

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2019/0211
<b>Responsible Officer:</b>	Nick Keeler
<b>Land to be developed (Address):</b>	Lot 2 DP 12074, 703 Barrenjoey Road AVALON BEACH NSW 2107 Lot 1 DP 12074, 701 Barrenjoey Road AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Modification of Development Consent N0516/17 granted for Construction of a four 4 unit Seniors Living development with basement car parking landscaping and strata subdivision
<b>Zoning:</b>	R2 Low Density Residential R2 Low Density Residential SP2 Infrastructure SP2 Infrastructure
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Aladdin (Aus) Pty Ltd
<b>Applicant:</b>	Adam Alamein
<b>Application lodged:</b>	10/05/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Seniors Living
<b>Notified:</b>	27/05/2019 to 26/06/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - D1.8 Front building line

Pittwater 21 Development Control Plan - D1.9 Side and rear building line

Pittwater 21 Development Control Plan - D1.11 Building envelope

Pittwater 21 Development Control Plan - D1.14 Landscaped Area - Environmentally Sensitive Land

## SITE DESCRIPTION

<b>Property Description:</b>	<p>Lot 2 DP 12074 , 703 Barrenjoey Road AVALON BEACH NSW 2107</p> <p>Lot 1 DP 12074 , 701 Barrenjoey Road AVALON BEACH NSW 2107</p>
<b>Detailed Site Description:</b>	<p>The subject site is identified as 701 and 703 Barrenjoey Road, Avalon Beach (Lot 1 DP 12074 and Lot 2 DP 12074) respectively. The site is triangular in shape and has two road frontages; the primary boundary is oriented towards the east and adjoins Barrenjoey Road, while the secondary boundary is oriented to the south-west adjoins Kevin Avenue; the other boundaries adjoin other residential allotments.</p> <p>The combined area of the allotments is 1069m<sup>2</sup> and is moderately sloped, with a rear-to-front (i.e. west-to-east) fall of approximately 5.3 metres between its highest and lowest points.</p> <p>703 Barrenjoey Road contains a dwelling house while 701 Barrenjoey Road contains a shed.</p> <p>The subject site is located within an R2 Low Density Residential zone, while parts of the far eastern side of the site are within an SP2 Infrastructure (Classified Road) zone. The eastern boundary adjoins an SP2 Infrastructure (Classified Road; Barrenjoey Road) zone and all other boundaries adjoin R2-zoned areas.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p>

Adjoining and surrounding development is highly diversified; areas to the east, north, west and southwest predominately contain residential development, while areas to the south-east primarily contain public reserves and vegetated areas. Other surrounding SP2 zones also contain a church/school, a day-care centre and an ambulance base.

Map:



## SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

Application **N0516/17** for Construction of a four (4) unit Seniors Living development with basement car parking, landscaping and strata subdivision was approved on 06/07/2018 by Council staff under delegated authority.

## PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify development consent N0516/17 in the following ways:

- Amend condition B22 to confirm that part of the front fence to Kevin Avenue is stone clad, consistent with the stamped approved South Elevation on drawing A-05(B), rather than all fencing to be see-through design.
- Amend condition C4 by deletion of part b) of the condition
- Amend condition C13.1 – the vehicle crossing to be 5500mm wide
- Provide greater detail to satisfy condition C13.2

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for N0516/17, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
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>Yes</b> The modification, as proposed in this application, is considered to be of minimal 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 consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under N0516/17.
(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 under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control Plan.
(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.	See discussion on "Notification & Submissions Received" in this report.

### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 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 relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No Additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 4.15 (1) (b) – the likely impacts of	(i) <b>Environmental Impact</b>



Section 4.15 'Matters for Consideration'	Comments
the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Sturt Young	4 Kevin Avenue AVALON BEACH NSW 2107
Mr Richard Huon Swanton	C/- Archisol Architects Suite 3, 23 Belgrave Street MANLY NSW 2095

The following issues were raised in the submissions and each have been addressed below:

- Traffic and parking impacts
- Impact of excavation of adjacent properties

The matters raised within the submissions are addressed as follows:

- **Traffic and parking impacts**

Concern is raised that the location of the garbage collection area will create a traffic hazard and potentially lead to the reduction of on street parking on collection days. Concerns are also raised that vehicle access to nearby properties may be impacted during construction hours.

Comment:

The waste and traffic management plans as approved under the original development application remain unchanged in this modification application.

- **Impact of excavation of adjacent properties**

Concern is raised regarding the potential impacts of excavation works on adjacent and nearby properties. It is requested that sound and vibration sensors be installed to monitor this work and Council engineers oversee the work.

Comment:

This modification application does not relate to the approved excavation of the development and cannot be considered in this assessment. It is at the discretion of the applicant to choose whether they appoint Council or a registered private certifier as the principal certifying authority of the development. All excavation and building works are to comply with the conditions of the original development consent.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	No landscape objections to the modification proposal.
NECC (Development Engineering)	<p>The following comments are provided in regards to Development Engineering matters:-</p> <ul style="list-style-type: none"> <li>• No objection is raised to amend condition 13.1 to reflect the width of vehicular crossing to be 5.5 meters wide.</li> <li>• The request to amend condition 13.2 is not supported. The condition 13.2 allows for changes should the need be required during assessment of S138 Road Act approval,</li> </ul>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and

Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

## **State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)**

### **SEPP 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

### **SEPP (Housing for Seniors or People with a Disability) 2004**

This modification application does not propose any additional physical works, therefore it is considered the initial assessment of the SEPP (Housing for Seniors or People with a Disability) 2004 detailed within the assessment report of development application N0516/17 is sufficient and no further assessment of this matter is required as a result.

### **SEPP (Infrastructure) 2007**

#### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

#### Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.



## Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

### Principal Development Standards

Development Standard	Requirement	Approved	Proposed	Complies
Height of Buildings:	8.5m	8.255m	No change	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.1A Development on land intended to be acquired for public purpose	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	Primary - 10m	10m	Unaltered	Yes, as approved
	Secondary - 5m	Building line - 2.8m	Unaltered	Yes, as approved
		Waste storage area - Nil	Unaltered	Yes, as approved
Rear building line	Site has no rear boundary	N/A	N/A	N/A
Side building line	N - 4.2m	1.5m	Unaltered	Yes, as approved
Building envelope	N - 3.5m	Outside envelope	Unaltered	Yes, as approved
Landscaped area	60% (359.5m <sup>2</sup> )	47.1% (504m <sup>2</sup> )	Unaltered	Yes, as approved

## Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.21 Seniors Housing	Yes	Yes
C1.23 Eaves	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	No	Yes
D1.14 Landscaped Area - Environmentally Sensitive Land	No	Yes
D1.15 Fences - General	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

## Detailed Assessment

### D1.8 Front building line

No change to approved front building line.

### D1.9 Side and rear building line

No change to approved northern side boundary setback.

### D1.11 Building envelope

No change to approved building envelope encroachment.

#### **D1.14 Landscaped Area - Environmentally Sensitive Land**

No change to approved landscaped area.

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

#### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

#### **POLICY CONTROLS**

##### **Northern Beaches Section 7.12 Contributions Plan 2019**

Section 7.12 contributions were levied on the Development Application.

#### **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

#### **RECOMMENDATION**

THAT Council as the consent authority grant approval to Modification Application No. Mod2019/0211 for Modification of Development Consent N0516/17 granted for Construction of a four 4 unit Seniors Living development with basement car parking landscaping and strata subdivision on land at Lot 2 DP 12074,703 Barrenjoey Road, AVALON BEACH, Lot 1 DP 12074,701 Barrenjoey Road, AVALON BEACH, subject to the conditions printed below:

**A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A.01 Issue D	6 May 2019	Gartner Trovato Architects

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

**B. Modify Condition B22 to read as follows:**

All boundary fencing to the Kevin Avenue and Barrenjoey Road street frontages, with the exception of the stone fence as shown in the south elevation to Kevin Avenue, is to be of a see-through design and be finished with dark and earthy tones; and landscaping treatments between fencing and property boundaries are to include species that are capable of growing to heights that can conceal the boundary fences.

**C. Modify Condition C13.1 to read as follows:**

The provision of a vehicle crossing 5.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/3 and specifications. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

**D. Delete Condition C4.b**

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Nick Keeler, Manager Development Assessments**

The application is determined on 16/08/2019, under the delegated authority of:



**Anna Williams, Manager Development Assessments**