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STATEMENT OF MODIFICATION S4.55(1A)

To Development Application DA2022/0848

**ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE
INCLUDING A SWIMMING POOL**

4 Elwyn Close, Mona Vale NSW 2103

Lot 8 DP223599

Prepared by Space Landscape Designs Pty Ltd
10th September 2024

1.0 Site Description and Location

The site is known as 4 Elwyn Close, Mona Vale NSW 2103 or Lot 8 DP223599 and situated in a cul-de-sac. The site is an irregular shaped rectangle with surrounding sites comprising of low-density residential properties.

The subject site has an easterly aspect and site area of 767m². There is an existing two storey dwelling house with a rear covered timber deck and a separate garage forward of the building.

We seek to modify the approved Development Application DA2022/0848 for Alterations and additions to a dwelling house which was approved on 09/08/2022.

On behalf of the owners we apply to Northern Beaches Council under the provisions of Section 4.55 (1A) of the Environmental Planning and Assessment Act, 1979 to modify the approved DA. The modified works are consistent and similar to the previously approved DA with minimal environmental impact changes. The modification that is sought is listed below.

2.0 Proposed Modification

The proposed modification is for items of works that have not yet commenced. The proposal seeks approval for the following external alterations and additions:

- Construct a new retaining wall setback 1000mm from the rear boundary as advised by the Engineer.

I refer to the excerpt of the Engineers Report below:

The rear boundary retaining wall sits within the eastern boundary of 23 Emma St behind and appears to have been constructed for the purpose of raising and retaining the rear yard and driveway of 23 Emma St. The wall retains up to 1200mm of soil and is constructed from Besser blocks that appear to be unreinforced and not core filled.

The boundary wall exhibits a lean of @150mm into the rear yard of 4 Elwyn Close and is in imminent danger of collapse. This can be seen in the attached photo 1. Collapse would likely initiate a domino effect, thereby causing the wall to collapse beyond the boundaries of 4 Elwyn Close. The second photo exhibits the same boundary wall on the northern neighbouring property to 4 Elwyn Close affected by the same boundary condition. The wall has been crudely braced with light timbers which will not support the wall should it collapse.

We believe that council have written condition 8 believing that the new wall, as documented by engineer and architect, will destabilise the existing boundary retaining wall. In fact the new wall is intended to support and 'maintain' the existing wall as intended by condition 8. Due to the likelihood of collapse we provide an amendment to the structural plans that clarifies the intent of the retaining wall and provides support to the existing wall by bracing it with soil and therefore 'maintaining the existing wall'. This work should be carried out as a matter of urgency due to the risk for safety should the wall fail.

(Limited Condition Report – Rear Retaining Wall to 4 Elwyn Close, Mona Vale Job No 2301101, Prepared by Northern Beaches Consulting Engineers, dated 8th August 2024.)

3.0 Locality and Planning

The site is located within Northern Beaches Council. In preparation of this document, consideration has been given to the following:

- *The Environmental Planning and Assessment Act, 1979 as amended (EP&A Act):*
- *The Environmental Planning and Assessment Regulation 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *Pittwater Local Environmental Plan 2014*
- *Pittwater Development Control Plan (DCP) 2014*

4.0 Relevant pieces of legislation applicable to this development

The proposal is permitted with consent from council. The site is zoned as follows:

State Environmental Planning Policy (Resilience and Hazards) 2021

Remediation of Land

Chapter 4 of SEPP (Resilience and Hazards) 2021 applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

Overall, the proposed modified development remains consistent with the relevant provisions of SEPP (Resilience and Hazards).

State Environmental Planning Policy (Sustainable Buildings) 2022

A BASIX certificate is not required for a new retaining wall.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Vegetation in nonrural Areas

Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 contains planning controls for the removal of vegetation on the land within non-rural areas of the State. The policy aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and to preserve the amenity of nonrural areas of the State through the preservation of trees and other vegetation.

The subject modified application will not result in the clearing of any native vegetation or clearing that exceeds the biodiversity offsets scheme. The proposal does not involve clearing that is or forms part of a heritage item, a heritage conservation area, a part of an Aboriginal object or a known Aboriginal place of heritage significance.

5.0 Planning Controls

The subject site is zoned R2 – Low Density Residential. The proposed development is permissible within the zone, with consent from the consent authority.

Provisions of Pittwater LEP 2014 as relevant to the proposed development:

Pittwater LEP 2014

Land Use:

The site is zoned R2 – Low Density Residential and the proposed works are permitted with consent. The development is consistent with the relevant objectives of the zone which are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.

Height of Buildings

Requirement 8.5m N/A

Floor Space Ratio

N/A

Heritage conservation

The site does not contain a heritage item nor in a heritage conservation area.

Acid sulfate soils

The site is zoned Class 5. No proposed works will lower the water table.

Pittwater 21 DCP 2014

The land is located within the Mona Vale Locality. The desired future character of the locality is as follows:

A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, and to enhance wildlife corridors.

General Controls

B1 Heritage Controls

The site does not contain a heritage item or is within a heritage conservation area.

The site has an existing dwelling and cleared lands. It is not known for being a potential Aboriginal place or containing any Aboriginal object.

B2 Density Controls

N/A

B3 Hazard Controls

B3.2 Bushfire Hazard

The subject site is not located on Bushfire Prone Land.

B3.6 Contaminated Land

The land is residential with an existing dwelling. The land is not known to be contaminated and has not been used in the past for a purpose that might cause contamination.

B4 Controls Relating to the Natural Environment

B4.22 Preservation of Trees and Bushland

The proposed development does not require the removal of any trees.

B5 Water Management

B5.8 Stormwater Management – Water Quality – Low Density Residential

The proposed retaining wall will improve stormwater management on the subject site. The retaining wall will have a strip drain at the base and be connected into the existing stormwater system.

B6 Access and Parking

No change to existing parking.

B8 Site Works Management

B8 Construction and Demolition – Excavation and Landfill

Excavation will be limited to the footings of the retaining wall. Excavated material will be used onsite as fill.

B8.2 Construction and Demolition – Erosion and Sediment Management

Sediment and Erosion Control notes and diagram is noted on DA-06 – Erosion and Sediment Control Plan.

C1 - Design Criteria for Residential Development

C1.1 Landscaping

A revised Landscape Plan accompanies this application. It incorporates Condition 19 of consent. The extent of works is limited to the rear boundary. New planting will be native Lilly Pilly species.

C1.2 Safety and Security

The modification is required due to the risk of the existing wall failing. The construction of the new wall is to provide support and ensure the upkeep of the existing wall in accordance with condition 8. As there is a potential risk of collapse, an amendment to the structural plans has been made. This amendment seeks to provide support to the existing wall by reinforcing it with soil, thus preserving the integrity of the existing wall.

C1.3 View Sharing

No views will be obstructed by the proposal due to the existing rear retaining wall.

C1.4 Solar Access

N/A

C1.5 Visual Privacy

The proposal will not impact the privacy of any adjacent properties.

C1.6 Acoustic Privacy

There will be no effect on acoustic privacy by the proposed works.

C1.7 Private Open Space

Existing site complies with minimum private open space.

C1.8 - C1.16

N/A

C1.17 Swimming Pool Safety

No changes.

D9 – Mona Vale Locality

The proposed works are consistent with the desired future character and surrounding properties. The proposal will not have any significant or adverse impacts on the neighbouring properties.

D9.1 Character as viewed from a public place

The proposed retaining wall is not visible being located at the rear.

D9.2 Scenic Protection

N/A

D9.3 Building Colours and Materials

The retaining wall will be rendered and painted in a natural colour to blend with the natural surroundings.

D9.6 Front Building Line

N/A

D9.7 Side and Rear Building Line

The setback of the retaining wall is based on the engineering drawings that require a 1000mm footings.

D9.8 Building Envelope

N/A

D9.10 Landscape Area – General

The site is zoned R2 Low Density Residential and located within Area 3 of the Landscape Area Map.

Site Area	767m2	
Required Landscape Area	383.5m2	(50%)
Proposed Landscape Area	367.2m2	(47.9%)
Add 6% allowance	46.2m2	
Total Landscape Area	413.2m2	(53.9%)

The outcomes of the Landscape Area control is:

Achieve the desired future character of the Locality.

The bulk and scale of the built form is minimised.

A reasonable level of amenity and solar access is provided and maintained.

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

Conservation of natural vegetation and biodiversity.

Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.

To preserve and enhance the rural and bushland character of the area.

Soft surface is maximised to provide for infiltration of water to the water table, minimise runoff and assist with stormwater management.

The proposed landscape achieves the outcomes of this control as the proposed works does not increase the bulk or scale of the existing dwelling when viewed from the street.

Therefore as the outcomes of this control have been achieved, impervious paths less than 1m and 6% of the site may be provided as impervious landscape treatments.

D9.12 Fences - General

N/A

D9.14 Construction, Retaining walls, terracing and undercroft areas

The proposed retaining walls will not be visible from a public place.

6.0 Matters for Consideration under section 79C of the Environmental Planning and Assessment Act 1979.

(i) Impact on the natural environment:

The proposed modification will not have any adverse impact on the natural environment. The site has been previously developed for residential use and is located within an established residential area.

(ii) Impact on the built environment:

The proposed modification has been assessed against the detailed design provisions contained in the PLEP 2014 and PDCP 2014 and provides an appropriate level of compliance.

Further, no adverse or unreasonable amenity impacts in the form of overshadowing, privacy or view loss towards surrounding properties is foreseen.

(iii) Social and Economic impacts in the locality:

The proposed modification will not have any adverse social / economic impacts.

(iv) suitability of the site for the development

The proposed modification has been assessed against applicable planning provisions. Having regard to the assessment contained in the engineer report the site is considered suitable for intended development given the risk of the retaining wall collapsing.

(v) the Public Interest:

The proposed modification is considered consistent with the objectives of the Environmental Planning and Assessment Act in so far as it promotes the co-ordinated and orderly, and economic use and development of the land. Accordingly, the proposal is deemed consistent with the public interest and safety.

7.0 Conclusion

The modification is required due to the risk of the existing wall failing. The construction of the new wall is to provide support and ensure the upkeep of the existing wall in accordance with condition 8. As there is a potential risk of collapse, this modification seeks to provide support to the existing wall by reinforcing it with soil, thus preserving the integrity of the existing wall.

The proposed development does not result in any unreasonable impacts on surrounding or adjacent properties. The proposed modification is substantially the same as the approved DA. There will be no impact to the existing streetscape and is considered to be consistent with the objectives of Pittwater DCP, Pittwater LEP and all relevant controls.

We trust the proposal is supported by council.