

5 November 2021

Northern Beaches Council  
PO Box 82  
MANLY NSW 1655

Dear Sir/Madam,

## SECTION 4.55(1A) APPLICATION

<b>Premises:</b>	<b>Lot 93 in DP 16029, No. 16 Grandview Drive, Newport</b>
<b>Amendments:</b>	<b>Amend Condition 7</b>
<b>Development Application:</b>	<b>DA2020/1260</b>
<b>Date of Determination:</b>	<b>05/02/2021</b>

## INTRODUCTION

On behalf of my clients Mr Christian Miles I seek Council consent pursuant to Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* to amend Development Consent DA2020/1260 relating to the construction of a detached secondary dwelling.

## BACKGROUND

Development Consent (DA DA2020/1260) for the construction of a detached secondary dwelling on the subject site was approved by Council on 05/02/2021.

The following condition was imposed:

### ***7. Amendments to the approved plans***

*The following amendments are to be made to the approved plans:*

- a) The floor plan of the secondary dwelling is to be amended so that only one bathroom is provided for use by the occupants of the secondary dwelling.*
- b) The southern side setback is to be increased to 1 metre. The height of the secondary dwelling must not be increased with this alteration to the plans.*
- c) The concrete platform in the southern western corner of the Grandview Drive frontage is to be removed and converted to landscape area. The pathway providing access to the side boundary path/ steps is to be retained.*

- d) *The deck associated with the existing spa is to be deleted and converted to landscape area.*

*Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.*

*Reason: To ensure development minimises unreasonable impacts to residential amenity and to ensure compliance with Pittwater 21 Development Control Plan*

## **PROPOSED MODIFICATION**

The proposal seeks to amend the Condition 7 of the consent to delete part (a) and read as follows:

### **7. Amendments to the approved plans**

*The following amendments are to be made to the approved plans:*

- a) *Deleted.*
- b) *The southern side setback is to be increased to 1 metre. The height of the secondary dwelling must not be increased with this alteration to the plans.*
- c) *The concrete platform in the southern western corner of the Grandview Drive frontage is to be removed and converted to landscape area. The pathway providing access to the side boundary path/ steps is to be retained.*
- d) *The deck associated with the existing spa is to be deleted and converted to landscape area.*

*Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.*

*Reason: To ensure development minimises unreasonable impacts to residential amenity and to ensure compliance with Pittwater 21 Development Control Plan*

## **LEGISLATION**

Section 4.55(1a) of the Act states:

**(1a) Other Modifications** *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*

Comment: The proposal provides for deletion of a condition to permit two bathrooms within the approved structure. There is no change to the approved envelope or footprint of the secondary dwelling and will not result in any environmental impact.

- (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*

Comment: The original consent granted approval for the construction of a detached secondary dwelling. The Consent included a condition to delete a bathroom. This application seeks to alter this condition to permit two bedrooms and does not require any changes proposed to the approved built form. These works are substantially the same development.

- (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 the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment: The application will be notified in accordance with Council guidelines.

## **JUSTIFICATION**

The proposed modification to amend Condition 7 to delete subclause (a) is considered to be justified for the following reasons:

- The inclusion of the two bathrooms does not alter the approved footprint or building envelope.
- The two bathrooms will not have any detrimental impact on the adjoining properties. Bathrooms are not high use areas and will not impact on the amenity or privacy of the adjoining properties.
- The provision of two bathrooms does not increase the density nor intensify the use.
- Whilst Clause C1.11 of the Pittwater DCP limits secondary dwellings to providing only one bathroom, there is no direct reasoning for this control. The outcomes of Clause C1.11 are still achieved with the proposed modifications in that there is no change to the approved bulk or scale, does not alter the approved footprint nor require removal of any vegetation. It does however increase the opportunity for rental accommodation to meet the stated outcomes of this clause.

- The proposed modifications do not result any impacts on the adjoining properties, character of the locality or the environment.

It is therefore considered appropriate that the request to amend Condition 7 as described be supported.

## **CONCLUSION**

For the reasons stated above it is considered that this application to modify the Consent by amending Condition 7 as described should be supported. Should you require any further information please do not hesitate to contact me.

Yours faithfully,



**Natalie Nolan**