

Memo

Environment

To:	Phil Lane , Acting Development Assessment Manager
From:	Adam Croft, Planner
Date:	8 July 2022
Application Number:	Mod2022/0366
Address:	Lot 13 DP 1189590 , 25 Spring Cove Avenue MANLY NSW 2095
Proposed Modification:	Modification of Development Consent DA2021/2545 granted for Use of part of a dwelling house as a home business

Background

The abovementioned development consent DA2021/2545 was granted by Council on 13 May 2022 for Use of part of a dwelling house as a home business;

Details of Modification Application

Under Section 4.55(1) of the EPA Act 1979, a consent containing an error or mis-description may be amended. The Northern Beaches Community Participation Plan does not require the notification of Section 4.55(1) modification applications as they are considered to be of minimal environmental impact.

The application seeks to delete condition Nos. 3 Prescribed Conditions and 4 General Requirements and modify condition Nos. 5 Kitchen Requirements and 6 Waste Management Plan as follows:

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
 Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:

- A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
- A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

Amended to:-

Condition 3. Prescribed Conditions to read as follows:

DELETED

4. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

7.00 am to 5.00 pm inclusive Monday to Friday,
8.00 am to 1.00 pm inclusive on Saturday,
No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

(b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.

(c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the

issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

i) Building/s that are to be erected

ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

iii) Building/s that are to be demolished

iv) For any work/s that is to be carried out

v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

Amended to:-

Delete Condition 4. General Requirements to read as follows:

DELETED

5. Kitchen Design, Construction and Fit-out of Food Premises Certification

Prior to the issuing of any occupation certificate, certification is to be provided to the Principal Certifier by a suitably qualified person demonstrating that the design, construction and fit out of food premises kitchen is compliant with the requirements of the Food Safety Standard 3.2.3 Food Premises and Equipment.

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

Amended to:-

5. Kitchen Requirements

The kitchen shall be maintained at all times in accordance with the requirements of the Food Safety Standard 3.2.3 Food Premises and Equipment.

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

6. Waste Management Plan

A Waste Management Plan must be prepared for the ongoing operation of the home business use.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure that all waste is disposed of in an appropriate manner.

Amended to:-

6. Waste Management Plan

A Waste Management Plan must be prepared for the ongoing operation of the home business use.

Reason: To ensure that all waste is disposed of in an appropriate manner.

Consideration of error or mis-description

The proposed development sought consent for the use only of part of the dwelling as a home business.

As the development did not include any physical works or requirement for the issue of a Construction Certificate or Occupation Certificate, condition Nos. 3 Prescribed Conditions and 4 General Requirements are not applicable or necessary.

The proposed amendment of condition Nos. 5 Kitchen Requirements and 6 Waste Management Plan does not alter the requirements of either condition, but allows the satisfaction of the conditions in this circumstance where no Construction Certificate or Occupation Certificate is to be issued.

As such, the proposed deletion and amendment of conditions is supported to read as above.

Conclusion

It is considered that the modification is minor in nature and consistent with the provisions of section 4.55(1) of the EPA Act 1979 and is therefore recommended for approval.

Recommendation

THAT Council as the consent authority approve Modification Application No. Mod2022/0366 for Modification of Development Consent DA2021/2545 granted for Use of part of a dwelling house as a home business on land at Lot 13 DP 1189590,25 Spring Cove Avenue, MANLY, as follows:

A. Delete Condition 3. Prescribed Conditions to read as follows:

3. DELETED

B. Delete Condition 4. General Requirements to read as follows:

4. DELETED

C. Modify Condition 5. Kitchen Design, Construction and Fit-out of Food Premises Certification to read as follows:

5. Kitchen Requirements

The kitchen shall be maintained at all times in accordance with the requirements of the Food Safety Standard 3.2.3 Food Premises and Equipment.

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

D. Modify Condition 6. Waste Management Plan to read as follows:

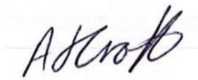
6. Waste Management Plan

A Waste Management Plan must be prepared for the ongoing operation of the home business use.

Reason: To ensure that all waste is disposed of in an appropriate manner.


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

Signed



Adam Croft, Planner

The application is determined on 07/07/2022, under the delegated authority of:



Phil Lane, Acting Development Assessment Manager