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Tony Sattler
Principal

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28 March 2020

The General Manager
Northern Beaches Council
PO Box 82 Manly
NSW 1655

Dear Sir

**Re: APPLICATION TO MODIFY DEVELOPMENT CONSENT
DA N0516/17
PROPERTY – 701 & 703 Barrenjoey Road, Avalon.**

STATEMENT OF MODIFICATION & ENVIRONMENTAL EFFECTS

We act for the owners of the above land and are instructed to lodge this section 4.55(1A) application on their behalf to modify the above development consent.

The development consent is for the construction of a modest 4 lot Seniors Living development.

The site is zoned R2 residential under Pittwater Local Environmental Plan 2014 and Pittwater 21 Development Control Plan.

The development remains permissible under the zone. The requested modification to DA N0516/17 does not contravene any provision within the Pittwater LEP or DCP.

This s.4.55(1A) application requests a modification to the consent by way of deletion of condition B13.

REQUESTED MODIFICATION:

- o The existing consent in relation to DA N0516/17 contains condition of consent No. B13 which says:

"All utility services including overhead power supply and communications cables located in the adjacent road verge and those to service the development are to

be placed and/or relocated underground for the total frontage of the development site to any public road at the full cost to the developer".

The applicant seeks to have this condition amended so that only electricity and communications cables to service the development are to be placed and /or located underground **within** the site.

The condition should therefore be amended to read:

B13

"All utility services including power supply and communications cables specifically to service the development and not being a part of the public infrastructure are to be placed and/or relocated underground within the boundaries of the development site."

REASONS:

Condition of consent (B13) would require the removal of 2 spans of overhead cable – (pole PB62501 and including pole PB96065 and Street Lighting (pole PB6065) at the frontage to 701-703 Barrenjoey Road, Avalon. The public benefit achieved by the imposition of the condition is minimal and is outweighed by the cost burden to the applicant. This extent of cabling brings this application within the exception in C1.20 – Undergrounding of Utility services – Pittwater 21 DCP, and we apply to the Council to exercise this discretion in favour of the applicant and amend condition B13.

The control that is the subject of this application is within C1.20 - says:

"all existing and proposed utility services to the site, or adjacent to the site within a public road reserve, are to be placed underground for the total frontage of the site to any public road".

Also – **Variations** within C1.20 say:

"Based on technical practicalities and advice from the energy supplier the merit for not proceeding with undergrounding of utility services will be considered for the following circumstances subject to achieving the outcomes of this control:

- Electricity wires carrying 16,000 volts, 33,000 volts or more, and/or
- Short lengths of overheads of two spans or less"

The applicant's request therefore enlivens the discretion or variation within the second bullet point to the C1.20 control.

As this application fits within the 'variation' we initially did not provide an advice from an energy supplier as the initial 4.55 application was able to be assessed without such a report. However for completeness please also see enclosed with this application a letter from Blackwood Electrical Services advising against interference with the existing infrastructure.

The outcomes of the controls are met – as follows:

- Visual pollution by aerial cables is reduced:

Comment: - Condition B13 would not remove the greater and significant cluster of overhead wires to the south of the subject property on Barrenjoey Road at pole PB62501 which prior to continuing in a northerly direction across Kevin Avenue diverts wires across Barrenjoey Road to North Avalon. The contribution to this Outcome would be de minimis or minimal.

- Improved Safety by removal of visual clutter:

Comment:- As above the removal of visual clutter can not be improved by a condition that can do nothing about the greater and more vast extent of overhead wires immediately to the south of Kevin Avenue. As regards safety, while poles and wires are above ground at least they are visible and can not be come into contact with by accident by excavating, landscaping or other services maintenance, building and gardening undertakings.

- Opportunities for street tree planting is enhanced:

Comment:- There remains ample opportunity for street tree planting to occur. Further the subject site will be landscaped as per its development consent therefore enhancing streetscape and vegetation canopy along Barrenjoey Road will be achieved.

- Safety of Building occupants is maintained and enhanced:

Comment:- This outcome is better met by leaving the poles and wires as they are - see last sentence of bullet point 2 above.

- Security of utility services is improved:

Comment:- This is a responsibility of the owner of the infrastructure. On the Northern Beaches of Sydney it is Ausgrid. Ausgrid purchased the electricity infrastructure off the NSW State and a part of that contract was the acceptance of maintenance and security obligations. At the time this control was drafted into the DCP the electricity infrastructure was State owned and obviously an arm of the State ie, Pittwater Council was tasked with improving streetscapes whilst minimising State expenditure. This chain of 'duty' and delegation is now not what it once was and the Council should not seek to place the expense and burden of security of electrical infrastructure onto individual citizens when a large private corporate entity now has ownership. In fact to do so could amount to a breach of the Environmental Planning and Assessment Act 1979 – where to mandate an obligation that is not supported by the Act is in fact a breach of the Act.

- Design and construction of the undergrounding is funded by the developer:

Comment:- This is answered within the comments above.

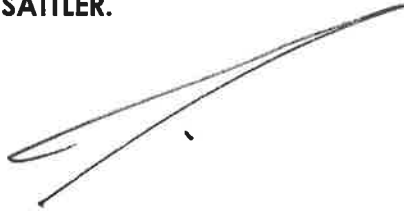
Council can be satisfied that the proposed modification is of minimal

environmental impact, and that the development to which the consent as modified will be substantially the same development as the development for which the consent was originally granted. Council's consent to this application is warranted.

If you have any questions or require any further information in order to advance the assessment of this application then do not hesitate to contact Tony Sattler of this office.

Yours Faithfully

SATTLER & ASSOCIATES
TONY SATTLER.

A handwritten signature in black ink, consisting of several overlapping, sweeping lines that form a stylized representation of the name 'Tony Sattler'.