

31 October 2017

Lashta Haidari
Senior Development Planner
725 Pittwater Road,
DEE WHY, NSW 2099

Dear Lashta,

RE: SECTION 96 (1A) MODIFICATION APPLICATION: REMOVAL OF BUS BAY DROP OFF AREA – 36-48 KINGSWAY, DEE WHY (DA 2014/0344)

This application has been prepared by Ethos Urban on behalf of Northern Beaches Council, pursuant to section 96(1A) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify Development Consent DA2014/0344, relating to 36-48 Kingsway, Dee Why (the site). The consent relates to the construction of a multi-purpose community facility with associated car parking, signage and landscaping works.

This modification seeks to remove the bus bay drop off area located on the Fisher Road frontage from the consent. The bus bay is proposed to be removed as it cannot be constructed due to the location of Sydney Water infrastructure within the road carriageway and it is not a necessary component to the efficient and safe operation of traffic along Fisher Road.

This application identifies the consent, describes the proposed modification and provides an assessment of the relevant matters contained in Section 96(1A) of the EP&A Act. This application is accompanied by:

- Amended Architectural Plans prepared by Frances-Jones Morehen Thorp PTY LTD (**Attachment A**);
- Traffic Statement prepared by Taylor Thomson Whitting (**Attachment B**); and
- Amended Civil and Traffic Plans prepared by Taylor Thompson Whitting (**Attachment C**).

1.0 Consent Proposed to be Modified

Development consent DA2014/0344 was granted by the Sydney East Joint Regional Planning Panel (JRPP) on 6 August 2014 for the demolition of the existing car park on the site and construction of a multi-purpose Community Facility with associated car parking, signages and landscaping works. The application included the provision of a bus bay along the Fisher Road frontage to accommodate busses accessing the site.

This application has since been modified three times, as follows:

- On 16 February 2015, Northern Beaches Council (formally known as Warringah Council) granted approval for the removal of a tree by way of a Section 96 (1) application;
- On 30 May 2016, Northern Beaches Council (Council) granted approval for detailed design works to the approved built form by way of a Section 96 (2) application; and
- On 7 April 2017, Council granted approval to a Section 96 (1A) application for amendments to engineering Conditions.

This application will constitute the fourth modification to the original consent.

2.0 Proposed Modifications to the Consent

2.1 Modifications to the Development

This application seeks to remove the bus bay drop off area located on the Fisher Road frontage, as illustrated in **Figure 1** below. During the more detailed design of this component of the development, it was discovered that Sydney Water infrastructure is located within the area designated for the bus bay. As a result of this infrastructure being located close to the ground level, the bus bay cannot be constructed along the Fisher Road frontage of the site. The provision of the bus bay is not a requirement for the safe and efficient operation of Fisher Road and as such its removal is expected to not result in any adverse traffic impacts (refer to discussion in **Section 4.3**).

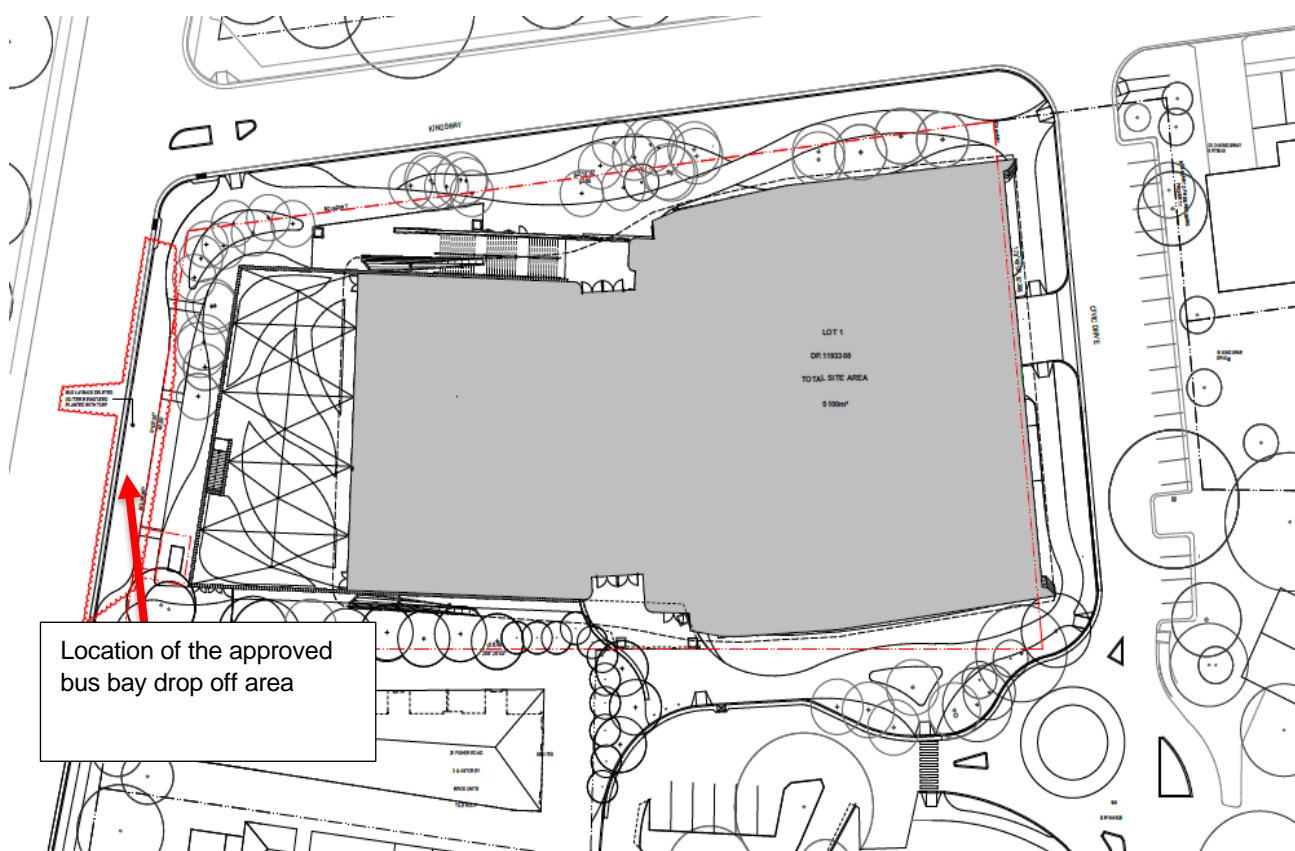


Figure 1- Site plan with the proposed modification highlight in red.

2.2 Modifications to Conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in ~~**bold strike through**~~ and words to be inserted are shown in **bold italics**.

1. Approved Plans and Supported Documentation

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

a) Approved Plans

| Architectural Plans – Endorsed with Council's stamp | | |
|--|---|-----------------------------|
| <i>Drawing Number</i> | <i>Dated</i> | <i>Prepared By</i> |
| DA 11 A-S96-2 | 28.03.2014 | Francis-Jones Morehen Thorp |
| DA 12 DA-12 A-S96-2 | 28.03.2014 20/029/2017 | Francis-Jones Morehen Thorp |
| DA 13 | 28.03.2014 | Francis-Jones Morehen Thorp |
| DA 14 | 28.03.2014 | Francis-Jones Morehen Thorp |
| DA 21 | 05.06.2014 | Francis-Jones Morehen Thorp |
| DA 22 | 05.06.2014 | Francis-Jones Morehen Thorp |
| DA 23 | 05.06.2014 | Francis-Jones Morehen Thorp |
| DA 24 | 05.06.2014 | Francis-Jones Morehen Thorp |
| DA 25 | 28.03.2014 | Francis-Jones Morehen Thorp |
| DA 31 | 05.06.2014 | Francis-Jones Morehen Thorp |
| DA 41 | 05.06.2014 | Francis-Jones Morehen Thorp |
| DA 51 | 28.03.2014 | Francis-Jones Morehen Thorp |
| DA 52 | 28.03.2014 | Francis-Jones Morehen Thorp |
| DA 54 | 28.03.2014 | Francis-Jones Morehen Thorp |
| DA 61 | 28.03.2014 | Francis-Jones Morehen Thorp |
| DA 63 | 28.03.2014 | Francis-Jones Morehen Thorp |
| DA 92 | 28.03.2014 | Francis-Jones Morehen Thorp |
| DA 93 | 28.03.2014 | Francis-Jones Morehen Thorp |
| DA 94 | 28.03.2014 | Francis-Jones Morehen Thorp |
| DA 95 | 05.06.2014 | Francis-Jones Morehen Thorp |
| DA 96 | 05.06.2014 | Francis-Jones Morehen Thorp |

| Reports/Documentations – All recommendations & Requirements Contained within: | | |
|--|------------------|--------------------------------------|
| Report No./Page No./Section No. | Dated | Prepared By |
| Geotechnical Investigations | 23 April 2013 | JK Geotechnics |
| Arborist Report | 12 February 2014 | Eco Logical Australia |
| Statement of Provisions of Site Stormwater Drainage | 21 March 2014 | Warren Smith & Partners |
| Section J Assessment | 26 March 2014 | Medland Metropolis |
| Preliminary Contamination Screening and Acid Sulfate Soil Assessment | 1 May 2013 | Environmental Investigation services |
| Parking and Traffic Report | 25 March 2014 | Taylor Thomson Whitting |
| Acoustic Report | 24 March 2014 | Acoustic Studio |
| Signage Concept Strategy | 28 March 2014 | Francis-Jones Morehen Thorp |
| Solar Light Reflectivity Analysis | 25 March 2014 | Windtech |
| Tree Construction Impact Statement | 12 February 2014 | Eco Logical Australia |
| Access Report | 13 March 2014 | Accessibility Solutions |
| Lighting Report | 6 March 2014 | Medland Metropolis |
| CPTED Report | 24 March 2014 | Francis-Jones Morehen Thorp |

| Civil Infrastructure Plans | | |
|-----------------------------------|---------------------------------|-------------------------|
| Drawing No. | Dated | Prepared By |
| C30 | 25.03.14 05.10.17 | Taylor Thomson Whitting |
| C31 | 28.02.14 | Taylor Thomson Whitting |

- b) Any plans and/or documentation submitted to satisfy the Conditions of consent.
- c) No Construction works (including demolition or excavation) shall be undertaken prior to release of the Construction Certificate.

Justification: Plans are being amended to reflect the removal of the bus bay at the Fisher Road frontage.

13. Submission of Engineering Plans for Civil Works within the Road Reserve
Engineering plans are to be submitted to the Certifying Authority for approval. The submission is to include four (4) copies of Civil Engineering plans for the design of the following list of works 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 and or Council's Minor Works Policy.

- a) Reconstruction of the kerb and gutter with associated regrading of the crossfall to 3% [half road and beyond if necessary] of the southern side of the Kingsway to alleviate the scrapping at the intersection with Civic Drive. The pavement shall be designed for full depth AC to minimise traffic disruption.
- b) Reconstruction of the kerb & gutter and associated pavement to the frontages of the Kingsway and Fisher Road to 150mm high kerb.
- c) The provision of a concrete footpath 2.5 metres wide minimum along the Kingsway and Fisher Road frontages with a minimum cross fall of 2% to the kerb. The path design is to include all line marking and associated sign posting.
- d) The provision of pedestrian ramps on both sides of the intersection of the Kingsway with Fisher Rd and on the western side of the intersection of Kingsway with Civic Drive.
- e) ~~The provision of a bus parking bay on the Fisher Rd frontage. The bus bay must include a cross fall of 2% toward the new kerb alignment. Approval from all public utility service authorities for the proposal must be submitted with the design. This may require the dedication of a portion of the site~~

~~as road reserve to accommodate the relocation of the services if required by the public service authority.~~

- f) *The provision of a bicycle path extension 2.5 metres wide between the south-eastern corner of the Kingsway and Fisher Road to the south-eastern corner of the intersection of Regent Stand Fisher Road.*
- g) *The provision of a refuge island and associated blister islands on Kingsway at the intersection with Fisher Road to prevent the right turn movement from Kingsway. The island is to be designed to permit a bicycle path to cross at this point. Any adjustment to line marking and signposting is to be included in the design. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.*

Justification: Subsection (e) is no longer required as the bus bay is proposed to be removed as part of this application.

3.0 Substantially the same development

Section 96(1A) of the EP&A Act states that a consent authority may modify a development consent if *“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)”*.

The development, as proposed to be modified, is substantially the same development as that originally approved in that it:

- Does not seek to change the approved use of the development;
- Will not result in a change to the height or floorspace of the development;
- Will not impact on the operation of the multi-purpose facility;
- Is not expected to result in any significant traffic impacts to Fisher Road;
- Will not result in any additional impacts to surrounding properties;
- Does not seek to amend the approved built form; and
- will not result in any additional environmental impacts to surrounding buildings or land uses.

4.0 Environmental assessment

Section 96(1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the proposed modification is of minimal environmental impact”*. Under Section 96(4) the consent Authority must also take into consideration the relevant matters to the application referred to in Section 79C (1) of the EP&A Act.

The following assessment considers the relevant matters under Section 79C (1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact. The matters identified below were assessed as part of the original Development Application and are not considered to be altered as a result of the proposed modification:

- Built Form and Urban Design;
- Impact on Adjoining Properties;
- Signage;
- Heritage;
- Waste;
- Section 94 Contributions;
- Geotechnical;

- Contamination;
- Tree Management;
- Flora and Fauna;
- Noise and Vibration;
- Environmentally Sustainable Development;
- BCA, Access and Lighting;
- Social and Economic Impacts;
- Crime and Public Safety;
- Construction Impacts;
- Site Suitability; and
- Public Interest.

Any matters that warrant additional assessment are discussed further throughout **Section 4**.

4.1 Warringah Local Environmental Plan 2011

The proposed changes are not of a nature that would result in any change to the compliance of the development with the provisions of the *Warringah Local Environmental Plan (LEP) 2011*.

4.2 Draft Warringah Development Control Plan 2011

The proposed changes are not of a nature that would result in any change to the compliance of the development with the provisions of the *Warringah Development Control Plan (Draft DCP) 2011* or draft amendments to the DCP.

4.3 Traffic Impacts

A Traffic Assessment has been prepared by Taylor Thomson Whitting (**Appendix B**), which addresses the potential implications resulting from the removal of the bus bay, located at the Fisher Road frontage. The assessment provides that the removal of the bus bay is not expected to result in any adverse impacts to the site or surrounding road networks as it is not a necessary piece of infrastructure.

The assessment provides that 'No Parking' restrictions with the exception of 'authorised private coaches' will be retained along the Fisher Road frontage between the AM and PM peak hours and will be managed by the operators of the facility. This will ensure that appropriate traffic capacity is retained for the full length of the frontage of the site during peak traffic periods. The assessment identifies that the traffic statement (provided with the original DA) concludes that the bus bay on the Fisher Road is not necessary in terms of the site operating at the required standards for the following reasons:

- buses would generally arrive outside peak traffic times;
- there is available room for general through traffic to pass stopped buses; and
- stopped buses should not adversely affect traffic operations.

In this regard, the assessment confirms that the bus bay is not necessary to ensure the safe and efficient operation of the surrounding road network. Due to the significant constraints imposed as a result of the Sydney Water infrastructure, its removal is considered to be appropriate.

5.0 Conclusion

This modification application seeks to remove the bus bay drop off area included in the approval for a multi-purpose community centre in response to the discovery of underground Sydney Water infrastructure, preventing its construction.

In accordance with section 96(1A) of the EP&A Act, Council may modify the consent as:

- the proposed modification is of minimal environmental impact;
- proposed works remain consistent within the objectives and relevant controls in the Warringah LEP 2011 and DCP 2011; and
- the proposal is substantially the same development as originally approved.

In the light of the merits of the proposal and in the absence of any significant impacts we recommend that the modification is approved. We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962

mnorman@ethosurban.com.



Matthew Norman
Senior Urbanist
9956 6962
mnorman@ethosurban.com



Laura Morabito
Junior Urbanist
9956 6962
lmorabito@ethosurban.com