

5 August 2021

Northern Beaches Council
PO Box 82
MANLY NSW 1655

Dear Sir/Madam,

SECTION 4.55(1a) APPLICATION

Premises:	Lot 1 in DP 362530, No. 93 Warriewood Road, Warriewood
Amendments:	Amend Right of Carriageway
Development Application:	N0253/11 (As modified)
Date of Determination:	13/03/2011 (As modified 04/02/21)

INTRODUCTION

On behalf of the Mr Patrick Lanzon I seek Council consent pursuant to Section 4.55(1a) of the *Environmental Planning & Assessment Act 1979* to amend Development Consent N0253/11 relating to the subdivision of the site into two allotments and construction of a new dwelling and secondary dwelling on the rear allotment.

BACKGROUND

Development Consent was granted for the subdivision of the subject lot into two allotments and construction of a dwelling house and secondary dwelling on the rear allotment. The dwelling and secondary dwelling were constructed, however the subdivision has not been registered. The consent has been activated.

An application to modify the Consent and amend the boundary line was approved (Mod2020/0444) on 04/02/2021.

This Section 4.55(1a) application carries out a detailed assessment against the relevant provisions of the Pittwater LEP and DCP. It is considered that the proposed amendment is consistent with the relevant planning controls and is worthy of the approval.

PROPOSED MODIFICATION

This proposal seeks to extend the right of carriageway to include the existing sewer inspection shaft for Lot 1 to be within the boundaries of Lot 1. As currently approved the sewer inspection shaft for Lot 1 is located within the boundaries of Lot 2.

The existing and proposed realignment of the right of carriageway is depicted in the Plan of Subdivision prepared by George Owusu-Afriyie, Ref No. 20046 and dated 01/03/2021.

The modification is summarized below:

	Approved	Proposed
Rear Lot 2	869.3m ²	852.2m ²
Front Lot 1	552m ² (incl access handle)	569.3m ² (excl access handle)

LEGISLATION

Section 4.55(1a) of the Act states:

(1a) Modifications involving minimal environmental impact

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 original consent granted approval for subdivision of the site into two allotments and construction of a new dwelling and secondary dwelling. This application does not amend the approved and constructed built form, rather it seeks for a boundary realignment to ensure the sewer inspection shaft for Lot 1 is contained within the boundaries of Lot 1. This is of minimal environmental impact, if any.

- (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: As detailed above there are no changes proposed to approved built form. This application seeks to realign the boundary for the right of carriageway to ensure the sewer inspection shaft is within the correct allotment. Therefore, the proposal results in 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.

LEGISLATION

Pittwater Local Environmental Plan 2014

The site is zoned R3 Medium Density Residential and subdivision is permitted subject to clause 2.6 of the LEP.

Clause 6.1 provides Development Standards for the Warriewood Release Area. The clause does not specify a minimum allotment size for the subject site, rather it limits the number of dwellings within the sector. The proposed boundary realignment does not amend the approved dwelling entitlement.

JUSTIFICATION

The proposed amendment to the boundary alignment is considered to be justified for the following reasons:

- The proposal does seek to alter the approved built form, rather it just seeks to amend the boundary alignment to ensure that the sewer inspection shaft for Lot 1 is contained within the boundaries of Lot 1. As such there is no detrimental impact on the adjoining properties or the character of the locality.
- There is no minimum allotment size specified for this allotment in the PLEP.
- It has been demonstrated (as per separate Development Consent DA2020/1109) that the front allotment can support a dwelling house which meets the objectives of the DCP.

It is therefore considered appropriate that the request to amend the subdivision boundary should be supported.

CONCLUSION

For the reasons stated above it is considered that this application to amend the boundary alignment should be supported. Should you require any further information please do not hesitate to contact me.

Yours faithfully,



Natalie Nolan