

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2022/0730
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<b>Responsible Officer:</b>	Adam Susko
<b>Land to be developed (Address):</b>	Lot 1 DP 1270384, 357 - 373 Warringah Road FRENCHS FOREST NSW 2086
<b>Proposed Development:</b>	Modification of Development Consent DA2020/0717 granted for demolition works and construction of a hardware and building supplies and garden centre (Bunnings Warehouse), signage and boundary adjustment
<b>Zoning:</b>	Warringah LEP2011 - Land zoned B7 Business Park
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	The Trust Company (Australia) Limited
<b>Applicant:</b>	Pluim Commercial Contractors Pty Ltd

<b>Application Lodged:</b>	17/01/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	23/01/2023 to 06/02/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The modification application seeks consent to raise all approved floor levels upwards by 500mm with a corresponding decrease to the internal height of the Level 2 Warehouse. The modification does not change the overall height of the building, and the change is not perceptible from the exterior of the building.

The modification also includes minor changes to the levels of external paving and surrounding landscaping to match the 500mm rise in the ground floor level.

Herein this report these changes are described as the 'modifications'.

### 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

<b>Property Description:</b>	Lot 1 DP 1270384 , 357 - 373 Warringah Road FRENCHS FOREST NSW 2086
<b>Detailed Site Description:</b>	<p>The subject site is located in the north-eastern corner of the Rodborough Road and Allambie Road intersection, and falls to the south of Warringah Road.</p> <p>To the east of the site there are other business park developments within Rodborough Road. Immediately adjoining the site to the east is No. 8 Rodborough Road, which presents a five (5) storey office building to the Warringah Road frontage and a concrete warehouse to the Rodborough Road entrance.</p> <p>To the south is a large Ausgrid substation at the intersection of Rodborough Road and Allambie Road, to the east is a smaller stand alone Ausgrid substation on a triangular parcel of land, and diagonally opposite to the south-west is No. 1-3 Rodborough Road which contains factory units with mezzanine offices.</p> <p>To the north of the site on the opposite side of Warringah Road is a KFC restaurant and another business park to the north-west containing various sized warehouse and office buildings.</p>

Adjoining the site to the east is No. 8 Rodborough Road which is an office/warehouse building.

The site is zoned B7 Business Park, pursuant to Warringah Local Environmental Plan 2011 (WLEP 2011) and is currently vacant of structures and undergoing excavation and groundworks.

Map:



## SITE HISTORY

The following applications are relevant to the sites history and to this modification application:

- **DA2020/0717** for demolition works and the construction of a hardware, building supplies and garden centre (Bunnings Warehouse), signage, and boundary adjustment. Approved by the Sydney North Planning Panel on 3 February 2021.
- **MOD2021/0470** to modify DA2020/0717 in the following ways:
  - Increase to the size and shape of the RMS acquisition area along Allambie Road;
  - Change to car parking configuration, reduction of 3 spaces and a new driveway;
  - Addition of security fencing and gates around loading dock, and changes to loading dock;
  - Modification to building entry and facade including changes to paint finish and signage.

Approved under delegated authority on 20 September 2021.

## 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 DA2020/0717, 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><b>Yes</b></p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> <li>• The modifications do not alter the approved envelope of the building by way of footprint or height;</li> <li>• The modifications do not alter the approved land use or the intensity of that land use; and</li> <li>• The modifications do not necessitate any additional excavation or tree removal commensurate to the approved development.</li> </ul>
(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 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 DA2020/0717 for the reasons detailed above in s4.55(1A)(a).
<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>(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</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.

Section 4.55(1A) - Other Modifications	Comments
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	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iia) – 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&amp;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>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 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 of consent.</p> <p><u>Clause 69</u> of the EP&amp;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>



Section 4.15 'Matters for Consideration'	Comments
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><b>(i) Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah/Manly/Pittwater 21 Development Control Plan section in this report.</p> <p><b>(ii) Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## 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 23/01/2023 to 06/02/2023 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
Landscape Officer	<p><b>Supported, without additional conditions</b> The updated Arborist's comment and Landscape Plans indicating that no additional trees are affected by the modification are noted.</p> <p>No objections are raised with regard to landscape issues.</p> <p>Existing conditions are considered still relevant and adequate.</p>

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p><b><i>Supported, without additional conditions</i></b></p> <p>The proposal seeks approval for the Modification of Development Consent DA2020/0717 granted for demolition works and construction of a hardware and building supplies and garden centre (Bunnings Warehouse), signage and boundary adjustment.</p> <p>The comments on this referral relate to the following controls and provisions:</p> <ul style="list-style-type: none"> <li>• NSW Biodiversity Conservation Act 2016</li> <li>• Warringah DCP Clause E2 Prescribed Vegetation</li> <li>• Warringah DCP Clause E6 Retaining unique environmental features</li> </ul> <p>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>
Traffic Engineer	<p><b><i>Supported, without additional conditions</i></b></p> <p>The changes proposed under the modification do not result in any changes to the traffic generation or parking provisions on the site. The modification proposes changes to the floor levels which may impact upon the gradients on access ramps however the submitted plans suggest that ramp gradients will remain at acceptable levels. Clearance heights within the carpark and over loading dock areas appear to remain acceptable as well. It is noted that a detailed driveway and access ramp profiles have not been provided with the modification to confirm this is the case however a condition of consent has been applied to DA2020/0717 which requires the submission of driveway profiles prior to issue of a construction certificate and this condition will ensure that ramps and grade transitions are consistent with AS2890.1</p>

## 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 (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. The parent assessment under DA2020/0717 considered whether the site is contaminated, and that application was accompanied by a Preliminary Site Investigation prepared by EIS dated 26 June 2020.

That report identified two potential areas of contamination. Accordingly, the application was referred to Council's Environmental Health Officer and the NSW EPA who both raised no objections to the proposal, subject to conditions.

The modifications sought under this application do not alter the approved footprint or levels of excavation and therefore, subject to the retention of the aforementioned conditions, the site can be capable of being suitable for the development.

## 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

### Principal Development Standards

Development Standard	Requirement	Approved	Proposed	Complies
Height of Buildings:	N/A	23.2m (RL184.6)	23.2m (RL184.6)	Yes - No change

### Compliance Assessment

Clause	Compliance with Requirements
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

## Warringah Development Control Plan

### Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B4 Site Coverage	Max. 33% (7,177.5m <sup>2</sup> )	39.17%	No change	Yes- no change
B5 Side Boundary Setbacks	Merit	23m (eastern boundary)	No change	Yes- no change
B7 Front Boundary Setbacks	Allambie Road - 10m	8m to parking 26m to building	No change	Yes- no change
	Rodborough Road - 10m	10.2m	No change	Yes- no change
B9 Rear Boundary	Merit	N/A	No	Yes- no



Setbacks			change	change
B14 Main Roads Setback	Warringah Road - 30m	30.4m	No change	Yes- no change

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B4 Site Coverage	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
B14 Main Roads Setback	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C4 Stormwater	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
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	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;
- 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. Mod2022/0730 for Modification of Development Consent DA2020/0717 granted for demolition works and construction of a hardware and building supplies and garden centre (Bunnings Warehouse), signage and boundary adjustment on land at Lot 1 DP 1270384,357 - 373 Warringah Road, FRENCHS FOREST, subject to the conditions printed below:

**A. Add Condition No.1B - 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
AA2-01 F - Level 1 - Basement Floor Plan - Carpark	18 November 2022	Plum
AA2-02 J - Level 2 - Ground Floor Plan - Carpark	18 November 2022	Plum
AA2-03 E - Level 3 - Mezzanine Plan - Carpark	18 November 2022	Plum
AA2-04 F - Level 4 - Warehouse Level 1 Plan	18 November 2022	Plum
AA2-05 F - Level 5 - Warehouse Level 2 Plan	18 November 2022	Plum
AA4-01 G - Elevations	23 January 2023	Plum
AA5-01 E - Sections	18 November 2022	Plum

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Arboricultural Assessment Report (file no. 0123)	16 January 2023	RainTree Consulting

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

c) The development is to be undertaken generally in accordance with the following:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
2704 LP-01.1 - Landscape Plan Sheet 1	30 November 2022	John Lock & Associates Landscape Architecture
2704 LP-00.1 - Existing Tree Plan	30 November 2022	John Lock & Associates Landscape Architecture
2704 LP-00 - Landscape Site Plan	30 November 2022	John Lock & Associates Landscape Architecture
2704 LP-01.2 - Landscape Plan Sheet 2	30 November 2022	John Lock & Associates Landscape Architecture
2704 LP-03 - Landscape Details	30 November 2022	John Lock & Associates Landscape Architecture

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

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

**Signed**



**Adam Susko, Principal Planner**

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



**Steven Findlay, Manager Development Assessments**