

21 August 2020

Northern Beaches Council  
PO Box 82  
MANLY NSW 1655

Dear Sir/Madam,

## **SECTION 4.55(1a) APPLICATION**

|                                 |   |
|---------------------------------|---|
| <b>Premises:</b>                | <b>Lot 1 in DP 362530, No. 93 Warriewood Road, Warriewood</b> |
| <b>Amendments:</b>              | <b>Delete Condition 4</b>                                     |
| <b>Development Application:</b> | <b>N0253/11 (As amended)</b>                                  |
| <b>Date of Determination:</b>   | <b>13/03/2011 (As amended)</b>                                |

## **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.

This application seeks to amend the approved boundary between the two approved allotments.

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 approved boundary between the two allotments. The stamped approved subdivision plan (prepared by Adam Clerke Surveyors Pty Ltd) and the proposed amended plan prepared by Gebern Surveys are included with the application.

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The modification is summarized below:

|           | Approved                               | Proposed                                 |
|-----------|--|--|
| Rear Lot  | 817m <sup>2</sup>                      | 868.7m <sup>2</sup>                      |
| Front Lot | 550m <sup>2</sup> (excl access handle) | 466.3m <sup>2</sup> (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 more compatible with the built form and topography. This is 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 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. 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. 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 Application) that the front allotment can support a dwelling house which meets the objectives of the DCP.
- The realignment allows for an additional parking space on the rear allotment. The site is located on a high use road with minimal on street parking. This will assist in alleviating the need for on street parking.

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**