



18th September 2023

Northern Beaches Council
Village Park
1 Park Street
Mona Vale NSW 2103

S4.55 (1A) Modification of Development Consent No: DA2020/1762
Statement of Modification

INTRODUCTION

Development, DA2020/1762 was determined on 4th April 2022. Approval was received to demolish existing structures & construct new similar structures in their place, including a boatshed, ramp, slipway, jetty & steps. Currently the structures remain demolished & largely removed.

This Modification Application, under Section 4.55(1A) of the EP&A Act, seeks administrative changes to DA2020/176 to enable the issue of a Construction Certificate in accordance with the proposed plan (refer Appendix 1).

The development application was supported by a Statement of Environmental Effects dated 10 June 2021. The report outlines the project history, background & the planning controls which the development aimed to satisfy. Please reference in relation to this modification application should there be any queries regarding any aspect of the development.

PROPOSED MODIFICATION AND JUSTIFICATION

The site of the development spans across two lots of land, (refer Appendix 1). being land below the mean high-water mark leased under a licence with Crown Lands – Licence and Lot 2 DP 827733 which is leased under licence from Northern Beaches Council. The structures that are associated with the area on Crown Land include the timber jetty, steps, slipway rails, boat ramp and part concrete jetty and boat shed. The structures that are to be reinstated on Council land include part of the boat shed & concrete jetty.

During the process of procuring the submission for the Construction Certificate to carry out the approved works under the development approval received, it became evident that one of the conditions to satisfy was...

8. *Licence with Council required to be executed*
Prior to issue of a Construction Certificate the proposed licence with Council must be executed by both parties.

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Reason: To ensure the applicant has complied with the Local Government Act 1993 in regards to having authorised tenure over Council land.

Due to administrative issues beyond our control, the obtaining of the licence from Northern Beaches Council has not yet been achieved and we have reason to believe that it may not be resolved in the near future. In order to obtain a Construction Certificate and in turn commence the rebuilding of the structures on Crown Land without Council's licence, we propose a modification to the conditions of consent, to read ...

8. *Licence with Council required to be executed
Prior to issue of a Construction Certificate, **for works on Council Land**, the proposed licence with Council must be executed by both parties.*

Reason: To ensure the applicant has complied with the Local Government Act 1993 in regards to having authorised tenure over Council land.

This would enable the provision of a construction certificate and ultimately construction of the timber jetty, steps, slipway rails, boat ramp and part of the concrete jetty over Crown Land.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The proposed modification to DA2020/1762 is governed by Section 4.55(1A) of the EP&A Act, which states;

“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*
- (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 consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with—
 - (i) the regulations, if the regulations so require, or*
 - (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, and**
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.”*

MINIMAL ENVIRONMENTAL IMPACT (1a)

The proposed modification is entirely administrative in nature and enables the issue of a construction certificates for the works on Crown Land. It does not result in any physical changes to the approved development. Environmental impacts of the proposal will remain unchanged from that approved under DA2020/1762. As such,

Council can be satisfied that the proposed modification would not give rise to any additional environmental impact.

SUBSTANTIALLY THE SAME DEVELOPMENT (1b)

The modification is substantially the same as the approved development. The administrative changes are to facilitate the progress of part of the works, and do not result in any qualitative changes from that approved. Subsequently, the approved development remains substantially the same development as the development for which the consent was originally granted.

CONCLUSION

The proposed modification seeks to enable the issue of a Construction Certificate for part of the approved development described in consent number DA2020/1762.

As demonstrated in this report, the proposed modifications are entirely administrative in nature and present no significant environmental impacts and will not result in any additional impacts to the locality.

We therefore request that Council modify the consent as proposed.

We trust that the information we have provided is sufficient for Council determine the application.

If, however Council is in need of any further information please do not hesitate to contact me.

Yours sincerely,



Micheal Fountain Architects Pty Ltd.

Rhonda Carr

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