

18 April 2018

The General Manager
Northern Beaches Council
PO Box 1336,
Dee Why
NSW 2099

Dear Sir/Madam,

SECTION 4.55 (2) MODIFICATION TO DEVELOPMENT CONSENT DA 142/2011

East Esplanade, Manly – Manly Wharf NSW

Approved Development: Construction of a first floor addition to the existing Manly Wharf structure including four (4) restaurant tenancies with plant rooms and changes to the ground floor including two (2) new retail tenancies. (19 April 2012)

1. Introduction

In support of this Section 4.55 (2) application please find enclosed:

1. Completed S4.55 Application Form;
2. Cheque for Section 4.55(2) assessment fee;
3. A copy of this letter-form Statement of Environmental Effects and Modified Plans;
4. Traffic Impact Assessment.

This application letter for a Section 4.55(2) has been prepared by Mod Urban Pty Ltd and it supports a S4.55(2) application to Northern Beaches Council to the approved DA 142/2011, specifically relating to Construction of a first floor addition to the existing Manly Wharf structure including four (4) restaurant tenancies with plant rooms and changes to the ground floor including two (2) new retail tenancies.

The proposed modification does not present any significant environmental impacts and will remain substantially the same as that approved under the original application and subsequent modifications, and is related to car parking arrangements through the introduction of valet parking as the modification aims to

increase the car parking provision in the existing basement car park at Manly Wharf Car Park, managed and operated by Secure Parking. There will be no change to the use of the site and no change to the external appearance of the building on the subject site as a result of this proposal. The proposal will therefore largely reflect the original consent.

Development Consent under Section 4.55 (2) of the *Environmental Planning and Assessment Act, 1979* states:

(2) Other modifications

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 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*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (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*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1) and (1A) do not apply to such a modification.

The proposed modifications provide for a change to the approved development consent and do not have any significant environmental impact. The provision of valet car parking arrangements will increase the provision of on site car parking. Despite the proposed increase in car parking, no alterations to the car parking area is proposed other than line marking, and the proposal is considered to be substantially the same development as that approved under DA 142/2011.

Accordingly, it is considered that Section 4.55(2) is the most appropriate mechanism for the proposed modifications to the consent.

2. Background

DA 142/2011 - Construction of a first floor addition to the existing Manly Wharf structure including four (4) restaurant tenancies with plant rooms and changes to the ground floor including two (2) new retail tenancies. Approved (19 April 2012)

DA 142/2011 (part 2 Modification) S96 Other - Section 96 to modify approved Construction of a first floor addition to the existing Manly Wharf structure including two (2) restaurant tenancies and changes to the ground floor including two (2) new retail tenancies - involving modifications to the approved first floor addition, addition of new lifts, new stairs, increase to floor area of two (2) restaurant tenancies, addition of outdoor seating areas and modification to conditions 1 in relation to the architectural plans, 3 in relation to provision of outdoor seating, 90 in relation to outdoor eating area and deletion of condition 86 in relation to addition doors - Manly Wharf - Part 2 – Approved 15/10/2015

3. Proposed Modifications

This Section 4.55(2) Application seeks to make the following modifications to the approved development:

- The provision of new car parking arrangements through the introduction of valet parking to increase car parking numbers from 70 spaces to 91 spaces.
- A valet operated stack (tandem) parking arrangement is proposed for the site, comprising:
 - 77 stack parking spaces
 - 8 pick-up / drop off spaces
 - 4 dedicated pick-up spaces
 - 2 accessible parking spaces.

As a result of the proposed modifications the following Conditions of Consent will require modification.

- To modify condition 60 of the Approved Development to adjust the amount of Section 94 contributions payable as per the latest modification to development consent, as a result of increased car parking provision through a valet parking arrangement.

4. Legislative Framework

Environmental Planning & Assessment Act 1979

Section 4.55(2) of the *Environmental Planning & Assessment Act 1979* makes provision to modify a Development Application that has been made pursuant to Part 4 of the *Environmental Planning & Assessment Act 1979*.

The proposal as submitted to Northern Beaches Council is considered to satisfy the provisions of Section 4.55(2) of the Act in that the changes proposed will result in minimal environmental impact and will result in the development being substantially the same as that for which consent was originally granted.

The key provisions of Section 4.55(2) of the Act have been considered below:

(2) Other modifications

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 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

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(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

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

The proposed modifications provide for a change to the approved development consent and do not have any significant environmental impact. The provision of valet car parking arrangements will occur below ground level and no visual impacts are proposed. Additionally, the new parking arrangements increases

the provision of car parking on site, and the proposal is considered to be substantially the same development as that approved under DA 142/2011.

Accordingly, it is considered that Section 4.55(2) is the most appropriate mechanism for the proposed modifications to the consent.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposed development is land / water interface development under the SREP SHC 2005 and in accordance with Clause 5 of SREP SHC 2005 Council is the consent authority.

The subject site is located in Zone W2 Environmental Protection under SREP SHC 2005.

The proposed development land uses and their permissibility have been considered under previous approvals for the site. The proposed nature of the modifications does not require full assessment under the SREP as they are consistent with the aims and objectives of the SREP.

Manly Local Environmental Plan 2013 (LEP 2013)

Manly Wharf is located outside the land application map for the Manly LEP 2013. Manly Wharf is listed as an item of State significance in the Manly LEP 2013 (I145).

Manly Development Control Plan 2012 (MDCP 2013)

As the Manly LEP 2013 does not apply to the site, the Manly DCP 2013 does not apply, however it has been used for guidance.

5. Key Matters for Consideration

The key matters for consideration as they relate to the modified proposal are addressed below.

Land Use

No change of use is proposed. The proposal use is consistent with DA 142/2011.

Design and Layout

The car park layout has been designed based on the requirements of the Manly Council's Manly Development Control Plan 2013 Amendment 5 and the Australian Standard for Off-Street Car Parking (AS2890.1:2004 and AS2890.6:2009).

Overall, the site access arrangement and car park layout have generally been designed in accordance with the DCP 2013 and Australian Standard, with key commentary as follows:

- The existing access ramp via East Esplanade will be maintained and has been previously assessed during the original DA.
- The circulation aisles within the basement car park will be modified to a six-metre wide two-way aisle generally south of the existing access ramp, suitable for two-way movements expected at the drop-off spaces.
- A 3.55-metre wide aisle is provided to the aisle west of spaces 11 and 29. Vehicular movement through this area is expected to be managed by the valet attendant(s).
- Car spaces have been designed to be at a minimum 2.4-metre wide and 5.4-metre long and are designated for use by valet attendant only (i.e. no general public access).
- A minimum height clearance of 2.2 metres will be maintained throughout the car park and along the access ramp (including at the transitions) in accordance with AS2890.1:2004. The existing boom gate will be opened during valet operation hours.

The proposed layout and access arrangement are expected to operate satisfactorily subject to the adoption of the above recommendations

Traffic and Car Parking Access and Operation

Access to the site is maintained via the western side of the East Esplanade. It is proposed that Manly Wharf Car Park to be operated based on a valet arrangement in order to safely and effectively manage the basement car park and to provide additional car space capacity.

Patrons of the site will be required to exit their vehicles at the location of the primary vehicle dropoff location at the end of the access ramp. Patrons will then exit the car park using the existing egress arrangements (i.e. walking along the existing circulation aisle and exiting the car park through the existing passenger lifts).

It is proposed that this area also serves as a waiting area, due to its proximity to the car park office. It is also proposed that a valet attendant accompanies the patrons back to their vehicles, once the vehicle is driven to the primary pick-up spaces.

Valet attendants will be required to park all vehicles at the dedicated pick-up parking spaces. In the event that the vehicle arrivals results in vehicles queuing along the ramp, the valet attendants will be required to direct vehicles to alternate drop-off spaces, primarily located around the base of the ramp, immediately adjacent to the existing boom gate.

The parking of vehicles in such valet arrangement generally would involve no more than moving three vehicles at any given time, proposed to be undertaken by the valet attendants.

A detailed assessment of the carparking and access arrangements is provided in **Appendix B** that concludes:

This review shows that the proposed car park layout of 91 car parking spaces in the basement of the Manly Wharf Car Park can be achieved with the provision of appropriate valet parking arrangement. Such arrangement includes a minimum of two valet attendants to ensure vehicles can be parked or retrieved between designated drop-off/ pick-up spaces.

Based on a case study of similar valet car parking arrangement within the basement car park of 109 Pitt Street, Sydney indicates that the proposed valet arrangement for Manly Wharf Car Park can be accommodated and managed in a safe and effective manner.

Visual Impacts and Amenity

No visual impacts or amenity impacts are likely to occur. No increased noise associated with car parking is anticipated.

Likely Impacts of Development

The likely impacts of development in accordance with the requirements of Section 4.15 have been considered above. No environmental, social and economic impacts are likely as a result of the modification, and it is not expected any impacts will occur to the built environment.

Suitability of Site for Development

The site is considered suitable for the development, as established in the approval of DA 142/2011.

Conclusion

The subject Section 4.55 (2) modification application seeks consent for modifications to the approved development and conditions of consent in relation to car parking management arrangements, and will not result in any unacceptable environmental impacts on the subject site or surrounding environment.

Subsequently the proposed modifications will result in a development outcome that is substantially the same as that for which consent was originally granted under DA 142/2011.

The proposal has been assessed against the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Accordingly, it is requested that Northern Beaches Council support the application.

Should you require further information, please contact the undersigned.

Yours Sincerely,



Matthew O'Donnell

Director

Mod Urban Pty Ltd