

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2023/0205
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Responsible Officer:	Michael French
Land to be developed (Address):	Lot 11 DP 1275411, 2 Beach Road PALM BEACH NSW 2108
Proposed Development:	Modification of Development Consent DA2022/1860 granted for Alterations and additions to an existing commercial premises (Palm Beach Golf Club)
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Palm Beach Golf Club Ltd
Applicant:	Wade Stewart Cogle

Application Lodged:	02/05/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	Not Notified
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

This application seeks to modify DA2022/1860 in the following ways:

- The proposed concrete slab on ground extension reduced FFL from 2.99m AHD to 2.94m AHD. This represents a reduction of 50mm.

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 Local Environmental Plan 2014 - Zone C4 Environmental Living
Pittwater 21 Development Control Plan - B3.11 Flood Prone Land

SITE DESCRIPTION

Property Description:	Lot 11 DP 1275411 , 2 Beach Road PALM BEACH NSW 2108
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Palm Beach Road.</p> <p>The site is irregular in shape with a primary frontage of 32.6m along Palm Beach Road, a secondary frontage along Barrenjoey Road and a depth of 53.5m. The site has a surveyed area of 1216.2m².</p> <p>The site is located within the C4 Environmental Living zone pursuant to the Pittwater Local Environmental Plan 2014 and accommodates a clubhouse with an adjoining carpark.</p> <p>The site is relatively flat throughout.</p> <p>The site has some vegetation along the primary street frontage.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a mix of waterfront dwellings.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

Mod2023/0159: Modification of Development Consent DA2022/1860 granted for Alterations and additions to an existing commercial premises (Palm Beach Golf Club)

DA2022/1860: Alterations and additions to an existing commercial premises (Palm Beach Golf Club).

N1044/99- Alterations and additions to the Palm Beach Golf Club.

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 , 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
<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>Yes 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 development is not considered to propose an environmental impact that is unreasonably greater than that approved by DA2022/1860.
<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 consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2022/1860 for the following reasons:</p> <ul style="list-style-type: none"> - The proposal will not adversely effect the amenity of surrounding sites. - The development is generally the same as approved by DA2022/1860. - The proposed alteration is structural and does not alter the Principal Development Standards or Built Form Controls.
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require, 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 2021, 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>No submissions were received in relation to this application.</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) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
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 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</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) Environmental Impact 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) Social Impact</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>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

This modification application is based on the existing use rights established in the parent application DA2022/1860, which underwent a thorough assessment.

As stated in the assessment, "The Applicant has confirmed that the Palm Beach Golf Club has been in operation since the implementation of the Pittwater Local Environmental Plan 2014. Consent was granted for alterations and additions to the Palm Beach Golf Club on 27 April 2001 under approval N1044/99. This indicates that the building has maintained its current use prior to the granting of consent, and there is no record of any subsequent development applications. Therefore, it is deemed that the building has been consistently used for its intended purposes."

The modifications proposed in this application are primarily of a structural nature and do not necessitate a comprehensive reassessment of the existing use rights or an evaluation of the environmental impact of the development.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application was not notified.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<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> <p>Note: The proposed development may not comply with some</p>

Internal Referral Body	Comments
	requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.
NECC (Flooding)	<p>The site is affected by the 1% AEP flood event and Medium Flood Risk Precinct.</p> <p>The development proposed in DA2022/1860 included an addition of 18m² of habitable area on the ground floor with a FFL of 2.99m AHD. The existing ground floor area, with a FFL of 2.94m AHD, was to be retained.</p> <p>The proposed modification is to reduce the FFL of the additional habitable area from 2.99m AHD to 2.94m AHD, to match the existing ground floor level.</p> <p>The FFL will be below the 1% AEP flood level of 3.11m AHD. However due to the FFL of 2.94m AHD previously approved for DA N1044/99, the proposed development is deemed to comply with Council's flood related development controls.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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)

Nil

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

The development does not propose any changes that would modify the existing Principal Development Standards.

Compliance Assessment

Clause	Compliance with Requirements
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone C4 Environmental Living

Objectives of zone

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment:

The development proposal is considered to align with the above-mentioned objective.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment:

The development proposal is considered to align with the above-mentioned objective.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

Comment:

The development proposal is considered to align with the above-mentioned objective.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment:

The development proposal is considered to align with the above-mentioned objective.

Pittwater 21 Development Control Plan

Built Form Controls

The development does not propose any changes that would modify the existing Built Form Controls.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
A4.12 Palm Beach Locality	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.6 Wildlife Corridors	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
C2.2 Safety and Security	Yes	Yes
C2.5 View Sharing	Yes	Yes
C2.6 Adaptable Housing and Accessibility	Yes	Yes
C2.7 Building Facades	Yes	Yes
C2.9 Waste and Recycling Facilities	Yes	Yes
C2.10 Pollution Control	Yes	Yes
C2.12 Protection of Residential Amenity	Yes	Yes
C2.16 Undergrounding of Utility Services	Yes	Yes
C5.22 Environmental Sustainability	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B3.11 Flood Prone Land

The application was referred to Council's Flood Engineer who has supported the application subject to conditions, and has left the following comments:

The site is affected by the 1% AEP flood event and Medium Flood Risk Precinct.

The development proposed in DA2022/1860 included an addition of 18m² of habitable area on the ground floor with a FFL of 2.99m AHD. The existing ground floor area, with a FFL of 2.94m AHD, was to be retained.

The proposed modification is to reduce the FFL of the additional habitable area from 2.99m AHD to 2.94m AHD, to match the existing ground floor level.

The FFL will be below the 1% AEP flood level of 3.11m AHD. However due to the FFL of 2.94m AHD previously approved for DA N1044/99, the proposed development is deemed to comply with Council's flood related development controls

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 2022

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 2021;
- 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

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. Mod2023/0205 for Modification of Development Consent DA2022/1860 granted for Alterations and additions to an existing commercial premises (Palm Beach Golf Club) on land at Lot 11 DP 1275411,2 Beach Road, PALM BEACH, subject to the conditions printed below:

A. Add Condition No.1A - 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
MOD_100 Rev-C	17 April 2023	Hot House Architects
MOD_101 Rev-C	17 April 2023	Hot House Architects
MOD_110 Rev-C	17 April 2023	Hot House Architects
MOD_200 Rev-C	17 April 2023	Hot House Architects

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

c) The development is to be undertaken generally in accordance with the following:

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

B. Add Condition 10A- Building components and structural soundness to read as follows:

B1 - All new development below the Flood Planning Level of 3.41m AHD shall be designed and constructed from flood compatible materials. The extension below FPL must be flood proofed, so as to not include any construction material that is not susceptible to water damage, the flooring must be designed to be constructed of materials that allow it to be hosed out after a flood event. The fit out of the new extension must be designed to made of construction material that is not susceptible to water damage. The fit out should be designed so that appliances (e.g. dishwasher and office equipment) and other electronic items susceptible to water damage, are housed above the FPL.

B2 - All new development must be designed to ensure structural integrity up to the Flood Planning Level of 3.41m AHD, taking into account the forces of floodwater, debris load, wave action, buoyancy and immersion.

B3 - All new and existing power points, wiring and connections must be located above the Flood Planning Level of 3.41m AHD, or have residual current devices installed to cut electricity supply during flood events.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

C. Add Condition 10B- Storage of Goods to read as follows:

G1 - Storage areas for hazardous or potentially polluting materials shall not be located below the Flood

Planning Level of 3.41m AHD unless adequately protected from floodwaters in accordance with industry standards.

Details demonstrating compliance are to be submitted to the Principal Certifier for approval.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

D. Modify Condition 17- Certification of Building Components and Structural Soundness (B1) to read as follows:

B1 - A suitably qualified professional is to certify that the new extension below the FPL does not include any construction material that is susceptible to water damage, and that the flooring is constructed of materials that allow it to be hosed out after a flood event without damage.

B3 - A suitably qualified professional is to certify that the new fit out below FPL does not include any construction material that is susceptible to water damage, is constructed so that appliances (e.g. dishwasher and office equipment) and other electronic items susceptible to water damage, are housed above the FPL, and all new and existing power points, wiring and connections are located above the FPL or have residual current devices installed to cut electricity supply during flood events.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

E. Modify Condition 19- Flood Management to read as follows:

B1 - Materials and flooring that are susceptible to water damage must not be used for construction or fit out in the extension below the FPL. New Fit-outs in the extension below the FPL must be constructed so that appliances (e.g. dishwasher and office equipment) and other electronic items susceptible to water damage, are housed above the FPL.

G1 - Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level of 3.41m AHD unless adequately protected from floodwaters in accordance with industry standards.

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

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

Signed



Michael French, Planner

The application is determined on 20/06/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments