



Planning | Development | Management

24 April 2020

Our Ref: 1345

Chief Executive
Northern Beaches Council
PO Box 82
MANLY NSW 1655

Dear Sir or Madam

Proposed modification of consent for DA 2018/1423 (S4.55(1A) EPA Act)
Lot 21 DP 1017487 – 5A Beach Road Palm Beach
Lot C DP 341607 – 1180 Barrenjoey Road Palm Beach
Lot 1 DP 668492 – 2 Beach Road Palm Beach
Lot A DP 341607 – 2 Beach Road Palm Beach
Lot 1 DP 1127631 – 2 Beach Road Palm Beach

Reference is made to the development consent issued by Northern Beaches Council on 5 April 2019 in respect of DA 2018/1423, relating to the above described land.

The application initially proposed a boundary adjustment (subdivision and consolidation) from five (5) lots into (3) lots. However, conditions 1 and 2 of the aforementioned development consent did not approve the creation of proposed lot 12. At the time, Council's view was that the approval to create proposed lot 12 would adversely impact on the functioning and compliance of the car park for the Palm Beach Golf Club.

Subsequent to the consent being issued, Palm Beach Golf Club has provided additional information to Council regarding the compliance of the car park, both for the development consent for the car park and also the relevant Australian Standard. This has culminated in advice from Council via email from Council's Alexander Keller to Palm Beach Golf Club's Renae Fitzgerald dated 16 July 2019, as follows:

Our Traffic engineering have reviewed the last set of plans sent in (attached) and have no further comments.

The plans now comply with Council requirements as per the Australian Standards. The DA would have to be modified (4.55 - 1A) if any conditions are to be adjusted.

This modification application is a consequence of the advice referred to above.

1. Existing scenario

Conditions 1 and 2 of the aforementioned development consent do not approve the creation of proposed lot 12. These existing conditions are reproduced below:

Condition 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

| Subdivision Plans – Endorsed with Council's Stamp | | |
|--|--------------|--------------------|
| Drawing No | Dated | Prepared By |
| <i>Plan of Subdivision*</i> | 18.2.2019 | William Hamer |

**Pursuant to Section 4.16(4)(b) of the Act, the subdivision and consolidation to create proposed Lot 12 is not approved.*

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

Condition 2 – Amendments to the Plans

The draft subdivision plan, drawn by William Hamer, dated 18.2.2019 is to be amended to delete proposed Lot 12 and easement [A]. The plans will therefore consolidate Lot 1 DP 1127631 and Lot A DP 341607 with a part consolidation following subdivision lot Lot 1 DP 668492, including the separate part consolidation with Lot C DP 341607. Lot 21 DP 1017487 will remain unchanged. Easement [B] location is unchanged.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Subdivision Certificate.



Reason: To ensure the subdivision development does not breach existing land use conditions and compliance requirements (DACPLB02)

2. Proposed modification

This application seeks Council’s consent to modify conditions 1 and 2 in the following manner:

Condition 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

| | | |
|--|------------------------------|----------------------|
| Subdivision Plans – Endorsed with Council’s Stamp | | |
| Drawing No | Dated | Prepared By |
| <i>Plan of Subdivision</i> | <i>18.2.2019 21.1.20</i> | <i>William Hamer</i> |

~~**Pursuant to Section 4.16(4)(b) of the Act, the subdivision and consolidation to create proposed Lot 12 is not approved.*~~

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

Condition 2 – Amendments to the Plans

~~*The draft subdivision plan, drawn by William Hamer, dated 18.2.2019 is to be amended to delete proposed Lot 12 and easement [A]. The plans will therefore consolidate Lot 1 DP 1127631 and Lot A DP 341607 with a part consolidation following subdivision lot Lot 1 DP 668492, including the separate part consolidation with Lot C DP 341607. Lot 21 DP 1017487 will remain unchanged. Easement [B] location is unchanged.*~~



~~Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Subdivision Certificate.~~

~~Reason: To ensure the subdivision development does not breach existing land use conditions and compliance requirements (DACPLB02)~~

Delete condition.

3. Justification

Council has advised it is satisfied that the existing Palm Beach Golf Club car park will remain compliant with conditions D1 and D2 of Modified Development Consent N1044/99 (S96 No: N1044/99/S96/2) dated 5 December 2017, notwithstanding the creation of proposed lot 12 (refer to plan Drawing No CC_703D, Project No 2017103 “Parking Plan Option C”).

Council has advised it is satisfied that the existing Palm Beach Golf Club car park will remain compliant with AS/NZS 2890.1-2004, notwithstanding the creation of proposed lot 12 (refer to Car Park Certification by Auswide Consulting dated May 2019).

As a consequence, there remains no reason to refuse the creation of proposed Lot 12.

4. Requirements of the EPA Act 1979

| Reference (EPA Act) | Requirement | Response |
|------------------------|---|---|
| Clause 4.55(1A) | (a) it is satisfied that the proposed modification is of minimal environmental impact | The proposed modification will permit the creation of Lot 12. This will create additional yard space only and the car park will remain compliant with existing consent conditions and Australian Standards. It will not result in the creation of any additional dwellings. The proposed modification is therefore of minimal environmental impact. |
| | (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 | The proposed development remains as a realignment of boundaries to create a reduced number of lots overall. Whilst the proposed modification allows one additional alignment to occur, it is not of such significance as to result in a |

| <i>Reference (EPA Act)</i> | <i>Requirement</i> | <i>Response</i> |
|--------------------------------|--|--|
| | consent as originally granted was modified (if at all) | substantially different development. The development as proposed to be modified is substantially the same as the existing consent. |
| | (c) it has notified the application in accordance with: (i) the regulations, if the regulations so require; (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; | A matter for Council |
| | (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 | A matter for Council |
| <i>Clause 4.55(3)</i> | 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 | Refer to Table 2 below |
| <i>Clause 4.55(4)</i> | The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified | Noted |

TABLE 1 – Requirements of EPA Act 1979

Clause 4.15(1)

| <i>Reference (EPA Act)</i> | <i>Requirement</i> | <i>Response</i> |
|--------------------------------|---------------------|---|
| <i>Clause 4.15(1)(a)</i> | Statutory framework | The proposed modifications do not alter the outcome of previous consideration of the statutory framework. All lots are still compliant with the Pittwater LEP 2014 and Pittwater DCP 2014 provisions. |



| Reference (EPA Act) | Requirement | Response |
|------------------------|-------------------------|--|
| Clause 4.15(b) | Likely impacts | The proposed modifications will not result in any increased environmental impacts, compared to the current approved development. |
| Clause 4.15(c) | Suitability of the site | The suitability of the site is similar to the previously assessed and approved boundary realignments. The proposed modification will not introduce any new or unconsidered impacts which would lead to a different conclusion by the consent authority in relation to the suitability of the site, based on Council's acceptance of the ongoing compliance of the Palm Beach Golf Club car park. |
| Clause 4.15(d) | Submissions | A matter for the consent authority. The proponent is willing to address matters raised. |
| Clause 4.15(e) | The public interest | The public interest is not impacted by the proposed modification. The car park rearrangement remains compliant with existing consent conditions and relevant Australian Standards. The proposed modifications should not result in a different conclusion by the consent authority in relation to the public interest, than the boundary adjustments currently approved. |

TABLE 2 – Requirements of EPA Act 1979 Clause 4.15(1)

This is a minor modification, with manageable impact in terms of achieving the underlying objective of the original condition 1. The underlying objective of condition 2 is now redundant, as the rearranged car park remains compliant with relevant consent conditions and Australian Standards. The modification has no impact on the public interest and it is requested that Council consent to the modification as proposed.

We look forward to Council's timely assessment and determination of this application.

Yours faithfully

PRECISE PLANNING



Jeff Bulfin

