

MODIFICATION APPLICATION – SECTION 4.55 (1A) AND STATEMENT OF ENVIRONMENTAL EFFECTS TO NORTHERN BEACHES COUNCIL

Section 4.55 (1A) to Development Consent No. DA2022/1252 granted for Construction of a dwelling house including swimming pool.

Address: 20 The Esplanade, Narrabeen NSW 2101

APRIL 2024

1.0 INTRODUCTION

This Statement of Environmental Effects (SEE) is prepared in support of an application pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Northern Beaches Council (Council) approved Development Application DA2022/1252 on 7 February 2023. Consent was given for the Construction of a dwelling house including swimming pool at 20 The Esplanade, Narrabeen NSW 2101.

The purpose of this statement is to address the planning issues associated with the modification proposal and specifically to assess the likely impact of the development on the environment in accordance with the requirements of Sections 4.15 and 4.55 of the Environmental Planning & Assessment (EP&A) Act, 1979.

The proposed minor amendments are substantially to the same development as per the approved drawings and can be assessed under Section 4.55(1A).

2.0 DETAILS OF PROPOSED MODIFICATION

2.1 MODIFICATION TO APPROVED PLANS

The specific amendments/modifications are as follows:

1. Garage and Living room external finishes changed from PGH dark & stormy collection brick to rendered wall with “woodland grey” or similar paint finish.
2. Angled walls around windows W-19 & W-23 extended to the floor.

Reason for requested amendment:

The proposed amendments are to make the external finishes consistent with the neighbouring buildings, and eliminate couple of tricky junctions with the window sill.

4.0 Statutory and Policy Compliance

4.1 Section 4.55

Section 4.55 of the *Environmental Planning & Assessment Act 1979* contains provisions relating to the modification of development consent. Specifically, subclause **(1A)** refers to modifications involving minimal environmental impact, and states:

“(1A) 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—*
 - (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.*

The proposal is the subject of a Section 4.55 (1A) modification as it entails minor modification to the approved development. There are no changes proposed to the overall built form of the approved development under DA2022/1252. The proposal does not require a new development application as the proposal is substantially the same as the approved development given that the proposal does not seek to alter the use, the visual appearance, scale, form, or materials of the buildings.

Furthermore, the proposed modification will have no environmental impacts as discussed in this Statement.

In reaching this conclusion, we have considered guidance provided by the Land & Environmental Court Case, *Moto Projects (No. 2) Pty Limited v North Sydney Council [1999] NSWLEC 280; (1999) 106 LGERA 298*, which outlines principles for determining whether a S4.55 application is 'substantially the same' as an originally issued development consent. The assessment of 'substantially the same' needs to consider qualitative and quantitative matters.

Quantitatively, the proposal will not alter the approved numerical aspects of the proposal, other than a minor changes to the finish materials and window size.

Qualitatively, the proposed modifications will not change the approved design of the development. The proposal remains permissible within the zoning.

Given the above, it is evident that the proposal is substantially the same as the approved building both qualitatively and quantitatively. It is therefore considered that the proposed development is of minor environmental impact and is appropriately categorized as a S.4.55(1A) application.

4.2 Development Control Plan

The modified scheme is comparable to that originally approved in terms of performance with the relevant DCP controls. The amended proposal does not alter the building design which has previously been supported by Council. The amendments proposed by this modification application are consistent with the relevant objectives and controls prescribed within Northern Beaches Council DCP.

5.0 IMPACT OF PROPOSED MODIFICATION

The impacts of the proposed modification are considered below.

Amenity Impacts

The proposed modifications will eliminate tricky junctions with the triangular window pop out, and will not add any impact to the amenity of the surrounding neighbours compared with the approved design.

External Appearance & Design

In visual terms, the external walls of garage and front living room will be rendered and shall have paint finish. This will make the proposed development more consistent with neighbouring buildings as the paint finish is the predominant material. Thus, it will not cause any visual impact.

Economic & Social Impacts

The proposed modifications will retain the positive economic and social benefits as the originally approved development.

Parking and Access

The proposed modifications have no change to the existing parking as originally approved.

6.0 Conclusion

The proposed modifications will result in a development that is substantially the same as the approved building under DA2022/1252. The modifications will not generate any additional amenity impacts on neighbouring properties or resulting any significant building form or visual impacts. As stated previously, the minor changes to the approved design, will have no apparent impact on the approved development or the neighbouring properties.

Accordingly, for the reasons stated above, we respectfully request that Council consent to the modification of the development consent, as detailed throughout this Statement and on the submitted Section 4.55 Application.