



PITTWATER COUNCIL



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Business Hours:

8.00am to 6.00pm, Monday to Thursday

8.00am to 5.00pm, Friday

S96 No: N0482/98/S96/1

2 April 2013

PALM BEACH CORPORATION PTY LTD
C/- DON FOX PLANNING
11 DARTFORD ROAD
THORNLEIGH NSW 2120

Dear Sir/Madam

N0482/98/S96/1 Modification of Development Consent N0482/98 for subdivision of six lots into five lots, comprising two commercial and three residential allotments (in two stages) at 1102, 1108 & 1110 BARRENJOEY ROAD PALM BEACH NSW 2108.

Your request for modification has been considered by Council and it has been agreed to modify the Consent.

Please find attached the consent as modified.

If there are any matters that require further clarification, please do not hesitate to contact me.

Yours faithfully



Gordon Edgar
EXECUTIVE PLANNER



MODIFICATION OF DEVELOPMENT CONSENT NO: N0482/98

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

NOTICE TO APPLICANT OF DETERMINATION

OF A DEVELOPMENT APPLICATION

Applicant's Name and Address:

**PALM BEACH CORPORATION PTY LTD
C/- DON FOX PLANNING
11 DARTFORD ROAD
THORNLEIGH NSW 2120**

Being the applicant in respect of S96 Modification Application No N0482/98/S96/1

Pursuant to section 81 of the Act, notice is hereby given of the determination by Pittwater Council, as the consent authority, of this Development Application for: -

N0482/98/S96/1 Modification of Development Consent N0482/98 for subdivision of six lots into five lots, comprising two commercial and three residential allotments (in two stages).

At:-

**1102, 1108 7 1110 BARRENJOEY ROAD
PALM BEACH NSW 2108**

Decision:

The Development Application has been determined by the granting of consent subject to the conditions detailed below.

The reason for the imposition of these conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act, pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Note: For ease of reference, all of the previous conditions have been re-listed. Those conditions amended or deleted have been highlighted.

Endorsement of date of consent 21/04/1999, *Modified 2/4/2013*

Mark Ferguson
GENERAL MANAGER

Per:



STANDARD CONDITIONS OF DEVELOPMENT CONSENT

STAGE 1

A. NOTATIONS

- i. ***The development is to be carried out generally in accordance with plans numbered PB-DA-01-1, PB-DA-02-1, PB-DA-03-1, PB-DA-05A-1, PB-DA-01B-1, PB-DA-06-1, 06A-1 and 06B-1, all dated 1 August 2012, prepared by the Palm Beach Corporation Pty Ltd, as amended in red or as modified by any conditions of consent.***
- ii. This Development Consent remains current and operative for a 2 year period from the date of endorsement. Council would be prepared to consider an extension of this Consent period for a further 12 months, however, the request for extension would have to be received during the initial 2 year period.
- iii. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979, gives you a right of appeal to the Land and Environment Court within 12 months of the date of endorsement of this Consent.

B. MATTERS TO BE SATISFIED PRIOR TO RELEASE OF CONSENT

- i. ***DELETED.***
- ii. The applicant is to furnish to Pittwater Council the written concurrence from Energy Australia to the proposed relocation of the electricity sub-station.
- iii. The applicant is to furnish Owners Consent from Pittwater Council for the proposed consolidation of the unzoned parcel of road reserve, currently housing the Energy Australia sub-station.

C. PRESCRIBED CONDITIONS

1. The proposal is to comply with the relevant provisions of Clauses 78A-1 of the Environmental Planning and Assessment (Amendment) Regulation, 1998.

D. CONDITIONS TO MINIMISE THE IMPACT OF THE DEVELOPMENT ON THE NATURAL AND BUILT ENVIRONMENT

2. Any development of Lot 1 is to comply with the requirements of Council's Sand Point Locality Plan/Development Control Plan No LP2, Development Control Plan No 2 – Carparking and Development Control Plan No E3 – Driveways and Internal Roadways.
3. Any development of Lot 3 for the purposes of "Shop-Top Housing" is to comply with the requirements of Council's Development Control Plan No R4 – Shop-Top Housing, Council's Sand Point Locality Plan/Development Control Plan No LP2, Development Control Plan No 2 – Carparking and Development Control Plan No E3 – Driveways and Internal Roadways.



E. SECTION 94 CONTRIBUTION CONDITIONS

4. A contribution of \$1,930 is to be made to Account 81224A pursuant to Section 94 of the Environmental Planning and Assessment Act, 1989, for Embellishment of Open Space in accordance with Section 94 Contributions Plan No 2. The Contributions Plan may be inspected at Pittwater Council, Unit 11, No 5 Vuko Place, Warriewood. The Section 94 Contribution is to be paid prior to issue of the Occupation Certificate or Subdivision Certificate, where relevant.
5. A contribution of \$226 is to be made to Account SLEL pursuant to Section 94 of the Environmental Planning and Assessment Act, 1989, for Public Library Services in accordance with Section 94 Contributions Plan No 3. The Contributions Plan may be inspected at Pittwater Council, Unit 11, No 5 Vuko Place, Warriewood. The Section 94 Contribution is to be paid prior to issue of the Occupation Certificate or Subdivision Certificate, where relevant.

F. MATTERS TO BE SATISFIED PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to issue of the Construction Certificate:

Nil

G. MATTERS TO BE SATISFIED PRIOR TO COMMENCEMENT OF WORK

The following conditions must be complied with prior to commencement of work:

Nil

H. MATTERS TO BE SATISFIED PRIOR TO ISSUE OF COMPLIANCE CERTIFICATE

The following conditions must be complied with prior to issue of the Compliance Certificate:

Nil

I. MATTERS TO BE SATISFIED PRIOR TO ISSUE OF CERTIFICATE OF OCCUPATION

The following conditions must be complied with prior to issue of the Certificate of Occupation:

Nil

J. MATTERS TO BE SATISFIED PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

The following conditions must be complied with prior to issue of the Subdivision Certificate:

Nil

K. GENERAL ADVICE

- A. No trees are to be removed from the site without the prior approval of Council, pursuant to the provisions of the Tree Management Order.



STAGE 2

A. NOTATIONS

- iv. ***The development is to be carried out generally in accordance with plans numbered PB-DA-01-1, PB-DA-02-1, PB-DA-03-1, PB-DA-01B-1, 06A-1 and 06B-1, dated 1 August 2012, prepared by the Palm Beach Corporation Pty Ltd, as amended in red or as modified by any condition of consent.***
- v. This Development Consent remains current and operative for a 2 year period from the date of endorsement. Council would be prepared to consider an extension of this Consent period for a further 12 months, however, the request for extension would have to be received during the initial 2 year period.
- vi. If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979, gives you a right of appeal to the Land and Environment Court within 12 months of the date of endorsement of this Consent.

B. MATTERS TO BE SATISFIED PRIOR TO RELEASE OF CONSENT

C. PRESCRIBED CONDITIONS

- 1. All building works are to be carried out in accordance with the provisions of the Building Code of Australia or where not covered by the Building Code of Australia, the relevant Australian Standard.

Note: Particular attention should be paid to the relevant fire safety requirements of the Building Code of Australia.

- 2. The proposal is to comply with the relevant provisions of Clauses 78A-1 of the Environmental Planning and Assessment (Amendment) Regulation, 1998.

D. CONDITIONS TO MINIMISE THE IMPACT OF THE DEVELOPMENT ON THE NATURAL AND BUILT ENVIRONMENT

- 3. All trees and landscape/bushland works as nominated are to be maintained on site and in accordance with subject conditions and must not be harmed, damaged, lopped, topped or pruned.
- 4. Furthermore, no tree or shrub of any kind whatsoever planted or retained pursuant to this consent shall be lopped, topped, pruned or removed without prior written approval of the Council as a variation to this consent.
- 5. Access to the property for construction purposes to be only via the approved driveway.
- 6. The following trees identified on Drawing No PB-DA-01, dated 01-10-98 are to be retained, Nos 9, 29, 30, 38, 41 and 44.



7. As the site has been mapped as 'Fragmented' bushland, landscaping on site must consist of 80% locally indigenous plants, in accordance with the Draft DCP for the Conservation of Biodiversity in Pittwater.

8. The following noxious weeds identified by Leonard & Hanes (1998) are to be removed by a qualified, experienced, practising bush regenerator, to prevent dispersal by the proposed works:

Lantana (*Lantana camara*)

Turkey Rhubarb (*Aetosa sagittata*)

Blue Morning Glory (*Ipomea indica*)

Coastal Morning Glory (*Ipomea calrica*)

Caster Oil (*Ricinus communis*)

Ochna (*Ochna serrulata*)

Broadleaf Privet (*Ligustrum lucidum*)

Asparagus Fern (*Protasparagus aethiopicus*)

Giant Reed (*Arundo donax*)

9. The footpath and adjacent roadway is to be kept free of obstruction by building materials and/or plant. All concrete trucks, pumps and associated plant is to be kept wholly within the site. No concrete or slurry is to be discharged into the street or the street drainage system.
10. Any development of Lot 1, 4 and 5 is to comply with the requirements of Council's Sand Point Locality Plan/Development Control Plan No LP2, Development Control Plan No 2 – Carparking and Development Control Plan No E3 - Driveways and Internal Roadways.
11. Any development of Lot 3 for the purposes of "Shop-Top Housing" is to comply with the requirements of Council's Development Control Plan No R4 – Shop-Top Housing, Council's Sand Point Locality Plan/Development Control Plan No LP2, Development Control Plan No 2 – Carparking and Development Control Plan No E3 - Driveways and Internal Roadways.
12. The hours of construction being restricted to 7am to 5pm, Monday to Friday and 7am to 1pm, Saturdays.
13. The finished surface of the access driveway is to be an earthy colour which harmonises with the surrounding vegetation to minimise the prominence of the driveway. The driveway structure is also to incorporate landscape planter boxes, with suitable plant species, or similar to soften the structure.

E. SECTION 94 CONTRIBUTION CONDITIONS

11. A contribution of \$3,860 is to be made to Account 81224A pursuant to Section 94 of the Environmental Planning and Assessment Act, 1989, for Embellishment of Open Space in accordance with Section 94 Contributions Plan No 2. The Contributions Plan may be inspected at Pittwater Council, Unit 11, No 5 Vuko Place, Warriewood. The Section 94 Contribution is to be paid prior to issue of the Occupation Certificate or Subdivision Certificate, where relevant.
12. A contribution of \$452 is to be made to Account SLEL pursuant to Section 94 of the Environmental Planning and Assessment Act, 1989, for Public Library Services in accordance with Section 94 Contributions Plan No 3. The Contributions Plan may be inspected at



Pittwater Council, Unit 11, No 5 Vuko Place, Warriewood. The Section 94 Contribution is to be paid prior to issue of the Occupation Certificate or Subdivision Certificate, where relevant.

F. MATTERS TO BE SATISFIED PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to issue of the Construction Certificate:

13. Two sets of detailed working drawings that comply in all respects with the conditions of the Development consent are to be submitted prior to the release of the Construction Certificate. Each plan/sheet is to include a signed statement from a suitably qualified person, that the plans/details provide for the works to be carried out in accordance with the Building Code of Australia and/or Australian Standard (see format appendix 1).

Where separate details or specifications are referred to on the approved plans, those plans or documents are to be separately certified by an appropriately certified professional as to their compliance with the Building Code of Australia or relevant Australian Standard.

14. Two sets of Structural Engineering details including any proposed drainage/waterproofing are to be submitted prior to release of the Construction Certificate. Each plan/sheet is to include a signed statement from a qualified practising Structural Engineer confirming that the plans/details comply with all of the relevant Building Code of Australia and/or Australian Standards (see format appendix 1).
15. Two sets of Geotechnical Engineering details are to be submitted prior to release of the Construction Certificate particularly in relation to site drainage, retaining walls and construction of access roads. Each plan/sheet is to include a signed statement from a qualified practising Geotechnical Engineer confirming that the plans/details comply with all of the relevant Building Code of Australia and/or Australian standards (see format appendix 1).
16. A Schedule of Work prepared by a Structural Engineer, endorsed by a Geotechnical Engineer is to be submitted in respect of the following items:
 - The details and location of all intercept drains, provided uphill of the excavation, to control runoff through the cut area.
 - The proposed method of disposal of collected surface waters is to be clearly detailed;
 - Procedures for excavation and retention of cuts, to ensure the site stability is maintained during earthworks; and
 - The position and type of silt arresting measures to be utilised.
17. Two sets of Hydraulic (Drainage) Engineering details including on-site stormwater detention are to be submitted prior to release of the Construction Certificate. Each plan/sheet is to include a signed statement from a qualified practising Hydraulic Engineer confirming that the plans/details comply with all of the relevant Building Code of Australia and/or Australian standards (see format appendix 1).
18. Two copies of a detailed Landscape plan are to be submitted prior to release of the Construction Certificate. Each plan/sheet is to include a signed statement from a qualified practising Landscape Architect confirming that the plans/details comply with the provisions of Council's Landscape DCP/Policy (see format appendix 1).



19. Two copies of a site remediation plan are to be submitted prior to release of the Construction Certificate. Each plan/sheet is to include a signed statement from a qualified practising Landscape Architect confirming that the plans/details comply with all of the relevant Building Code of Australia and/of Australian standards (see format appendix 1).
20. Details of footings within 3 metres of trees proposed to be retained are to be submitted prior to construction and that the final location of these footings are adjusted on site not to cut any tree root larger than 50mm in diameter. That a qualified Arborist be on site at the time of constructing these footings to advise on the footings final location.
21. Applicant is to submit further landscape information prior to construction showing the following details:
 - Exact tree species, locations and pot sizes (trees to be minimum of 35 litres).
 - Street tree planting along Earrenjoey Road. Street trees or plantings have been indicated on CAD drawn drawing No PB-DA-04 but have not been shown on the landscape plan PB-DA-05. Street trees are to be in accordance with Council's DCP and are to be planted at 200 litre size. Exact species should also be indicated. Council's landscape architect is to approve street tree planting concept prior to construction.
 - Mass planting of endemic trees and shrubs in the area shown in red on the consent plans. In this regard, the planting is to be in suitable species and sufficient quantities and spacing to soften and screen the driveway structure and turning areas.

G. MATTERS TO BE SATISFIED PRIOR TO COMMENCEMENT OF WORK

The following conditions are to be complied with prior to commencement of work:

22. Prior to commencement of the project, a Project Manager is to be designated. Further, the 'Notification of Commencement' form (copy attached) is to be returned to Council, a minimum 2 days prior to commencement of site works.

If an alternate Project Manager is appointed after the approved plans are collected from Council, that Project Manager is to co-sign the 'Notification of Commencement' form.

In the event that Council is nominated to issue any associated Compliance Certificates, the fee as specified in Council's Plan of Management is to be paid prior to commencement of site works.

23. Prior to commencement of site works, a qualified Building Surveyor, Builder or Site Manager is to certify that the required erosion controls have been installed. No further site works are to commence, until such time as that certification has been obtained and a copy forwarded to the accredited certifier or Council (see copy of form attached).
24. Prior to commencement of site works, a qualified Arborist, Horticulturist or Landscape Architect is to certify that appropriate protection, fencing etc. has been provided around those trees or landscaped areas, located outside of the building area(s). No further site works are to take place until this certification has been obtained and a copy forwarded to the accredited certifier or Council (see copy of form attached).



25. A hoarding is to be provided around the site to prevent the entry of the general public. The hoarding is not to encroach upon the public footpath without the prior approval of Council.

H. MATTERS TO BE SATISFIED PRIOR TO ISSUE OF COMPLIANCE CERTIFICATE

The following conditions must be complied with prior to the issue of the Compliance Certificate:

26. A certificate is to be submitted by a Registered Surveyor, certifying that site excavation and/or filling (including around those trees nominated on the approved plan as being retained) has been carried out in accordance with the levels shown on the approved plans. No further building works are to take place until this certification has been obtained and a copy forwarded to the accredited certifier or Council (see copy of form attached).
27. A Structural Engineer is to certify that site disturbance and any interim or permanent retaining measures have been carried out correctly. No further building works are to commence until this certification has been obtained and a copy forwarded to the accredited certifier or Council (see copy of form attached).
28. As the site is located in a slip liable area, a Structural Engineer and a Geotechnical Engineer are to certify that site disturbance and any interim or permanent retaining measures and the construction of the driveway and drainage structures have been carried out correctly. No further building works are to commence until this certification has been obtained and a copy forwarded to the accredited certifier or Council (see copy of form attached).
29. A Certificate is to be submitted by a qualified Building Surveyor, Builder or Site Manager, confirming that stormwater drainage, including on-site stormwater detention facilities have been provided in accordance with the conditions of development consent, approved engineering details or Council's Engineering PCP/Policy. Trenches are not to be backfilled until this certification has been obtained and a copy forwarded to the accredited certifier or Council (see copy of form attached).
30. Prior to the commencement of works on site, tree protection barriers are to be placed around nominated species and maintained for the duration of the works. The barriers are to be constructed of chainmesh fencing (1.6 metres in height) and be permanent in nature. Such barriers are to be indicated on relevant site plan and not to be removed without express permission of Council officers. No stockpiling of materials, rubbish or ground disturbance to occur inside this barrier. Compromise of these barriers will entail possible forfeit of retention sums in relation to Council reinstating barriers following reasonable requests for reinstatement of the applicant in this consent.
- *All trees within 3 metres from excavation or construction are to be protected.*
31. Prior to commencement of works a Reorder or evidence of supply of plant material is to be submitted to Council's Landscape Architect. Failure to submit will involve breach of this consent/approval.
32. Council's Landscape section is to be notified and to carry out a site inspection following completion of soil works prior to commencement of planting.
33. Evidence of a twelve-month maintenance program for all landscape works and a five year maintenance program for mature trees is to be submitted to Council's Landscape Architect.

The maintenance of the mature trees/palms is to be supervised by a qualified arborist.

I. MATTERS TO BE SATISFIED PRIOR TO ISSUE OF CERTIFICATE

The following conditions must be complied with prior to the issue of the Compliance Certificate:

34. A Certificate is to be submitted by a qualified Engineer or Architect confirming that the driveway has been constructed in accordance with the approved plans and Council's policy DCP-E3. The use or occupation of this building can not commence until this certification has been obtained and a copy forwarded to the accredited certifier or Council (see copy of form attached).

J. MATTERS TO BE SATISFIED PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

The following conditions must be complied with prior to issue of the Subdivision Certificate:

35. Appropriate easements are to be created where service lines or drainage lines pass through private property other than the lot which they benefit. Full details in this regard are to be submitted to Council, prior to release of the Subdivision Certificate.
36. Appropriate Rights of Way and Rights of Carriageway are to be created over the common driveway burdening and benefiting the proposed lots, to provide for suitable legal pedestrian access to the dwellings and appropriate vehicular access and maneuvering to the parking areas on both lots. Full details in this regard are to be submitted to Council, prior to release of the Subdivision Certificate.
37. A Restriction on Use of Land is to be created, burdening Lots 1, 4 and 5, the terms of which restrict future buildings within those lots to the building envelopes shown on the approved plans. Full details in this regard are to be submitted to Council, prior to release of the Subdivision Certificate.
38. A Certificate is to be submitted by a qualified Engineer or Architect confirming that the driveway has been constructed in accordance with the approved plans and Council's DCP-E3. The Subdivision Certificate will not be released until this certification has been obtained and a copy forwarded to the accredited certifier or Council (see copy of form attached).
39. The drainage and driveway services and reinstatement landscaping on Lots 1, 4 and 5 together with regeneration works within the areas marked in red on the consent plans are to be completed prior to release of Stage 2 Final Men of Subdivision.

K. GENERAL ADVICE

- A. The applicant or project manager is to comply with the advice and requirements of the various supply and utility authorities, i.e. Sydney Water, Sydney Electricity, Telsira etc.
- B. It is the Project Managers responsibility to ensure that all of the Compliance Certificates issued during the course of the project are lodged with Council. Failure to comply with the conditions of approval or lodge the Compliance Certificates will prevent Council from issuing the Occupation Certificate or the Building Certificate.
- C. Revegetation is to be carried out as soon as the site preparation/excavation has been completed.



- D. No trees are to be removed from the site without the prior approval of Council, pursuant to the provisions of the Tree Management Order.



Pittwater Council

All correspondence to be addressed to General Manager

Units 9, 11 & 12
5 Vuko Place
WARRIEWOOD NSW 2102

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P.O. Box 882
MONA VALE NSW 2103

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DX 9018 MONA VALE
Internet www.pittwaterlga.com.au

Steve Findlay, Development Officer
8am to 6pm Mon - Thurs, 8am to 5pm Fri
Phone 9970 1160 Mobile 0419 621 612

DA No N0482/98

In all correspondence please
quote this/these numbers

21 April 1999

The Palm Beach Corporation
12 Iluka Road
PALM BEACH NSW 2108

Dear Sir/Madam

Development Application for subdivision of six lots into five lots, comprising two commercial and three residential allotments (in two stages) at 1102 to 1108 Barrenjoey Road, Palm Beach

I am pleased to advise that this application has been approved and I attach for your assistance a copy of the Development Consent and the conditions of approval.

Commencement of the land use or activity, in accordance with the provisions of this Development Consent and the conditions attached thereto, signifies that you accept all of the conditions imposed by Council. It is therefore important that prior to proceeding with the project, that you satisfy yourself that you understand and are able to comply with all of the conditions.

Please note that some sections of the Consent may require the lodgement of Building Component Certificates at various stages of the development. These Certificates must be returned to Council or the Accredited Certifier, prior to issue of the Compliance Certificate, Occupation Certificate or Subdivision Certificate. You should also note that both Council and the Accredited Certifier will charge a fee for the issue of the Compliance, Occupation or Subdivision Certificates.

If there are any matters relating to this approval which require further explanation, please contact me prior to commencing the use or activity.

Yours faithfully

Steve Findlay
DEVELOPMENT OFFICER