

# The Palm Beach Corporation Pty Ltd

## History of Events – 1110 Barrenjoey Road Palm Beach

28 January 2020

- 1/ In late 1998 the Palm Beach Corporation Pty Ltd, with the consent of the then owners, lodged a Development Application to subdivide 6 lots of land into 5 lots comprising 2 commercial and three residential allotments (in 2 stages) at 1102 and 1108 Barrenjoey Road Palm Beach. Development Consent for this application was granted by Pittwater Council on the 21<sup>st</sup> of April 1999 (see attached). A Section 96 application to adjust the boundaries of both the 1<sup>st</sup> and 2<sup>nd</sup> stages of the Consent was lodged in 2013. Consent for this application was granted by Pittwater Council on the 2<sup>nd</sup> of April 2013.
- 2/ The first stage of the Subdivision, which created lots 1, 2 and 3 in DP 1004105, was registered and the Palm Beach Corporation Pty Ltd purchased Lots 1 and 3 in DP 1004105 in October 1999.
- 3/ In 2001 The Palm Beach Corporation Pty Ltd commenced works with the necessary Council and Government authority approvals required by the Development Consent to subdivide Lot 1 in DP 1004105 into three residential lots which included construction of a driveway to service these lots and also provision of utilities to each lot such as water, sewer, gas, electricity, phone and landscaping etc. These works were completed by late 2003.
- 4/ As can be seen from the attached Sydney Water Corporation Plan there is a main sewer line which runs down the northern boundary of the northern lot (lot 1) which would provide sewer access for that lot. Also it can be seen that there is a main sewer line which runs down the northern boundary of 1100 Barrenjoey Road which is adjacent and close to the south west corner of the southern lot (lot 5) which, with a short extension, would serve that lot.
- 5/ Prior to the construction of the driveway a new 150mm PVC sewer line was installed to service Lot 4 (as shown in blue in Pic 2 below). This line was installed by appropriately licensed contractors and approved by Sydney Water.
- 6/ In December 2018 I engaged Sydney Wide Coordinators, an approved Water Services Co-ordinator who I had previously engaged to apply for the Section 73 Compliance Certificate required for the boundary adjustment between Lots 1 and 3, to apply for a Section 73 Compliance Certificate for the subdivision of the second stage of the Development Consent (subdivision of Lot 1 into 3 residential lots). Lindsay Rutherford who is the principal of Sydney Wide Coordinators went on holidays in December till late January 2019. His secretary submitted the application to Sydney Water on the 9<sup>th</sup> of January 2019.
- 7/ On the 21<sup>st</sup> February 2019 Sydney Water issued a Notice of Requirements (NOR Case no 176363) for a Section 73 Compliance Certificate to The Palm Beach Corporation Pty Ltd for the subdivision of 6 lots into 5 comprising 2 commercial and 3 residential allotments (see attached). It was obvious from this NOR that Sydney Wide Coordinators had not made it clear to Sydney Water that this Compliance Certificate was required only for the second stage of the Development Consent which was to subdivide Lot 1 into 3 lots and had nothing to do with lots 2 and 3 which were created in the first stage of the subdivision approximately 20 years ago and were already connected to the network.



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I refer particularly to clause 3.2 of the 1st NOR which deals with sewer and states that;

a/ Lot 1 is already serviced by 150mm DICL sewer main which traverses that lot.

b/ The existing 150mm PVC main in Barrenjoey Road will require extension to service Lots 2 and 3.

c/ Lot 4 will be served by the recently constructed 150mm PVC main, work as constructed drawings must be provided.

d/ The existing 150mm DICL sewer main within the boundary of 1110 Barrenjoey Rd will serve lot 5, an extension of this sewer into the boundary of lot 5 is required.

- 8/ After receiving the NOR I contacted Lindsay Rutherford of Sydney Wide Coordinators to inform him of the error his staff had made regarding the application to Sydney Water and instructed him not to do anything further until I had time to consult others concerning this matter. However, despite my instructions and without my knowledge, he met with a Sydney Water officer and also despite the fact that Lindsay had never inspected the site or discussed any possible alternate plans or ways forward with me decisions were made at that meeting which resulted in the issuing of an amended NOR on 16<sup>th</sup> August 2019.
- 9/ After receiving and reviewing the amended NOR (see attached) I was astonished to find that the requirements for Lots 1, 4 and 5 had changed so completely from that of the first NOR in not allowing the use of any of the existing gravity sewer mains or collection chambers which were available to service these Lots. Lot 1 has been connected to the existing infrastructure via the 150mm PVC main for the past 20 years (shown in blue in Pic 2 below). I point out that the land which lots 1, 4 and 5 occupy has always been intended for 3 houses and in fact there were three houses on this land at the time the reticulated sewer mains were constructed in Palm Beach. This is not a greenfield site. The area of land to which the 1<sup>st</sup> and 2<sup>nd</sup> stages of the Development Consent relate has always been two commercial and three residential lots, the only difference being that the boundaries have been reconfigured. There has been no change in the number or residential use of the lots.
- 10/ On the advice of a number of acquaintances in the industry I transferred our case from Sydney Wide Co-ordinators to Qalchek Pty Ltd. I had a meeting in early November 2019 with the design engineer and David Loizou the managing director of Qalchek. We could not understand why the first NOR could not simply have been amended by removing the requirement under Clause 3.2 (highlighted in yellow above) to extend the existing PVC main in Barrenjoey Road to serve Lots 2 and 3 because, as explained previously, lots 2 and 3 in DP 1004105 were created in the first stage of the subdivision in 1999 and have always been connected to the PVC main in Barrenjoey Road. Further, we could not understand the logic behind the amended NOR and believed that there was a better way for both us and Sydney Water to deal with the newly raised capacity issues. On the 21<sup>st</sup> of November last year David sent a letter to Sydney Water detailing alternate options and requesting a meeting with them to discuss these and other possible options. Every week since then Qalchek has contacted Sydney Water by phone and email to try to establish a date for a meeting but as yet, more than 2 months on, we have had no response at all.



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9 April 2020

As explained above the 1st NOR allowed the use of the existing Sydney Water gravity sewer mains and collection chambers which are located on the northern boundary of lot 1 and close to the southern boundary of lot 5 to service the 3 lots. The amended NOR does not permit the use of any of this infrastructure and now requires us to construct a new collection chamber in the footpath at the base of the driveway which would be located immediately to the north of the big white pot in pic 1. Additionally we are required to construct waste water main extensions to service the 3 Lots.

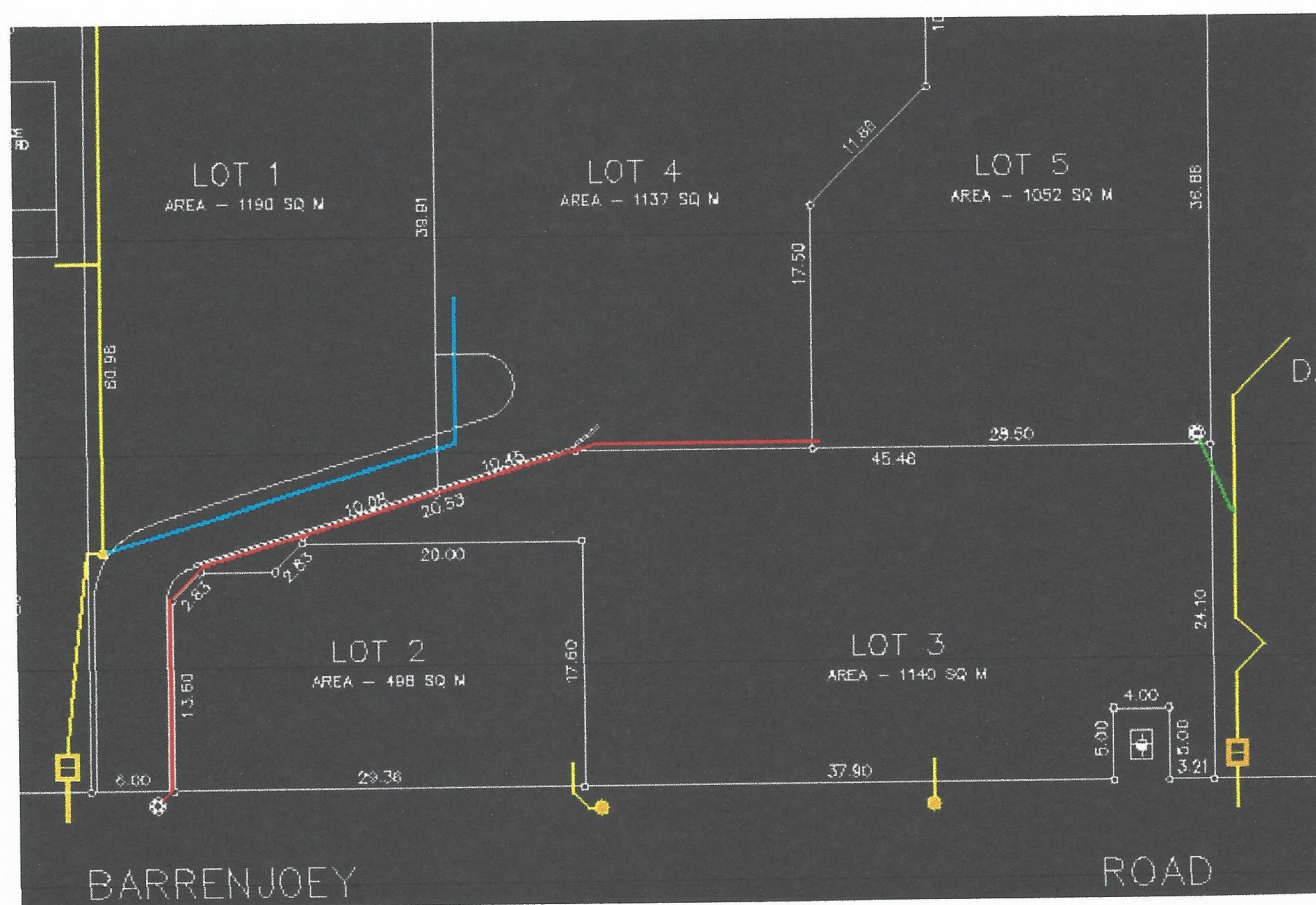


Pic 1



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Sydney Water requires the sewer connection point for each lot to be within the boundaries of the lot it serves. As can be seen from the currently approved boundaries of the stage 2 subdivision the connection point for lot 4 would be at the top of the driveway and extending to the south to service lot 5. This means that a major sewer line extension would have to be constructed from the new collection pit in the footpath up the driveway along the boundary between Barrenjoey House and Lot 1 and then turn right up the western side of the driveway to the flat area at the top of the driveway (as shown in red in pic 2.)



Pic 2



# The Palm Beach Corporation Pty Ltd



Pic 3



# The Palm Beach Corporation Pty Ltd



Pic 4



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The requirements for the construction of a Sydney Water main sewer extension line compared to a "domestic" line to the sewerage connection points are dramatically different. A main sewer extension line has to be built to comply with rigid Sydney Water specifications and amongst other things has to have pipes with a minimum diameter of 6 inches, have manholes at every change of direction and is required to be deep in the ground. The only space available for this line is the half metre wide deep soil planting area adjacent to the northern wall of Barrenjoey House. To install this sewer line would require the removal and destruction of all the twenty year old, 6m high, screening trees as shown on the right hand side in Pic 3. The line would then have to turn right and follow the driveway on the western side up to the top flat area. This would require excavation of a deep trench between the western edge of the driveway and the screening trees in this deep soil planting area which would destroy a large area of the root systems of these trees and I believe that these screening trees would not survive. (Trees shown on the left hand side of PIC 4)

If the subdivision was modified to include handles of land from lots 4 and 5 (as shown in pic 5) it would provide these lots with a frontage to Barrenjoey Road which would then only require a domestic sewer connection to the collection chamber at the base of the driveway. This could be achieved without the destruction of the trees.

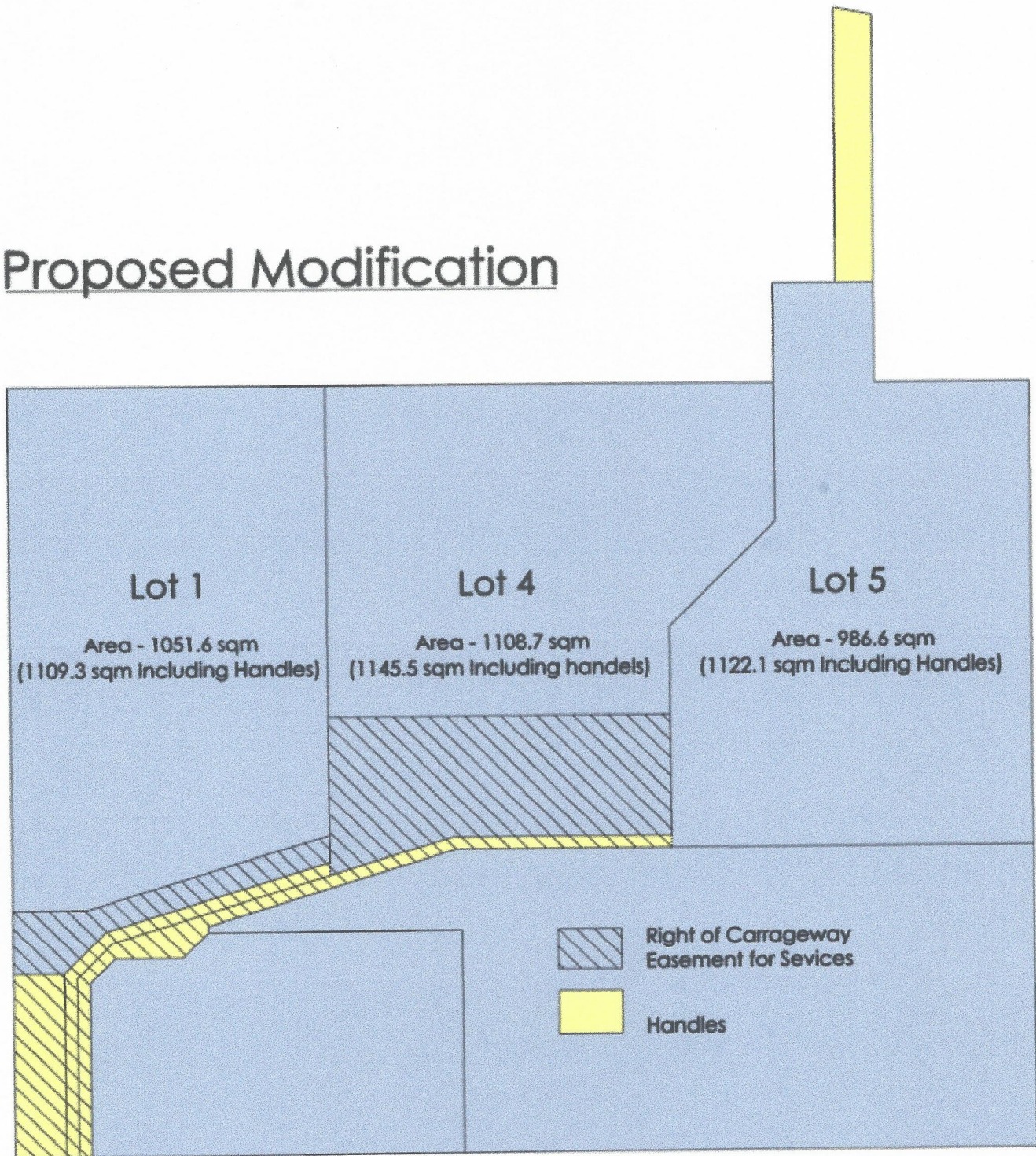


Tony Mattox



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## Proposed Modification



Pic 5