

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2019/0052
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Responsible Officer:	Lashta Haidari
Land to be developed (Address):	Lot 1 DP 706230, 932 Pittwater Road DEE WHY NSW 2099
Proposed Development:	Modification of consent (s4.55(1A) to DA2017/0244 granted for demolition works and redevelopment of part of an existing Registered Club (Dee Why RSL Club)
Zoning:	Warringah LEP2011 - Land zoned R3 Medium Density Residential WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Dee Why RSL Club Ltd
Applicant:	Hutchinson Builders

Application lodged:	14/02/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	06/03/2019 to 08/04/2019
Advertised:	09/03/2019
Submissions Received:	0
Recommendation:	Approval

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

Warringah Development Control Plan - D3 Noise

SITE DESCRIPTION

Property Description:	Lot 1 DP 706230 , 932 Pittwater Road DEE WHY NSW 2099
Detailed Site Description:	<p>The subject site is No. 932 Pittwater Road, Dee Why and is legally identified as Lot 1 in DP 706230, but is more commonly known as the Dee Why RSL site.</p> <p>The site is irregular in shape and has a site area of approximately 14,830m². The site has 3 street frontages being:</p> <ul style="list-style-type: none"> · Northern boundary (Hawkesbury Avenue frontage): 100.585 metres · Eastern boundary (Clarence Avenue frontage): 178.435 metres · Western boundary (Pittwater Road frontage): 109.73 metres <p>The site is currently occupied by the Dee Why RSL Club building that includes the AMF bowling centre and a multi-level carpark. Vehicular access to the site is off Clarence Avenue which provides the entrance to the onsite carpark. Pedestrian access to the site is via entrances from both Clarence Avenue and Pittwater Road.</p> <p>The surrounding developments are generally characterised by residential flat buildings to the north, east and west. A disused childcare centre (Dee Why Kindergarten) adjoins the site to the south and senior's living development</p>

("Oceangrove") adjoins the site to the south/west, both are operated by the DYRSL Club. Some other commercial uses including a service station, bike shop and real estate agent exist near the north-west corner of the site fronting Pittwater Road.

Map:



SITE HISTORY

Development Application No. DA2017/0244 (Original Development Consent)

DA2017/0244 was granted Development Consent by the SNPP on the 31 July 2017 for the following works:

- Demolition works that includes part the existing southern carpark;
- Excavation works to accommodate a 4 level basement carpark with an additional 2 levels of car parking above, providing a total of 406 new car spaces, 12 bicycle spaces and 6 motorbike spaces. The proposal also included a new loading dock.
- The expansion of the existing club by adding an additional floor (Level 2) above the proposed carpark with a total GFA of 2,722m²;
- An additional car park entrance from Clarence Avenue to the existing car park.
- Modification to the current entrance on Clarence Avenue, including changes to the existing facade.
- The introduction of skylights and plant equipment to the existing club roof.
- Landscaping treatment along Clarence Avenue and around part of the perimeter of the retained car parking structure.

PROPOSED DEVELOPMENT IN DETAIL

This application is to amend Condition 5 of the Consent of Development Application DA2017/0244 to include the words "including loading out of material" during the week days for Building Construction

and delivery of materials . The specific amendments to Condition 11 are as follows (deleted text shown in ~~strike through~~, new text shown in **bold**):

Building construction and delivery of material hours are restricted to:

- 7.00am to 5.00pm Monday to Friday (**Including loading out of material**)
- 8.00am to 2.00pm inclusive on Saturday

The applicant has advised that the amendment is required to reduce the overall construction period of the development.

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 DA2017/0244, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
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	Yes The modification, as proposed in this application, is considered to be 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 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 DA2017/0244.
(c) it has notified the application in accordance with:	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning

Section 4.55(1A) - Other Modifications	Comments
(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	and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.
(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.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 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 4.15 '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	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<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>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No Additional information was requested.</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</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>via a condition in the original consent</p> <p>Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent.</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) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The proposed modifications do not alter the site's suitability for the development</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited 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.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Industrial)	<p>General Comments</p> <p>The applicant proposes to load out materials -primarily demo waste- starting from 7 am instead of 8 am Monday to Friday. It has been suggested that this may hasten the overall construction period by allowing more space for demolition waste to be moved. Environmental Health supports the proposal without conditions.</p> <p>Recommendation</p> <p>APPROVAL - no conditions</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.
NSW Roads and Maritime Services (Traffic Generating Development)	The application was referred to Roads and Maritime Services (RMS) for comments under the requirement of SEPP Infrastructure. RMS responded by e-mail dated 19 March 2019 has raised no objection to the proposed development and no additional conditions were 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)

Nil

Warringah Local Environmental Plan 2011

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

Compliance Assessment

Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	Yes
2.7 Demolition requires consent	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E11 Flood Prone Land	Yes	Yes
Preliminary	Yes	Yes

Detailed Assessment

D3 Noise

In relation to the requirement of this Clause, the application has been reviewed by Council's Environmental Investigation Team, who have raised no objection to the proposed modification subject to conditions.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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 Council Contributions Plan 2018

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;
- Warringah Local Environment Plan;
- Warringah 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. Mod2019/0052 for Modification of consent (s4.55(1A) to DA2017/0244 granted for demolition works and redevelopment of part of an existing Registered Club (Dee Why RSL Club) on land at Lot 1 DP 706230,932 Pittwater Road, DEE WHY, subject to the conditions printed below:

Modify Condition 5. General Requirements to read as follows:

a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- a. 7.00 am to 5.00 pm inclusive Monday to Friday (including loading out of material),
- b. 8.00 am to 1.00 pm inclusive on Saturday,
- c. No work on Sundays and Public Holidays.

b) Demolition and excavation works are restricted to:

- a. 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

f) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to

legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

g) Smoke alarms are to be installed throughout all new and existing portions of any Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

i) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

A separate application will be made for erection or installation of temporary structures or appliances on public land such as hoarding and the like.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

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

Signed



Lashta Haidari, Principal Planner

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



Phil Lane, Acting Development Assessment Manager