

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2022/0640
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Responsible Officer:	Dean Pattalis
Land to be developed (Address):	Lot 104 DP 1066371, 1 Surfview Road MONA VALE NSW 2103
Proposed Development:	Modification of Development Consent DA2018/1771 granted for the demolition of the existing surf club building and construction of a new surf club building including a cafe, restaurant and function space
Zoning:	RE1 Public Recreation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Northern Beaches Council
Applicant:	Surfview Pty Ltd

Application Lodged:	25/11/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	02/12/2022 to 16/12/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The Section 4.55 (1a) modification application seeks to modify the consent under DA2018/1771 including the following:

- New fixed awning roof and motorised clear PVC blinds for existing cafe outdoor seating area
- Amend condition 44 to provide for an extension of trading hours in the cafe from 6am - 5pm

It is noted that Northern Beaches Council is the landowner of the subject site. As per the Minister's direction under section 9.1 of the EP&A Act 1979, delegation to the Local Planning Panel is not required for S4.55(1a) modification applications.

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 104 DP 1066371 , 1 Surfview Road MONA VALE NSW 2103
Detailed Site Description:	<p>The property is situated within Zone RE1 - Public Recreation, in accordance with Pittwater Local Environmental Plan 2014.</p> <p>The legal description of the site is Lot 104; DP 1066371.</p> <p>The ground floor cafe is a tenancy within the newly redeveloped Mona Vale Surf Lifesaving Club (MVSLC) which fronts the Northern end of Mona Vale Beach.</p> <p>Other approved ground floor spaces include a gym, canteen, public amenities, club member amenities/facilities, first aid and storage.</p>

Map:



SITE HISTORY

The land has been used for commercial purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

Application **Mod2021/0747** for Modification of Development Consent DA2018/1771 granted for the demolition of the existing surf club building and construction of a new surf club building including a cafe, restaurant and function space (Approved 15/12/2021 by NBLPP)

Application **Mod2019/0454** for Modification of Development Consent DA2018/1771 granted for the demolition of the existing surf club building and construction of a new surf club building including a cafe, restaurant and function space (Approved 27/11/2019 by NBLPP)

Pre-lodgement Meeting **PLM2019/0171** was held on 29/08/2019 for Modification of Consent Surf Club, Restaurant, Cafe and Function space

Application **DA2018/1771** for Demolition of the existing surf club building and construction of a new surf club building, including a cafe, restaurant, and function space (Approved 13/02/2019 by SNPP)

Pre-lodgement Meeting **PLM2018/0177** was held on 23/08/2018 for Construction of a new Surf Club

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 DA2018/1771, 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	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p>The physical works proposed in the modification application relate to a fixed awning roof and blinds which do not alter the approved built form controls of the site nor result in any discernible visual impact. The extension of cafe trading hours is not considered to impact the public domain or nearby residential amenity.</p>
(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	<p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2018/1771 for the following reasons:</p> <p>The original application gained consent for the demolition of an existing surf club building and construction of a new surf club building, including cafe, restaurant, and function space. The modification application relates to an awning roof, blinds and extension of trading hours in the cafe only, which generally maintain the existing built form and function of the new surf club.</p> <p>The consent authority is therefore satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2018/1771.</p>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.</p>

Section 4.55(1A) - Other Modifications	Comments
(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	
(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 4.55 (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	There are no current draft environmental planning instruments.
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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to referral requirements by Council's Environmental Health and Landscape Officers. Information was formally received by Council on 23 February 2023.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62</u> and/or 64 of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of 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 Pittwater 21 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 site is considered suitable for the proposed 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 from 02/12/2022 to 16/12/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Environmental Health (Industrial)	<p>General Comments</p> <p>The Proposal This Section 4.55 (1a) Minor Environmental Impact modification to the Development Application DA2018/1771 which this SEE accompanies, seeks the following additions and changes for consent:</p> <ul style="list-style-type: none"> • New fixed awning roof • New motorised clear PVC blinds • Extension of trading hours <p>The proposal does not increase customer/patron numbers. An earlier -6am commencement time (to the existing 7am) is proposed.</p> <p>Environmental Health does not object to the earlier opening hours, we will recommend conditions to minimise the noise impact</p>
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>Environmental Have assessed the application and recommend standard conditions.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>

Internal Referral Body	Comments
Landscape Officer	<p>The proposal is supported with regard to landscape issues.</p> <p><u>Additional Information Comment 27/02/23:</u> The amended plans are noted.</p> <p>A gutter and chain downpipe have been added to the design which is supported. If the downpipe is to terminate in the adjacent garden bed, the area at the base of the chain shall have sandstone spalls, approximately 150mm in size, to armour the ground in this location and reduce any washout potential, subject to the imposed conditions.</p> <p><u>Original Comment Summary:</u></p> <ul style="list-style-type: none"> • Concern was raised with stormwater washout off the rainproof awning, in the adjacent garden bed.
NECC (Bushland and Biodiversity)	<p>The application seeks approval for modifications for the addition of a new fixed awning roof as well as motorised clear PVC blinds. The proposal has been assessed against the following provisions:</p> <ul style="list-style-type: none"> • SEPP Resilience and Hazards 2021 - Chapter 2 Development within the coastal use area • Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection • Pittwater 21 DCP - Clause B4.3 Flora and Fauna Habitat Enhancement Category 2 Land <p>The modifications will take place in a site that has previously been disturbed, leaving other areas, of higher value to biodiversity, intact. No native vegetation or fauna habitat would be impacted, the development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p>
NECC (Coast and Catchments)	<p>The modification application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Resilience and Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016 & State Environmental Planning Policy (Resilience & Hazards) 2021</p> <p>The subject site has been identified as being within the coastal zone and included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021. Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.</p>

Internal Referral Body	Comments					
	<p>Comment:</p> <p>On internal assessment , the application satisfies requirements of the SEPP R&H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>No other coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.</p>					
Parks, reserves, beaches, foreshore	<p>The application proposes modification to development consent DA2018/1771.</p> <p>Parks, Reserves and Foreshores raise no concerns.</p>					
Strategic and Place Planning (Heritage Officer)	<table border="1"> <thead> <tr> <th data-bbox="520 1184 1439 1223">HERITAGE COMMENTS</th> </tr> </thead> <tbody> <tr> <td data-bbox="520 1223 1439 1261">Discussion of reason for referral</td> </tr> <tr> <td data-bbox="520 1261 1439 1361"> <p>The proposal has been referred to Heritage as the subject site contains a heritage item</p> <p>Norfolk Island Pines (Araucaria heterophylla) - Surfview Road, Mona Vale</p> </td> </tr> <tr> <th data-bbox="520 1361 1439 1400">Details of heritage items affected</th> </tr> <tr> <td data-bbox="520 1400 1439 2136"> <p>Details of the item as contained within the Pittwater inventory is as follows:</p> <p><u>Statement of Significance</u> The Norfolk Island Pines are a defining feature of our cultural landscape as it is associated with beach holidays and recreation and has provided a distinctive sense of place. The Norfolk Island Pines are a defining and iconic landscape element for Mona Vale Beach, but also for many ocean beaches in Pittwater and along the coast of NSW and southern QLD. The pines are significant for their historic association with early settlement and as local cultural plantings, in some instances dating from the 1930s. The Pines have a high level of visual and aesthetic value.</p> <p><u>Physical Description</u> The Norfolk Island Pines are located in and around the beach carpark between Seabeach Avenue and Surfview Road. The listed pines are located along the beach front, through the centre of the</p> </td> </tr> </tbody> </table>	HERITAGE COMMENTS	Discussion of reason for referral	<p>The proposal has been referred to Heritage as the subject site contains a heritage item</p> <p>Norfolk Island Pines (Araucaria heterophylla) - Surfview Road, Mona Vale</p>	Details of heritage items affected	<p>Details of the item as contained within the Pittwater inventory is as follows:</p> <p><u>Statement of Significance</u> The Norfolk Island Pines are a defining feature of our cultural landscape as it is associated with beach holidays and recreation and has provided a distinctive sense of place. The Norfolk Island Pines are a defining and iconic landscape element for Mona Vale Beach, but also for many ocean beaches in Pittwater and along the coast of NSW and southern QLD. The pines are significant for their historic association with early settlement and as local cultural plantings, in some instances dating from the 1930s. The Pines have a high level of visual and aesthetic value.</p> <p><u>Physical Description</u> The Norfolk Island Pines are located in and around the beach carpark between Seabeach Avenue and Surfview Road. The listed pines are located along the beach front, through the centre of the</p>
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	<p>carpark and along its boundary with Surfview Road. There are in excess of 20 pines that range in size from approximately 2 to 10+ metres in height.</p> <table border="1" data-bbox="520 456 1431 1037"> <thead> <tr> <th colspan="3" data-bbox="520 456 1431 495">Other relevant heritage listings</th> </tr> </thead> <tbody> <tr> <td data-bbox="520 495 852 636">Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td> <td data-bbox="852 495 948 636">No</td> <td data-bbox="948 495 1431 636"></td> </tr> <tr> <td data-bbox="520 636 852 712">Australian Heritage Register</td> <td data-bbox="852 636 948 712">No</td> <td data-bbox="948 636 1431 712"></td> </tr> <tr> <td data-bbox="520 712 852 788">NSW State Heritage Register</td> <td data-bbox="852 712 948 788">No</td> <td data-bbox="948 712 1431 788"></td> </tr> <tr> <td data-bbox="520 788 852 864">National Trust of Aust (NSW) Register</td> <td data-bbox="852 788 948 864"></td> <td data-bbox="948 788 1431 864"></td> </tr> <tr> <td data-bbox="520 864 852 965">RAIA Register of 20th Century Buildings of Significance</td> <td data-bbox="852 864 948 965">No</td> <td data-bbox="948 864 1431 965"></td> </tr> <tr> <td data-bbox="520 965 852 1037">Other</td> <td data-bbox="852 965 948 1037">N/A</td> <td data-bbox="948 965 1431 1037"></td> </tr> </tbody> </table> <p data-bbox="520 1037 1431 1075">Consideration of Application</p> <p data-bbox="520 1075 1431 1285">The proposal seeks consent to install an awning and pvc screens to the existing outdoor dining area pavilion and change the cafe's hours of operations. The heritage pines are located to the north and north east of the pavilion and are separated by the car park. The proposed changes are considered to not impact upon the heritage trees or their significance.</p> <p data-bbox="520 1323 1431 1361">Therefore Heritage raises no objections and requires no conditions.</p> <p data-bbox="520 1400 1431 1438">Consider against the provisions of CL5.10 of PLEP.</p> <p data-bbox="520 1476 1431 1603">Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>	Other relevant heritage listings			Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register			RAIA Register of 20th Century Buildings of Significance	No		Other	N/A	
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Other	N/A																					
Strategic and Place Planning (Urban Design)	<p>This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment.</p> <p>The application seeks consent for the following additions to the ground floor cafe outdoor seating area:</p> <ul style="list-style-type: none"> • New fixed awning roof • New motorised clear PVC blinds <p>The proposal adds to the existing pergola structure and does not have a negative impact on the new Mona Vale Surf Club building generally. It will enhance the outdoor dining experience by providing amenity during undesirable weather conditions.</p>																					

Internal Referral Body	Comments
	Urban Design raises no objection to the proposal.
Traffic Engineer	The changes proposed under the modification are of a minor nature and do not increase the number or seats or seating area or result in any increase to approved patronage numbers. There are no traffic engineering concerns with an approval being granted and no additional traffic related conditions to apply

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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 (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 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:

The proposed development is not considered likely to cause an adverse impact on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, coastal environmental values and natural coastal processes, the water quality of the marine estate, native vegetation and fauna and their habitats, public open space or aboriginal cultural heritage.

- 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 subsection (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:

The development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1).

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - 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
 - ii) platform for members of the public, including persons with a disability,
 - iii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an adverse
 - ii) impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or 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:

The proposed development is not considered likely to cause an adverse impact on safe access to and along the foreshore, overshadowing, wind funnelling and the loss of views from public places to foreshores, the visual amenity and scenic qualities of the coast, including coastal headlands, or cultural and built environment heritage.

Division 5 General

2.12 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:

The proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

The relevant provisions of any certified coastal management program that applies to the land have been considered.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the commercial land use.

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

No changes are proposed to the built form of the overall surf club, with only an awning roof and blinds proposed to the cafe deck at ground floor level.

The approved principal development standards are therefore unchanged.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
Schedule 5 Environmental heritage	Yes

Pittwater 21 Development Control Plan

Built Form Controls

No changes are proposed to the built form of the overall surf club, with only an awning roof and blinds proposed to the cafe deck at ground floor level.

The approved locality specific built form controls are therefore unchanged.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C5.1 Landscaping	Yes	Yes
C5.2 Safety and Security	Yes	Yes
C5.4 View Sharing	Yes	Yes
C5.5 Accessibility	Yes	Yes
C5.7 Energy and Water Conservation	Yes	Yes
C5.8 Waste and Recycling Facilities	Yes	Yes
C5.10 Protection of Residential Amenity	Yes	Yes
C5.16 Building Facades	Yes	Yes
C5.17 Pollution control	Yes	Yes
C5.19 Food Premises Design Standards	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	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 2022

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 2021;
- 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. Mod2022/0640 for Modification of Development Consent DA2018/1771 granted for the demolition of the existing surf club building and construction of a new surf club building including a cafe, restaurant and function space on land at Lot 104 DP 1066371,1 Surfview Road, MONA VALE, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
The Brightside Cafe (C:TBCSVR136)	Undated	Outrigger Awnings

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

B.

Modify Condition 44. Hours of Operation to read as follows:

The hours of operation are to be restricted to:

Members Lounge/ Restaurant and Function Room: 7am to 10pm (Sunday to Thursday), 7am to midnight (Friday and Saturday), and 7am to 1am (New Year's Eve)

Café: 6am to 5pm (7 days, inclusive of public holidays)

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: To ensure that amenity of the surrounding locality is maintained.

C.

Add Condition 28A. Tree and Vegetation Protection to read as follows:

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,

xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

c) The arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as complaint to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

Add Condition 28B. Protection of Council's Public Assets to read as follows:

Any damage to Council's public assets shall be made good by the applicant, and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Existing trees shall be protected in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Should any problems arise with regard to the existing trees on public land during the construction period, the applicant is to immediately contact Council's Tree Services section and resolve the matter to Council's satisfaction.

Reason: To protect and/or restore any damaged public asset.

Add Condition 31A. Landscape Completion to read as follows:

Should the downpipe terminate in the adjacent garden bed, the area at the base of the chain shall have sandstone spalls, approximately 150mm in size, to armour the ground in this location. An area of 700mm x 700mm shall be armoured.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

Add Condition 41A. Amplified noise/music/public address systems to read as follows:

This approval does not authorise musical or other forms of entertainment, use of a Public Address System, amplified noise or music, between 6am and 7am. No noise generating devices are to be used between opening and 7am.

Reason: To ensure no interference with the acoustic amenity of residents in the immediate locality

Add Condition 41B. Deliveries and waste service collections to read as follows:

Deliveries and waste service collections shall only occur after 7am and prior to 10pm on any day.

Reason: To minimise the impacts of noise on neighbouring premises.

Add Condition 41C. Amenity to read as follows:

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997.

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

Signed



Dean Pattalis, Planner

The application is determined on 13/03/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments