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Northern Beaches Council
725 Pittwater Road
Dee Why, NSW, 2099

Attention: Nicholas England

RE: SECTION 4.55(1A) APPLICATION TO MODIFY DEVELOPMENT CONSENT DA2020/0433

4 CROSS STREET, BROOKVALE

1. INTRODUCTION

Dear Nicholas,

This Section 4.55(1A) Modification Application is submitted to Northern Beaches Council (Council) on behalf of Motaland Pty Ltd (the Applicant) in support of modifications to development consent **DA2020/0433** granted on 17 September 2020 for:

Construction of building for use as a storage premises

Development consent DA2020/0433 and this application relates to the property located at 4 Cross Street, Brookvale (the Site).

This Section 4.55(1A) Modification Application seeks to modify **Condition 1** of development consent DA2020/0433 for the amendments to the approved building façade materials.

This application is made pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as the modification sought relates specifically to a minor modification, with no undue environmental impacts, which results in a development outcome substantially the same as that originally approved.

This Application is made pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (the EP&A Act), on behalf of Charter Hall. The following supporting documentation has been provided as part of this application:

- **Appendix 1** Development Consent DA2020/0433
- **Appendix 2** Approved Stamped Plans
- **Appendix 3** Modified Plans

2. PROPOSED MODIFICATIONS

The modifications sought to Development Consent DA2020/0433 and approved stamped plans in **Appendices 1 and 2** respectively, relates to the approved building façade materials.

The purpose of this modification is to:

- Amend the approved colorbond façade to precast panelling along the eastern and western facades as illustrated in the modified elevation drawings (DA 301 REV D) in **Appendix 3**.

The desired development outcome as outlined above requires the modification of **Conditions 1(a)** of development consent **DA2020/0433**.

To reflect the proposed modification to the relevant conditions, text proposed to be deleted is indicated by 'striketrough' text and text proposed to be added is indicated in **red**.

Condition No. 1(a)

1. **Approved Plans and Supporting Documentation**

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

a) *Approved Plans*

Architectural Plans – Endorsed with Council's stamp		
Drawing No.	Dated	Prepared by
1915 DA01	October 2019	Harding Architects
1915 DA200 Revision C	October 2019	Harding Architects
1915 DA201 Revision A	October 2019	Harding Architects
1915 DA202 Revision A	October 2019	Harding Architects
1915 DA203 Revision B	10 August 2020	Harding Architects
1915 DA204 Revision C	10 August 2020	Harding Architects
1915 DA300 Revision B1	10 August 2020	Harding Architects
1915 DA301 Revision € D	7 September 2020 26 October 2020	Harding Architects
1915 DA302 Revision B	10 August 2020	Harding Architects
1915 DA303 Revision A	October 2019	Harding Architects

Reason: Modification of Condition 1(a) of **DA2020/0433** is required in order to reflect the proposed modifications as depicted in the modified Architectural Plans provided in **Appendix 3**. The proposed modifications are required due to the desired building façade materials which were originally intended for the approved self-storage facility and in fact were included in the original lodgement of the DA.

3. STATUTORY PLANNING FRAMEWORK

3.1 Environmental Planning and Assessment Act 1979

The EP&A Act is the principle planning and development legislation in New South Wales. Pursuant to Part 4, the proposal is local development. The modifications sought to the development consent **DA2020/0433** warrants consideration of the provisions of Section 4.55(1A) of the EP&A Act. The provisions of Section 4.55 of the EP&A Act provided in **Table 1** below require consideration in this instance.

Table 1. Section 4.55(1A) Assessment	
Clause	Response
<i>(1A) Modifications involving minimal environmental impact 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—</i>	
<i>(a) it is satisfied that the proposed modification is of minimal environmental impact, and</i>	Given the nature of the changes proposed, the modification will have no undue environmental impact. Overall, there is no intensification resulting from the proposed modifications.
<i>(b) 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), and</i>	The proposed modification will result in substantially the same development outcome to that previously approved as there are no significant changes proposed to the approved building or use. The proposed modifications solely comprise of changes to the approved building façade materials.
<i>(c) 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 that requires the notification or advertising of applications for modification of a development consent, and</i>	Given the nature of the proposed modification, notification of this application should not be required as the outcomes of the proposed development will remain as previously approved.
<i>(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.</i>	No submissions are apparent at the time of writing in accordance with the EP&A Act. The modification does not give cause to any substantial changes which warrant notification.
<i>(3) In determining an application for modification of a consent under this section, 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 consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.</i>	<p>The development shall continue to satisfy the matters for consideration referred to in section 4.15(1) of the EP&A Act (as further addressed in Section 5 below) as a result of the proposed modifications.</p> <p>Further, the reasons for the grant of consent have been considered as part of the proposed modifications. In this respect, the development was not previously approved specifically due to the building façade materials chosen.</p> <p>Whilst the building appearance and streetscape amenity were a matter of consideration and discussion as part of the original DA, the proposed materials under this modification application were not debated or deemed undesirable as part of the original DA.</p> <p>In light of the above, it is considered reasonable to assert that the reasons for the grant of consent and Council's desired outcomes have been considered and are still achieved through the proposed modifications.</p>

3.2 Warringah Local Environmental Plan 2011

3.2.1 Zone Objectives and Permissibility

The WLEP2011 is the primary environmental planning instrument (EPI) that applies to the Site. The Site is zoned **IN1 General Industrial** pursuant to the WLEP2011. **Table 2** below outlines the objectives and land uses applicable to the Site, as stated within the WLEP2011.

Table 2. Warringah Local Environmental Plan 2011	
Requirement	Application to Proposed Development
Clause 2.3 – Zone objectives and Land Use Table	<i>(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.</i>
B8 Metropolitan Centre zone	
IN1 General Industrial zone – Objectives of the zone	<ul style="list-style-type: none"> • To provide a wide range of industrial and warehouse land uses. • To encourage employment opportunities. • To minimise any adverse effect of industry on other land uses. • To support and protect industrial land for industrial uses. • To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area. • To enable a range of compatible community and leisure uses. • To maintain the industrial character of the land in landscaped settings.
Permitted without consent	<i>Nil</i>
Permitted with consent	<p><i>Boat building and repair facilities; Depots; Freight transport facilities; Garden centres; General industries; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Light industries; Liquid fuel depots; Neighbourhood shops; Oyster aquaculture; Places of public worship; Roads; Storage premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4</i></p> <p>Pursuant to the WLEP2011, Storage premises are permitted with consent within the IN1 General Industrial zone.</p>
Prohibited	<p><i>Advertising structures; Agriculture; Air transport facilities; Amusement centres; Animal boarding or training establishments; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Eco-tourist facilities; Educational establishments; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Forestry; Function centres; Health services facilities; Heavy industrial storage establishments; Heavy industries; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Information and education facilities; Marinas; Mooring pens; Moorings; Open cut mining; Passenger transport facilities; Pond-based aquaculture; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Restricted premises; Rural industries; Tourist and visitor accommodation; Veterinary hospitals; Water recreation structures; Wharf or boating facilities</i></p>

Given the minor nature of the changes sought under this application, the proposed modification does not result in any of the objectives of the IN1 zone being compromised. The development, as proposed to be modified, is capable of continuing to achieve these objectives to the same extent as the approved use under **DA2020/0433** as the changes relate purely to the approved building façade materials.

3.2.2 Development Standards and Provisions

The proposed modifications relate solely to the approved building façade materials. As such, the level of compliance with the relevant development standards and provision of the WLEP2011 will not be influenced as a result of the proposed modifications.

4. NON-STATUTORY PLANNING FRAMEWORK

4.1 Warringah Development Control Plan 2012

The WDCP2011 supplements WLEP2011 and provides more detailed provisions to guide development. An assessment of the proposal against the key controls of the WDCP2011 is outlined in **Table 3** below.

Table 3. WDCP2012 Compliance Table		
Controls	Compliance	Response
D10 Building Colours and Materials		
Requirements 1. In highly visible areas, the visual impact of new development (including any structures required to retain land) is to be minimized through the use of appropriate colours and materials and landscaping.	YES	The proposed materials and colours of the façade remain appropriate and shall retain a visual outcome similar to that previously approved and will not give rise to any further visual impacts.
2. The colours and materials of development on sites adjoining, or in close proximity to, bushland areas, waterways or the beach must blend into the natural landscape.	N/A	The site does not adjoin and is not near bushland areas, waterways, or the beach.
3. The colours and materials used for alterations and additions to an existing structure shall complement the existing external building façade.	YES	The proposed modifications to the building façade colours and materials are for an approved new building and have been designed to complement the entire building structure as approved.
4. The holiday/fisherman shack character of the waterfront of Cottage Point is to be enhanced by the use of building materials which are sympathetic to the small timber and fibro cottages currently in existence on the waterfront. All buildings visible from the water are to utilise materials such as weatherboard, fibre cement, corrugated steel and timber. The use of masonry is discouraged.	N/A	The site is not visible from the waterfront.
D12 Glare and Reflection		
Requirements 1. The overspill from artificial illumination or sun reflection is to be minimised by utilising one or more of the following: <ul style="list-style-type: none"> Selecting an appropriate lighting height that is practical and responds to the building and its neighbours; Minimising the lit area of signage; 	YES	The proposed materials are low reflective and would not give rise to any unacceptable sub reflection levels. The proposed modifications do not relate to lighting.

<ul style="list-style-type: none"> Locating the light source away from adjoining properties or boundaries; and Directing light spill within the site. 		
<p>2. Any glare from artificial illumination is to be minimised by utilising one or more of the following:</p> <ul style="list-style-type: none"> Indirect lighting; Controlling the level of illumination; and Directing the light source away from view lines. 	N/A	The proposed modifications do not relate to lighting.
<p>3. Sunlight reflectivity that may impact on surrounding properties is to be minimised by utilising one or more of the following:</p> <ul style="list-style-type: none"> Selecting materials for roofing, wall claddings and glazing that have less reflection eg medium to dark roof tones; Orienting reflective materials away from properties that may be impacted; Recessing glass into the façade; Utilising shading devices; Limiting the use of glazing on walls and glazed balustrades and avoiding the use of highly reflective glass; and Selecting windows and openings that have a vertical emphasis and are significantly less in proportion to solid massing in walls. 	YES	The proposed wall cladding consists of a low reflectivity and would not give rise to any unacceptable levels of reflectivity or glare.

5. LIKELY IMPACTS OF DEVELOPMENT

The key planning matters for consideration as they relate to the modified proposal are addressed in the ensuing subsections.

5.1 Context and Setting

The proposed modifications will preserve the approved built form and use as a self-storage facility as approved under **DA2020/0433**, which is permitted with consent, and achieves the objectives of the IN1 General Industrial zone. The modifications sought under this application will facilitate the desired materials and finishes of the facility whilst not giving rise to any adverse impacts.

The modifications sought to the approved building facade as approved are minor in nature and scale and would not result a material impact on the character of the building and locality or give rise to any environmental or amenity impacts.

5.2 Design and Appearance

The modified building elevation plan has been prepared by Harding Architects and provided in **Appendix 3**. The modified elevation plan illustrates the proposed modifications to the facade

Further, the plan also details the materials and colours proposed to be used for these elements of the building which are contemporary and shall exist harmoniously with the existing building structure and materials.

The proposed modification will not contribute or interfere unreasonably to any existing view lines or the streetscape amenity. In this respect, the proposed modification would not result in any undesirable views or block any significant views surrounding.

5.3 Construction

Construction activities will be undertaken in accordance with the Conditions of Consent outlined in **DA2020/0433**.

5.4 Suitability of the Site for the Development

The proposed modification will result in a development outcome almost identical to that previously approved under **DA2020/0433** and remains compliant with the relevant standards and controls of WLEP2011 and WDCP2011. Accordingly, the proposed development will remain consistent to those originally approved and is therefore considered to remain suitable for the Site.

5.5 Any submission made in accordance with the Act

Should any submissions be received in relation to the proposed development, the applicant will address them accordingly.

6. CONCLUSION

The proposal has been prepared after taking into consideration the following key issues:

- The development history of the Site;
- Previously approved development;
- The context of the Site and locality;
- The relevant heads of consideration under Section 4.55(1A) of the EP&A Act; and
- The aims, objectives and provisions of the relevant statutory and non-statutory planning instruments.

In light of the above, the modifications proposed to development consent **DA2020/0433** are considered worthy of support by Northern Beaches Council.

Should you require additional information, please do not hesitate to contact the undersigned.

Yours faithfully,



Thomas Cook
Director
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