

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0160
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Responsible Officer:	Nick Keeler
Land to be developed (Address):	Lot 21 DP 1017487, 5 A Beach Road PALM BEACH NSW 2108 Lot C DP 341607, 1180 Barrenjoey Road PALM BEACH NSW 2108 Lot 1 DP 668492, 2 Beach Road PALM BEACH NSW 2108 Lot A DP 341607, 2 Beach Road PALM BEACH NSW 2108 Lot 1 DP 1127631, 2 Beach Road PALM BEACH NSW 2108
Proposed Development:	Modification of DA2018/1423 granted for a boundary adjustment subdivision and consolidation from five (5) Lots into three (3) Lots
Zoning:	E4 Environmental Living E4 Environmental Living E4 Environmental Living E4 Environmental Living E4 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:	Palm Beach Golf Club Ltd

Application Lodged:	28/04/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	12/05/2020 to 26/05/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify development consent DA2018/1423 granted for a boundary adjustment (subdivision and consolidation) from five (5) lots into (3) lots. The modification proposes to relocate four onsite parking spaces for the golf club lost through the boundary adjustment. Four new car spaces are

proposed to be provided within Lot 11. The total onsite car parking for the golf club is to remain at 27 spaces.

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

There are no assessment issues.

SITE DESCRIPTION

<p>Property Description:</p>	<p>Lot 21 DP 1017487 , 5 A Beach Road PALM BEACH NSW 2108 Lot C DP 341607 , 1180 Barrenjoey Road PALM BEACH NSW 2108 Lot 1 DP 668492 , 2 Beach Road PALM BEACH NSW 2108 Lot A DP 341607 , 2 Beach Road PALM BEACH NSW 2108 Lot 1 DP 1127631 , 2 Beach Road PALM BEACH NSW 2108</p>
<p>Detailed Site Description:</p>	<p>The subject land is described in detail as follows:</p> <p><u>No.2 Beach Road</u> - Palm Beach Golf Club and carpark comprising:</p> <ul style="list-style-type: none"> • Lot 1 DP1127631 (proposed Lot 11) contains the majority part of the Palm Beach Golf Club ("the Club") building which also overlaps the adjacent Club land. While this not is not formally included / nominated with the subdivision proposal, the land is associated with the subdivision by legal reference within the proposed Section 88B instrument. This land has an angled boundary with Beach Road and

drains to the street. The lot has a minimal cross slope with a street frontage of 22.74 metres (m), an existing depth of 40.02m and an existing area of 834.7 square metres (sqm).

- **Lot 1 DP 668492** (proposed Lot 11) contains the principal vehicle access to the Club carpark and is partly overlapped by the Club building at the front half of the lot. This lot has an existing frontage of 10.06m to Beach Road, an existing depth of 79.25m and an existing area of 765.8sqm. Part of the lot is used for Club's bitumen carparking area and the land drains to the street. The lot has a minimal gradient at the front with steeper land at the rear where the land is grassed and has an angled southern boundary.
- **Lot A DP 341607** (proposed Lot 11) contains the majority of the club's carpark area and is partly overlapped the by Club building. This is a rectangular shaped lot with an existing frontage of 13.41m, an existing depth of 45.71m and an existing area of 613.0 sqm. The land has a minor crossfall toward the northeast.

No.5A Beach Road - Residential property (proposed Lot 12)

- **Lot 21 DP 1017487** contains a dwelling house and pool and is intended to be consolidated the part of the bitumen carpark area within Lot 1 DP 668492 (behind No.1182 Barenjoey Road). This is a battle-axe shaped lot with an existing road frontage of 5.03m (driveway access), an existing depth of 36.5m (central area) and an existing total Lot area of 1,424sqm (1,116sqm excluding access & easements). The land has a steep crossfall (of 37% or 16m in height) toward the northwest.

No.1180 Barrenjoey Road - Residential property (Proposed Lot 13)

- **Lot C DP 341607** contains a dwelling house and is intended to be consolidated with the grassed area that forms the southern end of Lot 1 DP 668492; This is a rectangular shaped lot with an existing road frontage of 13.41m, an existing depth of 45.71m and an existing area of 613.0 sqm. The land has a minor crossfall toward the north.

Map:



SITE HISTORY

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

Application **DA2018/1423** for boundary adjustment (subdivision and consolidation) from five (5) Lots into three (3) Lots was approved on 05/04/2019 by Council staff under delegated authority.

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 DA2018/1423, 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> <p>The proposed modifications do not make amendment to the proposed subdivision pattern assessed under the original application. The modification proposes to relocate existing onsite parking that was originally proposed to be lost.</p>
<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 DA2018/1423 for the following reasons:</p> <p>The proposed lot boundary adjustments are fundamentally similar to the approved development.</p>
<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 2000, Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control 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 & 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 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	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	Warringah/Manly/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 (EP&A Regulation 2000)	<p><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 the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation was submitted with the original application/This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to XXX. / No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&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/This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent/This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent/This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>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>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter has been addressed via a condition in the original consent/This clause is not relevant to this application.</p>
<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>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah/Manly/Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will / 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 / will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered un/suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

EXISTING USE RIGHTS

Existing use rights for the site were established as part of the assessment of DA2018/1423.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	The proposed modifications does not alter the previous assessment by Development Engineering. No objection to approval with no additional or modified conditions of consent recommended.
Traffic Engineer	Confirm previous comments from Traffic section advising that the latest parking plans generally comply with Australian Standards and Council requirements

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 residential and 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 residential and commercial land use.

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	% Variation	Complies
Minimum subdivision lot size:	700m ²	Lot 11: 1,907m ² Lot 12: 1,553m ² (not	Lot 11: 1,907m ²	N/A	Yes

		approved per Condition 1) Lot 13: 788m ²	Lot 12: 1,553m ² Lot 13: 788m ²		
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Compliance Assessment

Clause	Compliance with Requirements
4.1 Minimum subdivision lot size	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

The proposed modification does not include the alteration for construction of any building. The existing built form of all buildings are to be maintained.

Compliance Assessment

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
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B2.2 Subdivision - Low Density Residential Areas	Yes	Yes
B3.1 Landslip 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
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
C4.1 Subdivision - Protection from Hazards	Yes	Yes
C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities	Yes	Yes
C4.3 Subdivision - Transport and Traffic Management	Yes	Yes
C4.4 Subdivision - Public Roads, Footpath and Streetscape	Yes	Yes
C4.5 Subdivision - Utility Services	Yes	Yes
C4.6 Service and delivery vehicle access in subdivisions	Yes	Yes
C4.7 Subdivision - Amenity and Design	Yes	Yes
C4.8 Subdivision - Landscaping on the Existing and proposed public road reserve frontage to subdivision lots	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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 2019

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 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

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. Mod2020/0160 for Modification of DA2018/1423 granted for a boundary adjustment subdivision and consolidation from five (5) Lots into three (3) Lots on land at Lot 21 DP 1017487,5 A Beach Road, PALM BEACH, Lot C DP 341607,1180 Barrenjoey Road, PALM BEACH, Lot 1 DP 668492,2 Beach Road, PALM BEACH, Lot A DP 341607,2 Beach Road, PALM BEACH, Lot 1 DP 1127631,2 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
CC_703D	9 May 2020	Hot House Studio

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

B. Modify Condition No. 1 - 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) Approved Plans

Subdivision Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Plan of Subdivision	21 January 2020	William Hamer

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

C. Delete Condition No. 2

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

Signed



Nick Keeler, Planner

The application is determined on 22/07/2020, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments