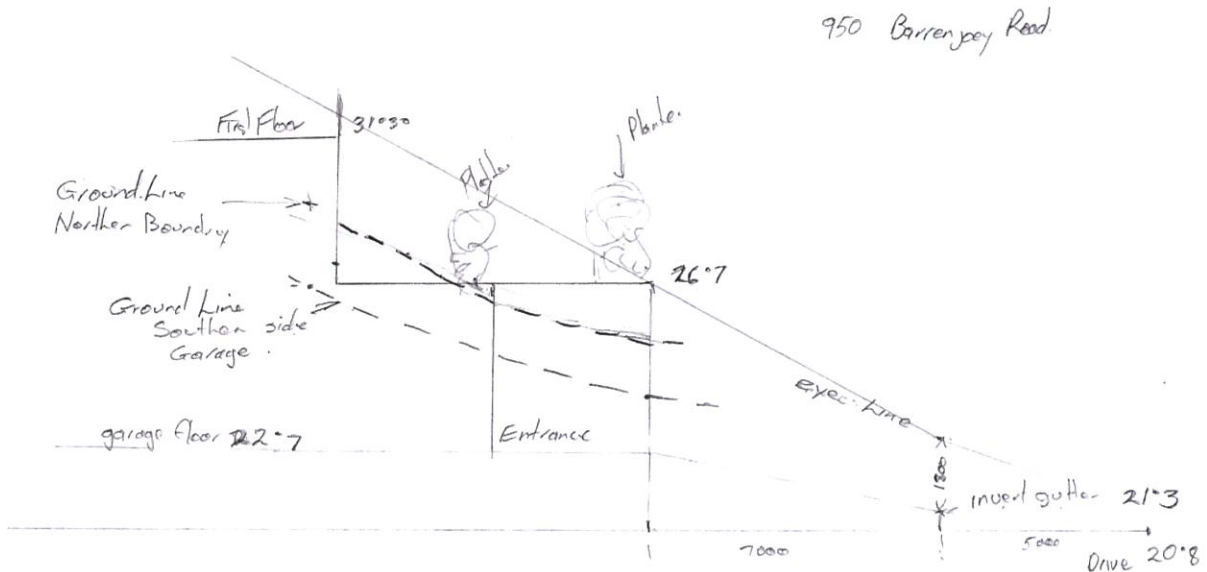


Figure 1: Line of site drawing from street kerb

The line of sight drawing in Figure 1 shows the line of sight for a person 1.8m tall standing at the front kerb of the property and indicates that they cannot see over the parapet and in fact, on the southern boundary, the ground line is below the actual structure and totally out of sight.

Category of Modification

The proposed modification to the existing consent is considered to be within the ambit of Section 4.55 of the Environmental Planning and Assessment Act 1979 (the Act).

The modification application has been lodged pursuant to Section 4.55(1A) of the Act, which states:

(1A) Modifications involving minimal environmental impact

A consent authority may, 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*
- (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 –

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- (i) *The regulations, if 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.*

Subsections (1), (2) and (5) do not apply to such a modification.

Council is at liberty to accept that should the conditions be modified (deleted), it will not result in a development that is substantially different from the original.

It will remain as construction of a new dwelling house with internal lift and garage being fully compliant with the planning controls of Council.

Assessment of Proposed Modification

The proposed modification to the issued consent is considered to be fair and reasonable, suitable to the circumstances of the case and can be supported.

The proposed deletion of the conditions is consistent with the approved development approval and will have a greatly reduced impact on the site.

Conclusion

The requested modification to the Development Approval 2018/0563 is not considered to be significant and is well within the ambit of S4.55(1A) of the Act.

There are no adverse impacts arising from the proposed modifications. The consent should be amended in the manner requested noting that there is no consequential amendments required to any other condition of the original development consent.

Thank you and I would be pleased to discuss any aspect of this submission with you at your earliest convenience if necessary.

Yours faithfully

Ross Jauncey
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11 March 2021