

25 November 2021

The General Manager
Northern Beaches Council
PO Box 82
MANLY NSW 1655

Dear Sir,

**APPLICATION TO MODIFY DEVELOPMENT CONSENT
SECTION 4.55 (1) ENVIRONMENTAL PLANNING & ASSESSMENT ACT**

Development Application No:	DA2021/1104
Date of Determination:	22 October 2021
Premises:	Lot 26 DP 228119 No. 283 Hudson Parade, Clareville
Proposed Development:	Alterations and additions to a dwelling house and carport

On behalf of Peter, Andrew & Elizabeth Kidner, this submission has been prepared to assist Council in the consideration of an application pursuant to Section 4.55(1) of the Environmental Planning & Assessment Act 1979 to alter the development as approved by Development Consent DA 2021/1104.

The application will seek to amend the requirements of Condition 1 a) within the consent to correct the reference to the plans which form the approved development to be consistent with the requirements of the Flood Risk Management Report approved by Council in its Notice of Determination issued 22 October 2021.

BACKGROUND

An application for consent for *"Alterations and additions to a dwelling house and carport"* was approved by Council by Notice of Determination dated 22 October 2021.

The Notice of Determination included a requirement within Condition 1a) to comply with the recommendations and requirements within the Flood Risk Management Report (Revision B) prepared by Donovan Associates dated 27 September 2021.

The Flood Risk Management Report was requested by Council to ensure that the development did not adverse effect, or was adversely affected by the existing creek line adjacent to the property.

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The Conclusion within the Flood Risk Management Report prepared by Donovan Associates required amendments to the proposed floor levels of the additions to the dwelling.

The revised architectural plans to accord with the requirements of the Flood Risk Management Report were not included within the Development Application submission and this current proposal seeks to omission of the required architectural plans to ensure that development will comply with the requirements of the Notice of Determination and the associated Flood Risk Management Plan.

Accordingly, we seek to correct this error with the inclusion of the revised architectural plans prepared by Inlet Design Studio noted as Sheets A01 -A16, Revision A dated 12 September 2021 within the Notice of Determination.

The Modified Architectural Plans do not increase the overall height of the development and the required floor levels to comply with the requirement of the Flood Risk Management Plan have been noted.

As the external appearance of the building is not substantially altered, we request that Council amend Condition 1 a) of the Notice of Determination to specifically reference the revised architectural plans prepared by Inlet Design Studio noted as Sheets A01 -A16, Revision A dated 12 September 2021 within the Notice of Determination.

JUSTIFICATION

The Environmental Planning & Assessment Act 1979 provides for the modification of a consent under Section 4.55(1) to correct a “*minor error, misdescription or miscalculation*” and which notes:

1) Modifications involving minor error, misdescription or miscalculation

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 a development consent granted by it to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5) and (6) and Part 8 do not apply to such a modification.

Note.

Section 380AA of the Mining Act 1992 provides that an application for modification of development consent to mine for coal can only be made by or with the consent of the holder of an authority under that Act in respect of coal and the land concerned.

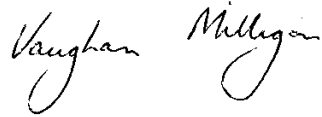
Subsections (1) and (1A) do not apply to such a modification.

In our view, the inclusion of the modified architectural plans which were prepared to be consistent with the requirements of the approved Flood Risk Management Report will ensure that the development is carried out in accordance with Council’s requirements.

We believe it is appropriate for Council to consider our request to modify the condition under S4.55(1) of the EPA Act 1979 to rectify the error and modify the consent as sought.

Please contact me on 9999 4922 or 0412 448 088 should you wish to discuss these proposed amendments.

Yours faithfully,

A handwritten signature in black ink, reading "Vaughan Milligan". The signature is written in a cursive style, with the first name "Vaughan" and the last name "Milligan" clearly distinguishable.

VAUGHAN MILLIGAN