

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0350
Responsible Officer:	Nick Keeler
Land to be developed (Address):	Lot 101 DP 1007178, 762 - 770 Pittwater Road BROOKVALE NSW 2100
Proposed Development:	Modification of Development Consent DA2021/0049 granted for construction of a Business Identification Sign
Zoning:	Warringah LEP2011 - Land zoned B5 Business Development Warringah LEP2011 - Land zoned IN1 General Industrial
Development Permissible:	Yes - Zone B5 Business Development Yes - Zone IN1 General Industrial
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Investments & Loans Pty Ltd
Applicant:	Beaches Seadoo & Can-Am

Application Lodged:	16/06/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	Not Notified
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify development consent DA2021/0049 granted for Construction of a Business Identification Sign.

The modification proposes to remove the requirement to surrender development consent DA2019/0594 prior to the issue of a construction certificate and add a new provision that requires the pylon signage approved under DA2021/0049 be removed at the commencement of construction of pylon signage approved under DA2019/0594. This is to ensure that only one pylon sign is installed on the site at any one time.

In accordance with the provisions of the Northern Beaches Community Participation Plan, as the

modification was not notified as the proposal does not alter the environmental impact of the original proposal.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - D23 Signs

SITE DESCRIPTION

Property Description:	Lot 101 DP 1007178 , 762 - 770 Pittwater Road BROOKVALE NSW 2100
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southeastern side of Pittwater Road and the northern side of West Street.</p> <p>The site is irregular in shape with a primary frontage of 60.65m along Pittwater Road, a secondary frontage of 40.5m along West Street and a varied depth of up to 47.065. The site has a surveyed area of 3,751m².</p> <p>The site is located within the B5 Business Development and IN1 General Industrial zones and accommodates a vehicle showroom, external hardstand vehicle display area and ancillary offices.</p> <p>The site falls approx. 3m from the north towards the south. The site does not contain any vegetation of significance.</p> <p>Detailed Description of Adjoining/Surrounding</p>

Development

Adjoining and surrounding development is characterised by a mix of commercial and industrial land uses, including vehicle showrooms, a registered club and retail shops.

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 **DA2000/4462** for New Motor Vehicle Service Reception Building was approved on 10/07/2000 by Council staff.

Application **DA2002/1226** for Proposed Screen Wall Erected Above Existing Concrete Block Wall was approved on 13/12/2002 by Council staff.

Application **DA2002/1314** for Demolition of Existing Buildings Situated on the Site and the Construction of a New Motor Showroom With Associated Offices was approved on 28/07/2003 by Council staff.

Application **DA2003/1513** for Motor Vehicle Sales and Display Area Involving the Demolition of the Existing Building, Extension of Existing Vehicle Display Forecourt, Construction of New Screen Wall and Installation of New Security Lighting/Surveillance System Poles was approved on 25/02/2004 by Council staff.

Application **Mod2009/0354** for S96(2) Modification to Development Consent No. 2002/1314 was approved on 18/03/2010 by Council staff.

Application **Mod2013/0079** for Modification of Development Consent DA2002/1314 granted for Demolition of Existing Buildings Situated on the Site and the Construction of a New Motor Showroom with Associated Offices was refused on 10/10/2013 by Council staff.

Application **Mod2014/0101** for Modification of Development Consent DA2002/1314 granted for Demolition of Existing Buildings Situated on the Site and the Construction of a New Motor Showroom With Associated Offices was approved on 04/08/2014 by Council staff.

Application **DA2002/1314** for Demolition of Existing Buildings Situated on the Site and the Construction of a New Motor Showroom With Associated Offices was surrendered on 25/03/2015.

Application **DA2016/1257** for Advertising structures, including building and business identification was approved on 17/01/2017 by Council staff.

Application **DA2017/1081** for Construction of a motor showroom and associated signage was approved on 15/03/2018 by Council staff.

Application **DA2019/0594** for Alterations and Additions to an existing vehicle showroom and business identification signage was approved on 09/10/2019 by Council staff.

Application **DA2021/0049** for Construction of a Business Identification Sign was approved on 15/03/2021 by Council staff.

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 DA2021/0049, 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> <ul style="list-style-type: none"> • the modification aims to ensure amenity

Section 4.55(1A) - Other Modifications	Comments
	<p>impacts of signage on the public domain is appropriately controlled</p> <ul style="list-style-type: none"> the built form of the pylon signage will remain consistent with the approved development
(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 development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2021/0049 for the following reasons:</p> <ul style="list-style-type: none"> the modification is consistent with the approved business identification signage the modification does not alter the approved land use of the site all expected outcomes of the original assessment are maintained under the modification
<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 development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.</p>
(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.	<p>See discussion on "Notification & Submissions Received" in this report.</p>

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) –	Draft State Environmental Planning Policy (Remediation of Land)

Section 4.15 'Matters for Consideration'	Comments
Provisions of any draft environmental planning instrument	seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 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 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 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 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
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 was not notified.

REFERRALS

No referrals were sent in relation to this application

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the

application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 64 - Advertising and Signage

The proposed modification does not alter the level of compliance with SEPP 64 as assessed in the original development application.

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	% Variation	Complies
Height of Buildings:	11m	6.7m	Unaltered	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B6 Merit Assessment of Side Boundary Setbacks	Merit	NE - 7.6m	Unaltered	Yes
B7 Front Boundary Setbacks	20m	0.1m	Unaltered	As approved
B10 Merit Assessment of Rear Boundary Setbacks	Merit	In front of existing building	Unaltered	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D23 Signs	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

The proposed modification does not alter the approved front boundary setback of the pylon sign.

D23 Signs

Condition No. 7 to surrender development consent DA2019/0594 was imposed to ensure that only one pylon sign was installed on the site at any one time as that consent also included a pylon sign.

As the two consents can be acted upon separately, there would be the potential of two pylon signs being constructed, which is inconsistent with the requirements of this control.

To control the number of pylon signs on the site while allowing the construction of the sign approved under DA2021/0049, Condition No. 7 is to be deleted and a new condition imposed that only permits one pylon sign approved under DA2021/0049 or DA2019/0594 be installed on the site at any one time. This will ensure compliance with the control requirement.

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 2019

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2021/0350 for Modification of Development Consent DA2021/0049 granted for construction of a Business Identification Sign on land at Lot 101 DP 1007178,762 - 770 Pittwater Road, BROOKVALE, subject to the conditions printed below:

A. Delete Condition No. 7 - Surrender of Consent

B. Add Condition No. 10 - Control of Signage to read as follows:

One (1) pylon sign is permitted on the site at any one time.

Pylon signage and any associated structure and footings approved under development consent DA2021/0049 or development consent DA2019/0594 must only result in one pylon sign being on site at any time.

Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, does not interfere with amenity of nearby properties and only result in one pylon sign being on site at any time.

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

Signed



Nick Keeler, Planner

The application is determined on 16/07/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments