

Section 4.55 Modification To Consent

Determination No: 2020/0008
Deferred Commencement Approval:
7 January 2021

Consent Granted for:
Subdivision of land into five residential lots
and construction of five dwellings



Client:
Project:
Project No:
Date:
Project Contact:

Cottee Parker Architects
3 Central Road Avalon
2037/A
June 2021
Mitchell Drake

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1.0 Introduction

This application relates to a request for the modification of the 22 April 2020 activated deferred commencement consent DA2019/0382 proposing subdivision of land into five residential lots and construction of five dwellings at 3 Central Road Avalon. The request for modification is made pursuant to: Section 4.55(2) 2 of The Environmental Planning and Assessment Act 1979 (The Act).

2.0 Site Summary

Address of Site:	3 Central Road Avalon
Local Government:	Northern Beaches Council
Local Environmental Plan:	Pittwater L.E.P. 2014
Development Control Plan:	Pittwater D.C.P. 21
Zone:	R2 Low Density Residential
Name of Owner:	Avalon Central Pty Ltd
Brief Description / Purpose of Proposal:	Modification of existing deferred commencement consent DA2020/0008



Figure 1: The Site

3.0 Site and Application History

The development application granted deferred commencement development consent on 7 January 2021, included the demolition of the existing dwelling and construction of eight (8) units for Seniors Living over 3 storeys. Specifically, the proposal includes the following:

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Lower Ground Floor Plan (RL 8.61)

- Seven (7) car spaces (access from Patterson Lane)
- Individual apartment storage,
- Mechanical plant Lift access Apartments 1, and 2 Pedestrian access to Patterson Lane (east)

Ground Floor Plan (RL 11.5)

- Waste storage area in northern corner of the site adjoining Central Road
- Accessible pathway accessing northern side Central Road
- Apartment 4 and 5 to the north
- Apartment 3 to the south

Level 01 Floor Plan (RL 13.1)

- Apartment 6 and 7 to the north
- Communal roof garden to the south with pergola

One metre of the frontage to Patterson Lane will be dedicated as road reserve to increase the pedestrian footpath and improve pedestrian access that flows between Dunbar Park and Central Road

It is noted that one (1) apartment was deleted during the assessment phase of the proposal. A total of seven (7) apartments have been approved. No part of this modification proposal seeks to re-instate this apartment and the proposal remains consistent with that approved (Refer to assessment under Section 5.0)

4.0 Proposed Modifications

The applicant seeks approval for the proposed modifications which includes:

1. Remove ramps from lift lobby to apartments.
2. Lower floor slab of ground floor and parking level from RL 8.610 to RL 8.400 (210mm), adjust typical floor levels, and maintain approved building height (RL 18.050 top of parapet, RL 18.950 Top of Lift overrun).
3. Adjust end of basement driveway to comply with DA condition of having 1M at end of dead end isle.
4. Adjust driveway ramp width to comply with DA condition requiring minimum width of 5.5M.
5. Adjust elevations to suit the above adjustments.

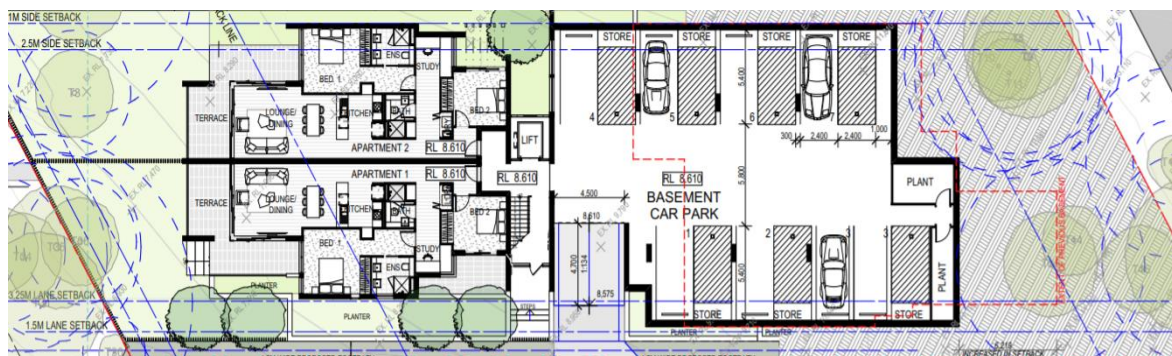


Figure 2: Approved Lower Ground Floor

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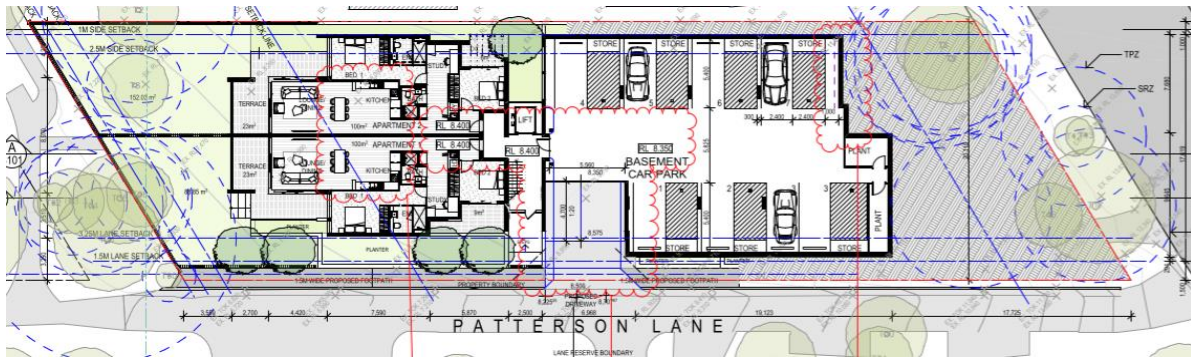


Figure 3: Proposed Lower Ground Floor

6. Provision of enclosing door from parking area to lift lobby.
7. Improvements to Apartment's amenities:
 - a. Apartment No. 3: Adjustment of living areas to incorporate external space/ entry that was previously occupied by access ramp.
 - b. Apartment No. 4 & 6: Rationalise external plant room and incorporate into the apartment's entry courtyard. Extend entry foyer with Study desk space. Extend Living area glazing to provide better circulation space.
 - c. Apartment No. 5 & 7: Re-plan bed 1, study and laundry for better circulation, privacy and amenity.

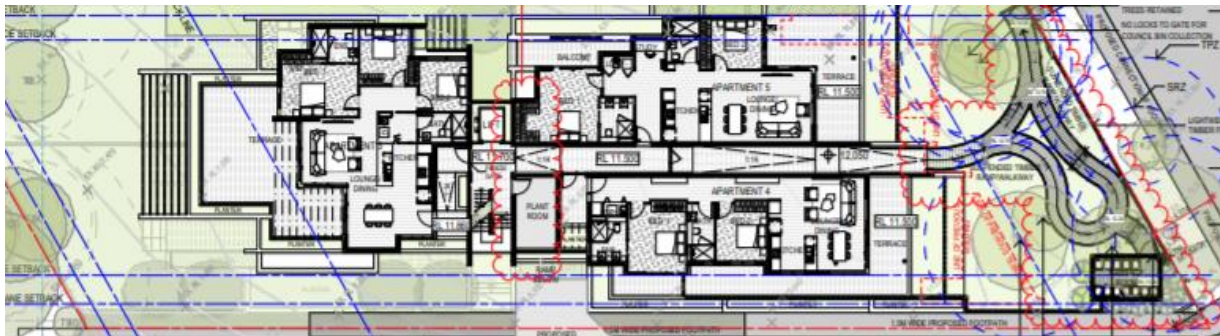


Figure 4: Approved Upper Ground Floor



Figure 5: Proposed Upper Ground Floor

8. Minor GFA addition: increase from 797m² to 847 m². From FSR of 0.563:1 to FSR 0.598:1.
9. Provision of direct service door from waste bins enclosure to footpath.
10. Provision of covered/weather protected entry gate and mailboxes.

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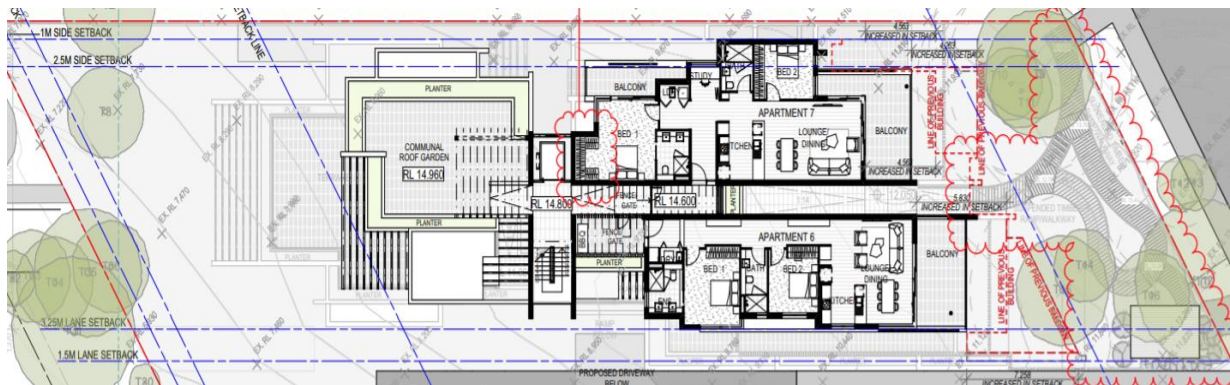


Figure 6: Approved First Floor



Figure 7: Proposed First Floor

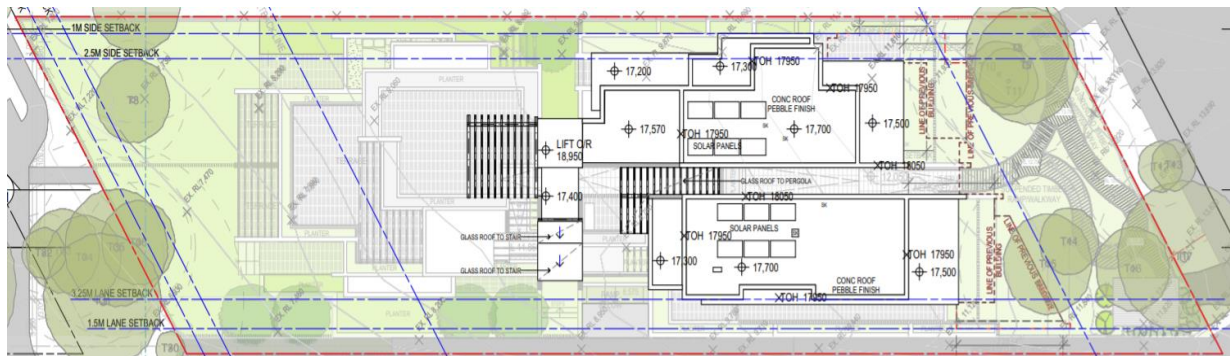


Figure 8: Approved Roof

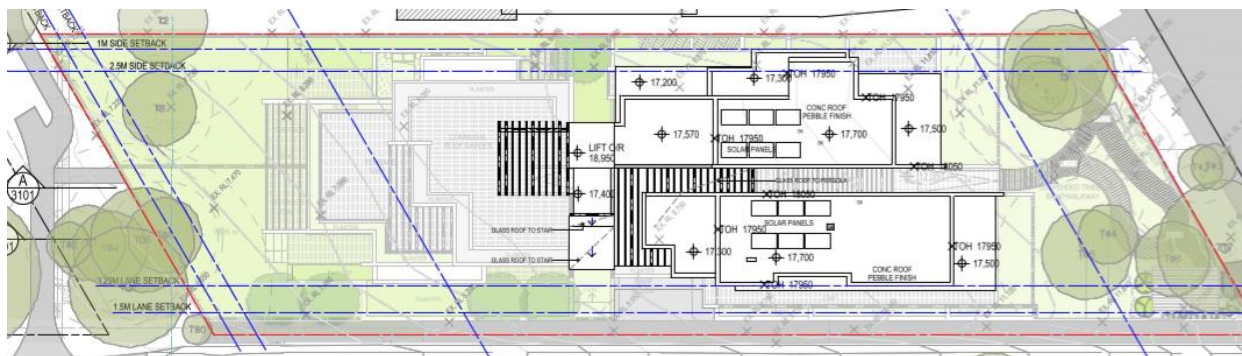


Figure 9: Proposed Roof

5.0 Section 4.55 – Modification of Consents

A consent authority may modify the consent if;

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It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

The proposed modifications are minor and the proposal clearly remains substantially the same as that which was granted consent.

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

5.1. Section 4.15(1) Matters for consideration

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

Response

A review of the relevant EPI's indicates that the modifications do not result in the proposal fundamentally deviating from that which was approved. The responses to the aims and objectives remain appropriate in these circumstances. The built form control table shows the numerical changes to the development with regards to the state policy (SEPP Seniors Housing 2004) and the local environmental plan:

Table 1: SEPP Seniors Housing 2004

Control	Required	Approved	Proposed	Complies
Site Area	1000m ²	1417m ²	1417m ²	YES – No Change
Site Frontage	20m	24m	24m	YES – No Change
Building Height	8m	9.59m	9.59m	No – As Approved

Table 2: Pittwater Local Environmental Plan 2014

Control	Required	Approved	Proposed	Complies
Building Height	8m	9.59m	9.59m	No – As Approved
Floor Space Ratio	0.5:1	0.563:1	0.598:1	NO – Refer to assessment below

Whilst Clause 4.6 is not applicable to modifications under the provisions of Clause 4.55 of The Act and the requirements of Clause 50 of the SEPP are not development standards, a Clause 4.6 variation is not required. The proposal is however, considered on its merits given it does not satisfy the numerical requirement., it is pertinent to review the variation as modified against the underlying provisions of the Floor Space Ratio controls as follows overleaf:

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Table 3 FSR Objectives

(a) to ensure that buildings, by virtue of their bulk and scale, are consistent with the desired character of the locality,	Remains consistent
(b) to minimise adverse environmental effects on the use and enjoyment of adjoining properties and the public domain,	Remains consistent
(c) to minimise any overshadowing and loss of privacy to neighbouring properties and to reduce the visual impact of any development,	Remains consistent
(d) to maximise solar access and amenity for public places,	Remains consistent
(e) to minimise the adverse impact of development on the natural environment, heritage conservation areas and heritage items,	Remains consistent
(f) to manage the visual impact of development when viewed from public places, including waterways,	Remains consistent
(g) to allow for the reasonable sharing of views.	Remains consistent

(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 Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved),

Response

There are no relevant proposed instruments applicable

(iii) any development control plan, and

Response

A review of the Pittwater Development Control Plan indicates that the modifications do not result in the proposal fundamentally deviating from that which was approved. The responses to the aims and objectives and the responses to the numerical standards remain consistent.

Table 4: Pittwater Development Control Plan 21

Control	Required	Approved	Proposed	Complies
Front Setback	6.5m	8.5m	8.5m	YES – As Approved
Secondary Front Setback	3.25m	3.25m	3.25m	YES – As Approved
Side Boundary Setbacks	South 2.5m	6.2m	6.2m	YES – As Approved
	West 1m	1m	1m	YES – As Approved
Building Envelope	East	4.2m	Complies	YES – As Approved
	West	4.2m	No Change	NO – As Approved
Landscape Open Space	60% (SEPP 30%)	40.5%	37.6%	YES – SEPP Prevails

(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, and

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Response

There are currently no Draft Planning Agreements or Planning Agreements applicable to the development.

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,

Response

6.4.1 Division 8A

The consent authority is to consider 'Prescribed conditions' of development consent. This matter may be addressed within any consent documentation.

6.4.2 Clauses 54 and 109

Were Council to require additional information, consideration must be given to the number of days taken in this assessment in light of this clause within the Regulation. No additional information has been requested at the time of writing of the Statement.

6.4.3 Clause 92

The consent authority is to consider AS 2601- 1991: The Demolition of Structures. This matter is addressed via an existing condition of consent.

6.4.4 Clauses 93 and/or 94

The consent authority is to consider the upgrading of a building (including fire safety upgrade of development). This matter may be addressed via a condition of consent.

(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

Environmental

The assessment of the proposal has shown that any environmental impacts resulting from the proposal will be negligible. Regard is shown for the natural environment in terms of on-site management of storm water and drainage, with appropriate measures incorporated into the overall design that operate in concert with the extensive areas of landscaping provided by the site layout.

The built environment will be enhanced by the upgraded site and its increased yield allowing for the more economical use of the available resource, without impacting or dominating the area in terms of built form.

The proposal satisfies the requirements of both the natural and built environments.

Social

The proposal adds to housing stock, allowing for a more diverse accommodation typology within the appropriate R2 Zone. This allows a more diverse population cross section to "settle and stay "within the Northern Beaches LGA. The increased choice of housing in this area provided by the proposal increases the longevity of the site whilst allowing residents an upgraded modern alternative. The upgraded dwellings will continue to fill an existing void and increase the services available to the occupants of dwellings on the northern beaches in terms of housing and add to the available housing stock within the area and provide opportunities for more varied dwelling choice. The proposal is consistent with the social requirements in these regards.

Economic

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The provision of separate housing opportunities within this appropriately zoned locality, contributes to the easing of housing affordability pressure on potential homeowners whilst showing regard for the requirements of this R2 Zone on the fringe of areas undergoing radical built form change due to the construction of the northern beaches hospital. The proposal provides economic benefits that extend beyond the dwelling. Increased residents in this appropriate zone, adding to the economic stability of the area by allowing for residents to live in a locality that is gentrified and economically vibrant, in close proximity to local services and within reasonable distance to local business and upgraded infrastructure that will benefit from the employment and economic input provided by the future residents.

(c) the suitability of the site for the development

Response

The site suitability is indicated by the appropriate land use being located within the appropriate R2 Low Density Residential Zone. The proposal has demonstrated compliance with all the standards and controls together with a consistency of all underlying objectives of both State and Local controls. The subject site is serviced by existing infrastructure, is easily accessible and is within a gentrified residential area. The proposal is an appropriate fit to the naturally developed character of the locality and will add a further unique land use and housing opportunity within this residential area. The application is considered acceptable with regards to suitability of the site.

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

Response

There have been no submissions received from any public person, private or Government Authorities at the time of the preparation of this report.

(e) the public interest.

Response

The public interest is served by the provision of the appropriate land use that is consistent with local and state planning objectives. The land use responds at a strategic level to desired planning outcomes together with increased affordable housing opportunities within the Sydney region and the northern Beaches LGA specifically. The proposal is consistent with the underlying objectives of the EP and A Act in that it is an appropriate and economical use of the available resource.

6.0 Conclusion

The modifications are appropriate for the development and do not result in a development that is inconsistent with that which has been approved. The proposal is supported in this regard.

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October 2021