

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0344
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Responsible Officer:	Jordan Davies
Land to be developed (Address):	Lot 1 DP 202857, 7 Trentwood Park AVALON BEACH NSW 2107
Proposed Development:	Modification of Development Consent N0530/15 granted for subdivision of one lot into three, demolition of existing detached garage and extension of existing access road to provide access to new lots
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	James Brian Dargaville Margot Christina Dargaville
Applicant:	James Brian Dargaville

Application Lodged:	31/07/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	07/08/2020 to 21/08/2020
Advertised:	07/08/2020
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for the modification of development consent N0530/15 which approved a three (3) lot subdivision at the subject land and construction of an access driveway for the rear two lots.

The modification seeks to amend the development consent to allow for staging of the subdivision in the following way:

- Stage 1 - Creation of lot 1 (front lot) and remainder as a residue lot containing the existing dwelling.
- Stage 2 - Creation of lots 2 and 3 and construction of the access driveway to provide for lots 2 and 3.

The modification also allows for the minor reconfiguration of the western boundary of lot 1 to provide a

more functional lot geometry for the future dwelling upon lot 1.

It is noted that the subject modification does not result in any additional tree removal, additional works or will result in any additional environmental impact not already considered under the previous development consent and the subsequent dwelling approval which has been granted on Lot 1.

The modification allows for the staging of the subdivision to occur at a time which is suitable for the applicant. The subdivision will not interfere with the orderly development of the land, with the necessary servicing being provided to Lot 1 during stage 1, and the remainder of the required services being able to be provided to lots 2 and 3 during stage 2.

Amendment to Consent Conditions

The development consent N0530/15 has been amended to provide for staging of the subdivision. This includes the amendment of the consent in the following way:

1. Section A - Amendment to plan references to provide updated subdivision plan showing stage 1 and stage 2, as well as engineering plans required to be included by Council's Engineer.
2. Section B - All conditions within section B remain unchanged.
3. Section C - Section C has been amended to reference all the required conditions prior to the issue of a construction certificate, as relevant for Stage 1.
4. Section C2 - Section C2 has been created to reference all the required conditions prior to the issue of a construction certificate, as relevant for Stage 2.
5. Section D - All condition within section B remain unchanged.
6. Section E - No conditions are contained within section E, as per original.
7. Section F - Section F has been amended to reference all the required conditions prior to the issue of the subdivision certificate, as relevant for Stage 1.
8. Section F2 - Section F2 has been created to reference all the required conditions prior to the of the subdivision certificate fore Stage 2.

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.

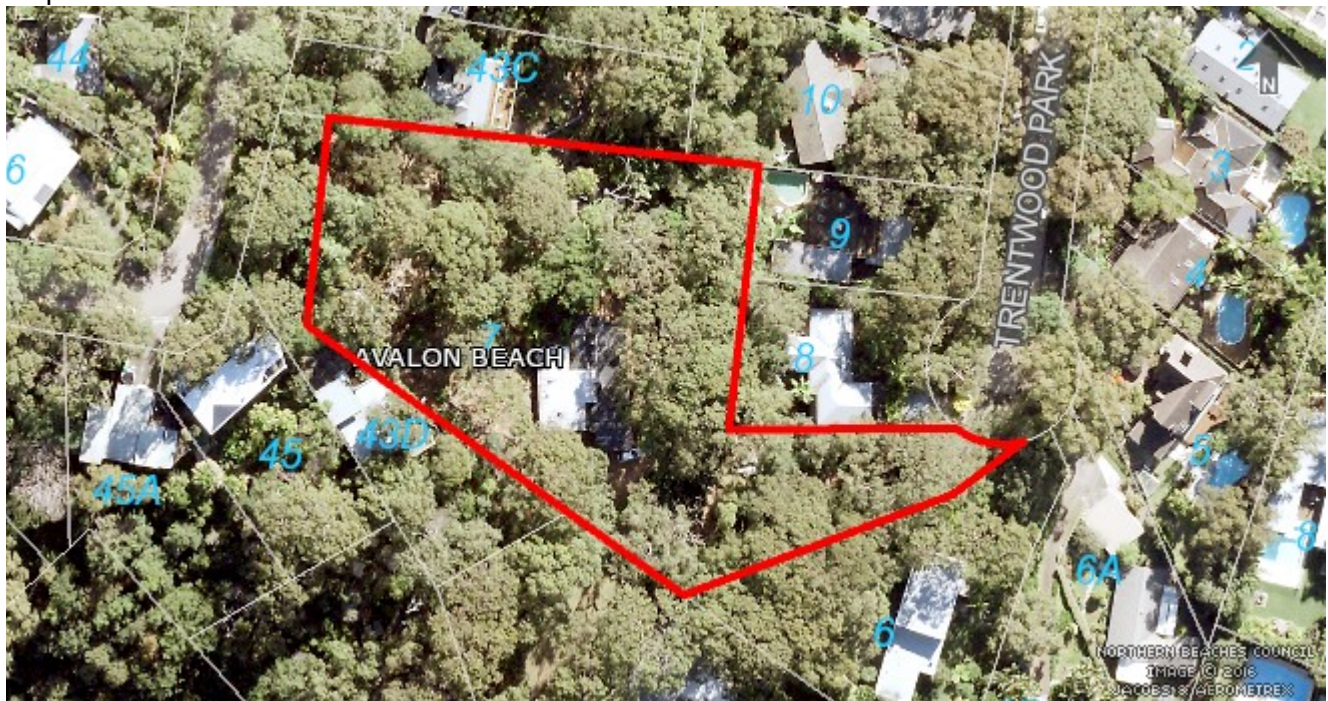
SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 1 DP 202857 , 7 Trentwood Park AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Trentwood Park, Avalon Beach.</p> <p>The site is irregular in shape with a frontage of 12.79m along the cul-de-sac of Trentwood Park and a surveyed area of 5,417m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a detached dwelling house and garage.</p> <p>The site is heavily vegetated with a slope of approximately 39m from the west (rear) to east (front).</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached dwelling houses. To the south of the site is heritage-listed Ruskin Rowe Heritage Conservation Area.</p>

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 **DA2019/0395** for Construction of a dwelling house was approved by Northern Beaches Council on 07/08/2019.

Application **DA2019/0394** for Construction of a dwelling house was approved by Northern Beaches Council on 13/09/2019.

Application **Mod2019/0169** for Modification of Development Consent N0530/15 granted for subdivision of one lot into three demolition of existing detached garage and extension of existing access road to provide access to new lots was approved by Northern Beaches Council on 26/07/2019.

Application **DA2019/0393** for Subdivision of one lot into two was approved by Northern Beaches Council on 01/10/2019.

Application **N0530/15** for Subdivision of one lot into three, demolition of existing detached garage and extension of existing access road to provide access to new lots was approved through the Land and Environment Court of NSW on 15/11/2017.

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 N0530/15, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.56 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.56- Other Modifications	Comments
(1) 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 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 N0530/15. The modification does not involve any additional

Section 4.56- Other Modifications	Comments
	environmental impact including additional tree removal, engineering works or site disturbance as a result of the modifications. The modifications amend the timing of the subdivision works to allow for staging.
(b) 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 21 Local Environment Plan 2011 and Pittwater 21 Development Control Plan.
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of N0530/15.
(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.	No submissions were received in relation to this application.

Section 4.15 Assessment

In accordance with Section 4.56 of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 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 79C '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 79C 'Matters for Consideration'	Comments
<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)</p>	<p><u>Division 8A</u> of the EP&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&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&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to updated staging plan.</p> <p><u>Clause 92</u> of the EP&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&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&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> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) 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) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p>

Section 79C 'Matters for Consideration'	Comments
	(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document titled Planning for Bush Fire Protection. A Bush Fire Report was submitted for the conciliation conference of the original application (prepared by Bushfire Protection Planners Pty Ltd dated 24 August 2017) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report and the recommendations by the NSW Rural Fire Service were included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 07/08/2020 to 21/08/2020 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	The proposed modification will not result in additional biodiversity impacts above that of the previous consent.
NECC (Development Engineering)	<p>The submitted staged subdivision plans are satisfactory.</p> <p>The consent must be reconfigured to suit the staging of the consent. The following conditions have been provided to suit the staging and will require input from Planning and Biodiversity prior to approval.</p> <p>The proposed modification to stage the consent is supported subject to the following amended and additional conditions of consent.</p>

Internal Referral Body	Comments
	<p>A. Prescribed Conditions:</p> <p><u>Plans</u></p> <ul style="list-style-type: none"> · Stage 1 subdivision plan · Stage 2 subdivision plan · plan of the drainage connection from the site to the existing Council pit in Trentwood Park must be provided and listed in this section. <p>B. Matters to be incorporated into the development and maintained over the life of the development:</p> <p>All conditions to remain unchanged.</p> <p>C. Matters to be satisfied prior to the issue of the Construction Certificate:</p> <p>Stage 1: Creation of Proposed Lot 1 and Residue Lot 2</p> <ol style="list-style-type: none"> 1. Planning to determine appropriate Section 94 fees associated with this stage. 2. Remains unchanged. 3. Remains unchanged.

Internal Referral Body	Comments
	<p>4. Remains unchanged.</p> <p>5. Remains unchanged.</p> <p>6. Engineering plans including specifications and details of all required future services including water, sewer, electricity, telecommunications, gas etc., within the proposed handle to residue Lot 2 along the northern boundary of proposed Lot 1, and the structural slab details for the proposed bin stand area within proposed lot 1, and the driveway slab within the proposed right of way burdening proposed lot 1 are to be submitted to the Accredited Certifier or Council with the Construction Certificate application for Stage 1. Such details are to be accompanied by a certification by a qualified experienced practicing Civil Engineer with corporate membership of Engineers Australia or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with the relevant Australian Standards and Pittwater 21 DCP 2014.</p> <p>7. Prior to the issue of the Construction Certificate for Stage 1, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.</p> <p>8. Planning to determine the relevance of this condition.</p> <p>9. Planning or Biodiversity to determine relevance of this condition.</p> <p>10. Drainage plans including specifications and details showing the stormwater system within the proposed handle to residue Lot 2 along the northern boundary of proposed Lot 1 are to be submitted to the Accredited Certifier for approval prior to the issue of the Construction Certificate. Such details are to be accompanied by a certificate from (as appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of Engineers Australia, or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage. The details shall include disposal of site storm water (if the site is in a known slip area the stormwater disposal system must comply with</p>

Internal Referral Body	Comments
	<p>the recommendations of a Geotechnical Engineers Report).</p> <p>11. Remains unchanged.</p> <p>12. Planning to decide if this condition is warranted for this stage.</p> <p>13. Remains unchanged.</p> <p>Stage 2: Creation of Proposed Lots 2 and 3 from Residue Lot 2. (Repeat of conditions C1 to C13 from original consent but renumbered and amended to suit)</p> <p>14. Planning to determine appropriate Section 94 fees associated with this stage.</p> <p>15. Remains unchanged.</p> <p>16. Remains unchanged.</p> <p>17. Remains unchanged.</p> <p>18. Remains unchanged.</p> <p>19. Remains unchanged.</p> <p>20. Prior to the issue of the Construction Certificate for Stage 2, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.</p>

Internal Referral Body	Comments
	<p>21. Planning to determine the relevance of this condition.</p> <p>22. Planning or Biodiversity to determine relevance of this condition.</p> <p>23. Drainage plans including specifications and details showing the stormwater management system within the proposed handle of residue lot 2 along the southern boundary of proposed lot 1 are to be submitted to the Accredited Certifier for approval prior to the issue of the Construction Certificate. Such details are to be accompanied by a certificate from (as appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of Engineers Australia, or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage. The details shall include disposal of site storm water (if the site is in a known slip area the stormwater disposal system must comply with the recommendations of a Geotechnical Engineers Report).</p> <p>24. Remains unchanged.</p> <p>25. Planning to decide if this condition is warranted for this stage.</p> <p>26. Remains unchanged.</p> <p>New Condition</p> <p>27. The Applicant is to provide a stormwater drainage application under Section 68 of the Local Government Act 1993 to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the drainage connection from the site to the existing Council drainage pit in Trentwood Park which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website using the following link.</p>

Internal Referral Body	Comments
	<p data-bbox="469 387 1437 488">https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/stormwater-drainage-approval/4022-stormwater-drainage-approval.pdf</p> <p data-bbox="469 600 1437 741">The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for Stage 2.</p> <p data-bbox="469 853 1437 920">D. Matters to be satisfied prior to the commencement of works and maintained during the works:</p> <p data-bbox="469 1032 1437 1066">All conditions remain unchanged.</p> <p data-bbox="469 1245 1437 1312">F. Matters to be satisfied prior to the issue of Subdivision Certificate:</p> <p data-bbox="469 1424 1437 1458">Stage 1: Creation of Proposed Lot 1 and Residue Lot 2</p> <ol data-bbox="469 1570 1437 2107" style="list-style-type: none"> <li data-bbox="469 1570 1437 1603">1. Remains unchanged. <li data-bbox="469 1715 1437 1827">2. a) i. and ii. To remain unchanged. iii. Deleted. b) Remains unchanged. <li data-bbox="469 1939 1437 2107">3. A Certificate is to be submitted by a qualified experience practicing Civil Engineer with corporate membership of Engineers Australia, or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater system approved in the Stage 1 Construction Certificate

Internal Referral Body	Comments
	<p>complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage.</p> <p>4. Remains unchanged.</p> <p>5. Deleted.</p> <p>6. A Certificate is to be submitted to the Principal Certifying Authority with the Subdivision Certificate application by a qualified practicing Civil Engineer with corporate membership of Engineers Australia, or who is eligible to become a corporate member and has appropriate experience and competence in the related field confirming to the satisfaction of the Principal Certifying Authority that the bin stand area and driveway within the proposed right of way within proposed Lot 1 have been constructed in accordance with the approved Stage 1 Construction Certificate plans and relevant conditions of Development Consent.</p> <p>7. Remains unchanged.</p> <p>8. Remains unchanged.</p> <p>9. Remains unchanged.</p> <p>10. Delete the reference to Lot 3 but the remainder remains unchanged.</p> <p>11. Remains unchanged.</p> <p>12. Remains unchanged.</p>

Internal Referral Body	Comments
	<p>13. Planning and Biodiversity to determine if this conditions is warranted for this stage.</p> <p>14. Planning and Biodiversity to determine if this conditions is warranted for this stage.</p> <p>15. Planning and Tree Officer to determine if this condition is warranted for this stage.</p> <p>16. Remains unchanged.</p> <p>17. Deleted for this stage.</p> <p>18. Remains unchanged.</p> <p>19. Planning and Tree Officer to determine if this condition is warranted for this stage.</p> <p>20. Remains unchanged.</p> <p>Stage 2: Creation of Proposed Lot 2 and Lot 3 (Repeat of conditions F1 to F20 from original consent but renumbered and amended to suit)</p> <p>21. Remains unchanged.</p> <p>22. a) i. and ii. and iii. To remain unchanged. b) Remains unchanged.</p> <p>23. A Certificate is to be submitted by a qualified experience practicing Civil Engineer with corporate membership of Engineers Australia, or who</p>

Internal Referral Body	Comments
	<p>is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater system approved in the Stage 1 Construction Certificate and S68 approval by Council complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage and Council's Specifications.</p> <p>24. Remains unchanged.</p> <p>25. Remains unchanged.</p> <p>26. A Certificate is to be submitted to the Principal Certifying Authority with the Subdivision Certificate application by a qualified practicing Civil Engineer with corporate membership of Engineers Australia, or who is eligible to become a corporate member and has appropriate experience and competence in the related field confirming to the satisfaction of the Principal Certifying Authority that the driveway within the proposed right of way within proposed Lots 2 and 3 has been constructed in accordance with the approved Stage 2 Construction Certificate plans and relevant conditions of Development Consent.</p> <p>27. Remains unchanged.</p> <p>28. Remains unchanged.</p> <p>29. Remains unchanged.</p> <p>30. Delete the reference to Lot 1 but the remainder remains unchanged.</p> <p>31. Remains unchanged.</p> <p>32. Remains unchanged.</p>

Internal Referral Body	Comments
	<p>33. Planning and Biodiversity to determine if this conditions is warranted for this stage.</p> <p>34. Planning and Biodiversity to determine if this conditions is warranted for this stage.</p> <p>35. Planning and Tree Officer to determine if this condition is warranted for this stage.</p> <p>36. Remains unchanged.</p> <p>37. Remains unchanged.</p> <p>38. Remains unchanged.</p> <p>39. Planning and Tree Officer to determine if this condition is warranted for this stage.</p> <p>40. Remains unchanged.</p>
Strategic and Place Planning (S94 Warriewood Valley)	<p>Modification application (Mod2020/0344) seeks approval to modify the conditions of consent N0530/15 to allow the development to be staged. It is understood that the subdivision is to be undertaken in two stages as per updated plans TRIM: 2020/739917, to show:</p> <p>Stage 1 - subdivision of two lots – Lot 1 and superlot (Lot 2)</p> <p>Stage 2 – resubdivision of approved Lot 2 (created in Stage 1) into two lots (shown on the plans as Lots 2 and 3, with a site area of 2963m² and 1621m² respectively) and the construction of driveways for same.</p> <p>Lot 1 will have direct vehicle access from Trenwood Park and existing services in Trentwood Park need be connected to Lot 1. Therefore,</p>

Internal Referral Body	Comments										
	<p>physical works will be required to facilitate the first stage of subdivision. Consent N0530/15 includes conditions of regarding establishment of service connections to the proposed lots.</p> <p>Development Chronology</p> <p>1. N0530/15 sought consent to subdivide an existing allotment (Lot 1 within DP 202857 into three lots, including demolition of a detached garage and the extension of the existing driveway to provide common driveway access to the three allotments. The subdivision of the lot would create two additional allotments which would be developed for residential purposes. The application was approved on 10 November 2017.</p> <table data-bbox="635 808 1315 1025"> <thead> <tr> <th>Proposed Lot Number</th><th>Total Area</th></tr> </thead> <tbody> <tr> <td>(Approved under N0530/15)</td><td></td></tr> <tr> <td>Lot 1</td><td>883.5sqm</td></tr> <tr> <td>Lot 2</td><td>2,952.2sqm</td></tr> <tr> <td>Lot 3</td><td>1,582.5sqm</td></tr> </tbody> </table> <p>Condition C1 of N0530/15 imposes the payment of development contributions attributable to residential development, in accordance with Pittwater Section 94 Contributions Plan for Residential Development (being in force on 7/11/2015). Condition C1 reads as follows:</p> <p><i>1. A contribution of \$40, 000 is payable to Northern Beaches Council for the provision of public infrastructure and services pursuant to the Pittwater Section 94 Contributions Plan for Residential Development.</i></p> <p><i>The contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate (whichever occurs first) or prior to the issue of the subdivision certificate where no construction certificate is required.</i></p> <p><i>The proponent may negotiate with Council for the direct provision of facilities and services specified in the Section 94 Plan, the dedication of land or another material public benefit in lieu of full or partial payment of the monetary contribution. Any agreement shall be in accordance with the Pittwater Section 94 Contributions Plan for Residential Development. The agreement must be finalised, formally signed and in place prior to payment being due.</i></p> <p><i>The Pittwater Section 94 Contributions Plan for Residential Development may be inspected at Council's Mona Vale office. 1 Park Street Mona Vale or on Council's website.</i></p>	Proposed Lot Number	Total Area	(Approved under N0530/15)		Lot 1	883.5sqm	Lot 2	2,952.2sqm	Lot 3	1,582.5sqm
Proposed Lot Number	Total Area										
(Approved under N0530/15)											
Lot 1	883.5sqm										
Lot 2	2,952.2sqm										
Lot 3	1,582.5sqm										

Internal Referral Body	Comments
	<p><i>Cashier Codes:</i></p> <p><i>SOPS - \$16, 000</i> <i>SLEL - \$4, 000</i> <i>SCSF - \$ 7, 000</i> <i>SVSS - \$13, 000</i></p> <p>2. Mod2019/0169 sought consent to modify N0530/15 and was approved on 26/07/2019 Mod2019/0169 sought creation of 1m wide service/ access handles from proposed Lots 2 and 3 to the Trentwood Park frontage to enable the efficient and separate servicing of each allotment without the need for easements. The contribution condition C1 of N0530/15, which relates to contribution payment, remained unchanged.</p> <p>3. A separate Development Application was lodged on 16/04/2019 for Torrens Title Subdivision of approved but unregistered allotment (approved Lot 2 under N0530/15) to create an additional allotment (proposed Lot 4) and to create a service handle to the Trentwood Park frontage through approved Lot 1. A deferred commencement consent was issued on 01/10/2019. The deferred commencement condition reads as follows:</p> <p><i>1. Registration of Lots</i></p> <p><i>The lots approved under Development Consent N0530/15 and as modified by MOD2019/0169 are to be registered with NSW Land Registry Services. Evidence that the lots have been registered with NSW Land Registry Services is to be provided to Council in order to activate the consent.</i></p> <p><i>Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.</i></p> <p><i>Upon satisfaction of the deferred commencement condition/s, the following conditions apply:</i></p> <p>Applicable development contribution plan at the time of determination was Northern Beaches Section 7.12 Contributions Plan 2019 (being in force from 13/07/2019). No contribution condition was imposed as the costs of work for the development was less than \$100,000.00.</p>

Internal Referral Body	Comments
	<p><i>Assessment of the Modification (Mod2020/0344)</i></p> <p>The modification application requests condition C1 to be modified to allow the Contribution payment to be staged in accordance with the staging of the development. The contribution amount is to be modified to facilitate the separate subdivision of Lot 1.</p> <p>At the time of consent, 10 November 2017, Pittwater Section 94 Contributions Plan for Residential Development was the applicable Contributions Plan imposing a contribution rate of \$20,000 per new residential lot/new dwelling.</p> <p>Although the Northern Beaches Section 7.12 Contributions Plan 2019 repealed Pittwater Section 94 Contributions Plan for Residential Development on 13/07/2019, this application will continue to be considered against the contribution plan in force at the time of the original determination. Being Pittwater Section 94 Contributions Plan for Residential Development.</p> <p>Based on the staging sequence for the Modification Application and the applicant's proposed change to Condition C1 "to allow the Section 94 payment for Lot 1 to be paid prior to the issue of the Subdivision Certificate for Lot 1"; the proposed staging of payment is supported subject to the following matters being supported by the Assessment Planner:</p> <ol style="list-style-type: none"> 1. The description of the approved development clearly states this is a subdivision in Stages, and expressly stating the description of each Stage. 2. There are no works requiring to be completed or would be the subject of a Construction Certificate prior to the issue of a Subdivision Certificate that will create Lot 1. In the event that works are required to be completed/ a Construction Certificate is required to facilitate proposed Stage 1, the condition is being amended to account for this scenario. <p>Stage 1 – Subdivision to create one residential lot (Lot 1) and one lot for future subdivision – will involve the payment of \$20,000 to council</p> <p>Stage 2 – resulting in the subdivision of the superlot into 2 residential allotments (less credit for an existing allotment) – will involve the payment of \$20,000.00 to council.</p> <p>Condition C1 is amended accordingly.</p> <p>Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.</p>

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 (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
 - (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) *the carrying out of any of the following:*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,*
 - (d) *any other development.*

Comment:

Land is not within coastal wetlands or littoral rainforest area.

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*

- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
- (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

The land is partially within littoral rainforest proximity area. The subject modification to allow for staging does not further impact upon the matters listed in (a) or (b). Council's engineers and biodiversity team have reviewed the proposal and are satisfied with regards to stormwater and runoff.

12 Development on land within the coastal vulnerability area

Development consent must not be granted to development on land that is within the area identified as "coastal vulnerability area" on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
 - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
 - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.*

Comment:

Not within coastal vulnerability area.

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

Land is not within coastal environment area.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

Not within coastal environment area.

14 Development on land within the coastal use area

- (1)
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
 - (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*

- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

Not within coastal use area.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

Does not increase coastal hazards.

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	% Variation	Complies
Minimum subdivision lot size:	700sqm	Lot 1: 879sqm (excluding access)	Lot 1: 833.7sqm (excluding access)	N/A	Yes
		Lot 2: 2676sqm (excluding access)	Lot2: 2609sqm (excluding access)		
		Lot 3: 1389sqm (excluding access)	Lot 3: 1451sqm (excluding access)		

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes

Clause	Compliance with Requirements
4.1 Minimum subdivision lot size	Yes
5.10 Heritage conservation	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A4.1 Avalon Beach Locality	Yes	Yes
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B2.2 Subdivision - Low Density Residential Areas	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B4.1 Flora and Fauna Conservation Category 1 Land	Yes	Yes
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
C4.1 Subdivision - Protection from Hazards	Yes	Yes
C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities	Yes	Yes
C4.5 Subdivision - Utility Services	Yes	Yes
C4.7 Subdivision - Amenity and Design	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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. Mod2020/0344 for Modification of Development Consent N0530/15 granted for subdivision of one lot into three, demolition of existing detached garage and extension of existing access road to provide access to new lots on land at Lot 1 DP 202857,7 Trentwood Park, AVALON BEACH, subject to the conditions printed below:

A. The modified conditions of Consent are attached to this Notice of Determination under TRIM Document #2020/783767. Refer to this document for full set of modified conditions to enable staging of subdivision.

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

Signed



Jordan Davies, Planner

The application is determined on 16/12/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments