

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2021/0747
<b>Responsible Officer:</b>	Adam Mitchell
<b>Land to be developed (Address):</b>	Lot 104 DP 1066371, 1 Surfview Road MONA VALE NSW 2103
<b>Proposed Development:</b>	Modification of Development Consent DA2018/1771 granted for the demolition of the existing surf club building and construction of a new surf club building including a cafe, restaurant and function space
<b>Zoning:</b>	RE1 Public Recreation
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Northern Beaches Council
<b>Applicant:</b>	Northern Beaches Council

<b>Application Lodged:</b>	30/09/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Infrastructure
<b>Notified:</b>	15/10/2021 to 05/11/2021
<b>Advertised:</b>	15/10/2021
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### EXECUTIVE SUMMARY

This Section 4.55(1A) Modification Application to DA2018/1771 at the Mona Vale Surf Club is referred to the Northern Beaches Local Planning Panel as the subject site is owned by the Northern Beaches Council therefore constituting a Conflict of Interest which necessitates the Panel to be the determining authority of the proposal.

The works sought include modifications to the fenestration and detailing of the surf club building but do not alter its footprint, height or overall proportions.

The application seeks to modify the staging of approved conditions to enable part Occupation

Certificates to be issued for the surf club or the café and restaurant component without holding up the operation of the rest of the building. Operationally the proposal seeks to modify the approved hours of operation to permit later operating times throughout the year.

Two submissions have been received by surrounding residents requesting that a boardwalk be constructed within the vicinity of the site, however this matter is not relevant to the assessment of the proposal and does not hold determinative weight.

This report concludes that the modifications sought are all minor in nature and do not materially change the form, function or operation of the approved development. This report recommends that the Northern Beaches Local Planning Panel **approve** Modification Application MOD2021/0747.

## **PROPOSED DEVELOPMENT IN DETAIL**

This Section 4.55(1A) Modification Application seeks to amend the approved DA2018/1771 and MOD2019/0454 in the following ways:

### **Ground Floor:**

- Addition of two new trees.
- Addition of a wall café signage, consistent with the club entry signage.
- Addition of a gas meter louvre door on the western elevation.
- Addition of ventilation louvres on the eastern and western elevations.
- Deletion of one previously approved tree.
- Deletion of previously approved entry awnings located on the eastern and western elevations.
- Deletion of the previously approved external screening located on the eastern and western elevations.
- Re-configuration of selected rooms (store room, canteen and nippers store) located within the south-eastern portion of the building.
- Re-design of external pergola for café.

### **First Floor:**

- Addition of fiber cement sheeting to match timber colour for previously approved balcony.
- Deletion of part of the previously approved external screening located on the southern members balcony.

### **Conditions:**

- Amend conditions to enable part occupation certificates for the following uses:
  - Surf Life Saving Club;
  - Café; and
  - Restaurant.
- Amend Condition No. 39 Post-Dilapidation Report to change the requirements from "all truck routes to and from the site" to "potential impacts to road adjacent to site".
- Amend Condition No. 44 Hours of Operation for the Members Lounge, Restaurant and Function Room (Café to remain unchanged) to reflect the following changes:

- 7.00am to 10.00pm Sunday to Thursday;
- 7.00am to 12.00am Friday and Saturday; and
- 7.00am to 1.00am New Year's Eve.

## 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

Pittwater 21 Development Control Plan - C5.10 Protection of Residential Amenity

Pittwater 21 Development Control Plan - D9.1 Character as viewed from a public place

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 104 DP 1066371, 1 Surfview Road MONA VALE NSW 2103
<b>Detailed Site Description:</b>	<p>The subject allotment comprises a large area of public open space on Surfview Road and adjacent the northern end of Mona Vale Beach in Mona Vale. The irregularly shaped allotment has an area of 38,110m<sup>2</sup> and is zoned RE1 Public Recreation.</p> <p>Surrounding allotments consist of further public open space to the north and south including sand dunes, parkland and the Mona Vale Golf Course.</p> <p>Residential properties are the primary use surrounding the open space area with both R2 and R3 zones to the west of the large lot.</p> <p>This application refers to the central area of the lot which is occupied by the two storey Mona Vale Surf Club building. The clubhouse sits fronting Surfview Road and Apex Park to</p>

the west and has immediate access to the beach to the east. It is surrounded by 319 existing time-restricted public parking spaces to the north and south. Significant Norfolk pine trees line the beachfront and parking area to the north.

Map:



## SITE HISTORY

A search of Council's records has revealed the following relevant history:

### **MOD2019/0454**

Modification of Development Consent DA2018/1771 granted for the demolition of the existing surf club building and construction of a new surf club building, including a café, restaurant and function space. Approved on 27 November 2019.

### **PLM2019/0171**

A formal pre-lodgment meeting was undertaken for the modification to approved SLSC building on 29 August 2019.

### **DA2018/1771**

Development Application for the demolition of the existing surf club building and construction of a new surf club building including a café, restaurant and function space. Approved on 13 February 2019.

### **PLM2018/0177**

A formal pre-lodgment meeting was undertaken for the Demolition of the existing surf club and construction of a new surf club on 23 August 2018.

## **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 DA2018/1771, 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:

<b>Section 4.55(1A) - Other Modifications</b>	<b>Comments</b>
<p>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:</p>	
<p>(a) it is satisfied that the proposed modification is of minimal environmental impact, and</p>	<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 built form amendments are considered to still be consistent with the originally approved application;</li> <li>• Hours of operation is likely to maintain a reasonable level of amenity to the surrounding residential area; and</li> <li>• The landscape area will continue to provide mitigation and soften the built form of the development.</li> </ul>
<p>(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>	<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 DA2018/1771 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The modifications sought do not significantly alter the approved height of the building;</li> <li>• The modifications sought do not alter the existing use of the building and</li> <li>• The overall visual appearance of the building viewed from the adjoining properties and public domain will remain substantially similar to that of the already approved development.</li> </ul>

Section 4.55(1A) - Other Modifications	Comments
<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, and the Northern Beaches Community Participation Plan.</p>
<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>	<p>See discussion on “Notification &amp; 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 a 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	Draft State Environmental Planning Policy (Remediation of Land) 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	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000	<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

Section 4.15 'Matters for Consideration'	Comments
(EP&A Regulation 2000)	<p>the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;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&amp;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&amp;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&amp;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&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;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&amp;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 (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) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>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	See discussion on “Notification & Submissions Received” in this

Section 4.15 'Matters for Consideration'	Comments
submissions made in accordance with the EPA Act or EPA Regs	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 15/10/2021 to 05/11/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Sue Stokes	Address Unknown
Mrs Jill Marie Gavin	2 / 8 Surfview Road MONA VALE NSW 2103

The following issues were raised in the submissions and each have been addressed below:

- **Provision of a boardwalk/walkway**

*"I would like to make an additional submission to this DA in the form of a Boardwalk for Pedestrians on the Dunes side of Surfview Road from the Cul-de-sac to the new Surf Life Saving Club... My submission to council would be to add this Greens community grant as part of the DA2018/1771 and include the boardwalk as part of this development plan. The completed surf club will increase significantly the amount of foot traffic on Surfview road."*

*"I request that, as part of the plans for the new surf club, a walkway be built on the beachside of the cul-de-sac to the south of the clubhouse...The current footpath on the west of the road is too narrow for the number of pedestrians on the Coastal Walk, so many use the road instead. Designated as a shared zone, this area is dangerous because of the blind corner and the lack of vision from the beach paths onto the road. A boardwalk from the north end of the golf course straight along the eastern side of Surfview Road would deliver people safely to the clubhouse and the carpark, obviating the need for any road crossing at the end of Darley St."*

Comment:

The application seeks to modify approved development consent DA2018/1771 for the construction of a surf club. That application did not approve any boardwalk from Darley Street to the surf club and therefore no appropriate nexus exists for that matter to be addressed as a part



of this modification application.

It is noted in the submissions that the objectors have previously made contact with Council Officers and State Members about their request.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><b>Supported, no new conditions</b></p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p>
Environmental Health (Industrial)	<p><b>Supported, no new conditions</b></p> <p>The proposed modifications and updated acoustic report have been reviewed. Environmental Investigations support the application subject to noise control measures recommended in the Noise Impact Assessment.</p>
Landscape Officer	<p><b>Supported, no new conditions</b></p> <p>The application is for modification to development consent DA2018/1771 including deletion and additions, and request for amendment to development consent conditions as listed in the Statement of Modifications and as shown on modification plans.</p> <p>The Ground Level Plan A.DA.10.001 issue D submitted as part of the modification indicates the addition of three trees along Surfview Road and references the Landscape Plans for detail information on the proposed planting. The Landscape Plans are not provided with the modification plans.</p> <p>The Landscape Plans approved under the development application already include the 'larger screening trees, softening built form' referenced under this modification application, and thus no concerns are raised and no clarification is required.</p> <p>Landscape Referral raise no objections.</p>
NECC (Bushland and Biodiversity)	<p><b>Supported, no new conditions</b></p> <p>The modification does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values. Council's Natural Environment Unit - Biodiversity referral team has no objections to the proposed modification.</p>
NECC (Coast and Catchments)	<p><b>Supported without conditions</b></p> <p>The modification application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning</p>

Internal Referral Body	Comments
	<p>Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Proposed modifications are minor in nature and mainly amendments to previously determined consent conditions. None of these relate to coastal issues.</p> <p><b>Coastal Management Act 2016</b> The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed modifications are in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p><b>State Environmental Planning Policy (Coastal Management) 2018</b> The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p><u>Comment:</u></p> <p>On internal assessment and as assessed in the submitted Statement of Modifications report prepared by Mecone dated 25 August 2021, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the modification application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p><b>Pittwater LEP 2014 and Pittwater 21 DCP</b></p> <p>No other coastal related issues identified.</p> <p>As such, the modification application does not require to comply with the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.</p>
Parks, reserves, beaches, foreshore	<p><b>Supported, no new conditions</b></p> <p>The application is for modification to development consent DA2018/1771 including deletion and additions, and request for amendment to development consent conditions as listed in the Statement of Modifications and as depicted in the Proposed Site Plan DA.02.004 Rev C, dated 11.08.21.</p>

Internal Referral Body	Comments		
	<p>The modification proposal includes: modification to Ground Floor, First Floor, Roof, Material Schedule changes, and additionally proposed amendments to conditions of development consent.</p> <p>Parks and Reserves raise no concerns with the modification proposals.</p>		
Strategic and Place Planning (Heritage Officer)	<b>Supported, no new conditions</b>		
	<b>HERITAGE COMMENTS</b>		
	Discussion of reason for referral		
	<p>The proposal has been referred to heritage as the subject site contains a heritage item</p>		
	<p><b>Norfolk Island Pines (<i>Araucaria heterophylla</i>)</b> - Surfview Road, Ocean Beach Reserve (within beach carpark)</p>		
	<b>Details of heritage items affected</b>		
	<p>Details of the item as contained within the Pittwater inventory is as follows:</p>		
	<u>Statement of Significance</u>		
	<p>The Norfolk Island Pines are a defining feature of our cultural landscape as it is associated with beach holidays and recreation and has provided a distinctive sense of place. The Norfolk Island Pines are a defining and iconic landscape element for Mona Vale Beach, but also for many ocean beaches in Pittwater and along the coast of NSW and southern QLD. The pines are significant for their historic association with early settlement and as local cultural plantings, in some instances dating from the 1930s. The Pines have a high level of visual and aesthetic value.</p>		
	<u>Physical Description</u>		
	<p>The Norfolk Island Pines are located in and around the beach carpark between Seabeach Avenue and Surfview Road. The listed pines are located along the beach front, through the centre of the carpark and along its boundary with Surfview Road. There are in excess of 20 pines that range in size from approximately 2 to 10+ metres in height.</p>		
	<b>Other relevant heritage listings</b>		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	

Internal Referral Body	Comments		
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	<b>Consideration of Application</b>		
	<p>The proposal seeks consent for modifications to the approved new Mona Vale SLSC building and changes to the landscaping. The proposed works to the building and changes to the landscaping at the front of the building are not of concern to heritage and have no impact to the heritage item. However the two proposed plantings within the main car park to the north are of interest. Heritage supports additional plantings but the tree species have not been noted. Heritage recommends that they be Norfolk Island Pines to complement the existing pines.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No  Has a CMP been provided? No  Is a Heritage Impact Statement required? No  Has a Heritage Impact Statement been provided? No</p>		
	<b>Further Comments</b>		
	COMPLETED BY: Brendan Gavin, Principal Planner		
	DATE: 2 November 2011		
Strategic and Place Planning (Urban Design)	<p><b>Supported, no new conditions</b></p> <p>The proposed modifications are minor in nature and will not affect the look and feel of the previously approved design.</p>		
Traffic Engineer	<p><b>Supported, no new conditions</b></p> <p>The modifications are minor in nature and do not impact the car park or traffic and transport provisions.</p>		

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. A response has been received within the 21 day statutory period, no objections have been raised and no conditions are recommended.

### 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 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the commercial land use.

### **SEPP (Infrastructure) 2007**

#### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

#### Comment:

The proposal was referred to Ausgrid. A response has been received within the 21 day statutory period, no objections have been raised and no conditions are recommended.

### **SEPP (Coastal Management) 2018**

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

#### **10 Development on certain land within coastal wetlands and littoral rainforests area**

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
  - (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
  - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*

- (c) *the carrying out of any of the following:*
  - (i) *earthworks (including the depositing of material on land),*
  - (ii) *constructing a levee,*
  - (iii) *draining the land,*
  - (iv) *environmental protection works,*
- (d) *any other development.*

Comment:

The subject site is not located on land identified as “coastal wetlands and littoral rainforests area”. This clause does not apply.

**11 Development on land in proximity to coastal wetlands or littoral rainforest**

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
  - (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
  - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

This clause has been assessed against the subject site and the proposed development. No issues have been raised, with the proposed development unlikely to cause any adverse impacts to the integrity of the littoral rainforest

**12 Development on land within the coastal vulnerability area**

*Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:*

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) *the proposed development:*
  - (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
  - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
  - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure that there are appropriate*

*responses  
to, and  
management  
of,  
anticipated  
coastal  
processes  
and  
current  
and  
future  
coastal  
hazards.*

Comment:

The subject site is not located on land identified as “coastal vulnerability area”. This clause does not apply.

**13 Development on land within the coastal environment area**

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - (b) *coastal environmental values and natural coastal processes,*
  - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
  - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
  - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (f) *Aboriginal cultural heritage, practices and places,*
  - (g) *the use of the surf zone.*

Comment:

This clause has been assessed against the subject site and the proposed development. The works are within the approved building envelope and will have no visual impact on the coastal area. The design retains majority of approved revegetation however includes the deletion of one tree and the planting of two new trees and has no impact on public foreshore access, coastal processes and is not within the vicinity of any known Aboriginal heritage sites.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
  - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and*

- will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The proposed modifications are unlikely to cause a coastal impact over and above that of the approved development.

#### **14 Development on land within the coastal use area**

- (1)
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
- (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
  - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
  - (iv) Aboriginal cultural heritage, practices and places,
  - (v) cultural and built environment heritage, and
- (b) is satisfied that:
- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
  - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

This clause has been assessed against the subject site and the proposed development. The revised development is not considered to impact the visual amenity of the scenic coast, native foreshore vegetation or environmental heritage, other than what has been previously established by the approved development. Public access to the foreshore will not be affected. The revised development does not result in unreasonable overshadowing to the foreshore area or contributes to further loss of valued public domain views to the foreshore.

As such, it is considered that the application does with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

#### **15 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

This clause has been assessed against the subject site and the proposed development. The revised



development does not increase the scale or building footprint of the already approved development, and is considered unlikely to increase the risks of coastal hazards.

**Pittwater Local Environmental Plan 2014**

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:	8.5m	7.973m	No Change	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes
Schedule 5 Environmental heritage	Yes

**Pittwater 21 Development Control Plan**

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	Merit	1.8m	No Change	Yes
Rear building line	3m	40m (MHWB)	No Change	Yes
Side building line	3m (Darley Street)	89m	No Change	Yes
	3m (Seabeach Avenue)	160m	No Change	Yes
Building envelope	N/A	N/A	N/A	N/A
Landscaped area	N/A	N/A	N/A	N/A

Compliance Assessment

<b>Clause</b>	<b>Compliance with Requirements</b>	<b>Consistency Aims/Objectives</b>
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.3 Coastline (Beach) Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C5.1 Landscaping	Yes	Yes
C5.2 Safety and Security	Yes	Yes
C5.4 View Sharing	Yes	Yes
C5.5 Accessibility	Yes	Yes
C5.7 Energy and Water Conservation	Yes	Yes
C5.8 Waste and Recycling Facilities	Yes	Yes
C5.9 Signage	Yes	Yes
C5.10 Protection of Residential Amenity	Yes	Yes
C5.11 Third Party Signage	Yes	Yes
C5.15 Undergrounding of Utility Services	Yes	Yes
C5.16 Building Facades	Yes	Yes
C5.17 Pollution control	Yes	Yes
C5.18 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C5.19 Food Premises Design Standards	Yes	Yes
C5.21 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	Yes	Yes
D9.7 Side and rear building line	Yes	Yes

## Detailed Assessment

### **C5.10 Protection of Residential Amenity**

The parent development consent granted the following hours of operation to the Members lounge / Restaurant / Function Room:

- 7:00am - 10:00pm - 7 days a week inclusive of public holidays.

This proposal seeks to extend those hours to be as follows:

- 7:00am - 10:00pm - Sunday to Thursday (inclusive of Public Holidays except New Years Eve)
- 7:00am - 12 midnight - Friday and Saturday
- 7:00am - 1:00am - New Year's Eve

A Noise Impact Assessment has been provided with the application which concludes that the proposed extended hours are unlikely to cause any detrimental impacts to the amenity of surrounding residential receivers.

It is considered that the spatial separation between the SLSC building and neighbouring residential properties (being approximately 90m to the southwest, 160m to the northeast and 100m to the northwest) minimises the likelihood of unreasonable impact. Further, the landscape buffer between the development and neighbouring properties combined with the sound of the ocean would contribute to ameliorating any acoustic impacts from the SLSC.

Accordingly, it is considered that the proposed extension of hours on Friday and Saturday night and on New Year's Eve is acceptable without causing unreasonable impact on neighbouring residential amenity.

### **D9.1 Character as viewed from a public place**

The proposed modifications to the approved built form of the SLSC are considered to be contextually and proportionately appropriate and shall not materially change the character or appearance of the building when viewed from the public domain commensurate to that of the approved development. The works maintain the integrity of the architecture as approved.

### **Changes to Conditions**

The modification application seeks, inter alia, to amend Conditions 30, 32, 33, 34 and 35 of the Parent Development Consent regarding the staging of the conditions to permit the partial operation of the building without that operation being contingent on all aspects of the building being finalised and having obtained an Occupation Certificate. For example, the modification seeks to allow for the SLSC to operate as soon as that portion of the building is complete and an Occupation Certificate is issued, rather than the operation of the SLSC be incumbered by the completion of the restaurant or café kitchen which may occur at a later date.

The wording of the current conditions requires an Occupation Certificate to be issued for all aspects of the development prior to operation.

The changes sought to the operational conditions do not result in any modification to the end product, but rather permit their independent occupation prior other facilities being completed.

## **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 2021**

Section 7.12 contributions were levied on the original 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;
- Pittwater Local Environment Plan;
- Pittwater 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

This report demonstrates that the physical changes sought to the building are appropriate in their design and proportions commensurate to the approved development and to the coastal location of the site.

The modification to the operational hours of the surf club and its associated components do not detract from nearby residential amenity but instead permit residents to enjoy the surf club amenities for an extended period of time throughout the week and on New Years Eve.

The modification to the staging of conditions results in no material difference to the end product of the development, but instead permits operation of various components of the building to occur whilst other parts of the building are being finalised.

This report demonstrates that there are no unreasonable impacts associated with the development and that the modification application is worthy of approval.

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

## RECOMMENDATION

THAT Northern Beaches Local Planning Panel as the consent authority grant approval to Modification Application No. Mod2021/0747 for Modification of Development Consent DA2018/1771 granted for the demolition of the existing surf club building and construction of a new surf club building including a cafe, restaurant and function space on land at Lot 104 DP 1066371,1 Surfview Road, MONA VALE, 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>
A.DA.02.004 - Proposed Site Plan (Revision C)	13 September 2021	Warren and Mahoney Architects Australia Pty Ltd.
A.DA.10.001 - GA Plan - Ground Level (Revision D)	13 September 2021	Warren and Mahoney Architects Australia Pty Ltd.
A.DA.10.002 - GA Plan - Level 1 (Revision D)	13 September 2021	Warren and Mahoney Architects Australia Pty Ltd.
A.DA.11.001 - Roof Plan (Revision D)	11 August 2021	Warren and Mahoney Architects Australia Pty Ltd.
A.DA.20.001 - North & East Elevations (Revision D)	13 September 2021	Warren and Mahoney Architects Australia Pty Ltd.
A.DA.20.002 - South & West Elevations (Revision D)	13 September 2021	Warren and Mahoney Architects Australia Pty Ltd.
A.DA.30.001 - Sections (Revision D)	24 August 2021	Warren and Mahoney Architects Australia Pty Ltd.
A.DA.40.001 - Material Schedule Sheet 01 (Revision D)	11 August 2021	Warren and Mahoney Architects Australia Pty Ltd.

<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>

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

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

**B. Modify Condition 19. - Pre-Dilapidation Report to read as follows:**

The applicant is to engage a suitably qualified person to prepare a pre-dilapidation report of the road immediately adjacent to the site (Surfview Road, Mona Vale). This is to be submitted to and approved by Council's Traffic Engineer prior to any works commencing.

Reason: To ensure the assets along the truck routes are assessed prior to any work related damage.

**C. Modify Condition 30. - Geotechnical Certification Prior to Occupation Certificate to read as follows:**

Prior to issue of an Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

**D. Modify Condition 32. - Registration of Food Business to read as follows:**

The food business must be registered with the Appropriate Regulatory Authority prior to an Occupation Certificate being issued (either in part or together) for the café and restaurant.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

**E. Modify Condition 33. - Waste Agreement to read as follows:**

Documentation supplied by Sydney Water regarding evidence of the trade waste agreement must be provided to the certifying authority prior to the issue of an Occupation Certificate (either in part or together) for the Café and Restaurant.

Reason: protect Public and Environmental Health values

**F. Modify Condition 34. - Kitchen Design, construction and fit out of food premises certification to read as follows:**

Prior to the issuing of any occupation certificate (either in part or together) for the Café and Restaurant, certification is to be provided from a person who is eligible as a 'Member' of Environmental Health Australia (EHA) that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the kitchen complies with the design requirements.

**G. Modify Condition 35. - Mechanical Ventilation Certification to read as follows:**

Prior to the issue of the relevant occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668The use of mechanical ventilation.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the mechanical ventilation system complies with the design requirements.

**H. Modify Condition 39. - Post-Dilapidation Report to read as follows:**

The applicant is to engage a suitably qualified person to prepare a post-dilapidation report of the road immediately adjacent to the site (Surfview Road, Mona Vale). The report is to be submitted to and approved by Council's Traffic Engineer prior to the issue of any Occupation Certificate. The condition of the road is to be compared to the asset condition as noted in the pre-dilapidation report. Any noted damage is to be rectified by the applicant, to the satisfaction of Council, prior to the issue of any Occupation Certificate. The rectification works are to be undertaken by the applicant at no cost to Council.

Reason: To ensure all assets are left in a serviceable state or repaired to ensure ongoing serviceability of the asset.

**I. Modify Condition 44. Hours of Operation to read as follows:**

The hours of operation are to be restricted to:

Members Lounge/ Restaurant and Function Room: 7am to 10pm (Sunday to Thursday), 7am to midnight (Friday and Saturday), and 7am to 1am (New Year's Eve)

Café: 7am to 5pm (7 days, inclusive of public holidays)

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: To ensure that amenity of the surrounding locality is maintained.