

NORTHERN BEACHES COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-82
DA Number	Mod2020/0366
LGA	Northern Beaches Council
Proposed Development	Modification of Development Consent DA2018/1166 granted for Demolition Works and Construction of a Boarding House development
Street Address	Lot 8 DP 22384, 615 Pittwater Road, Lot A DP 400997, 613 Pittwater Road, and Lot 2 DP 22384, 11 May Road, Dee Why
Applicant/Owner	Leech Harmon Architects (Applicant) Supertramp Pty Ltd (owner)
Date of DA lodgement	13 August 2020
Number of Submissions	Notification not required
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Modification application for regionally significant development under Section 4.56 of the EP&A Act.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2000 • Northern Beaches Section 7.12 Contribution Plan 2019
List all documents submitted with this report for the Panel's consideration	Attachment 1 –Applicant's Cost Summary Report Attachment 2 – Modified Condition No. 6
Clause 4.6 requests	Not Applicable
Summary of key submissions	No issues
Report prepared by	Lashta Haidari –Principal Planner
Report date	25 November 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

**Not
Applicable**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Not
Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

**Not
Applicable**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY

The application seeks to modify Development Consent No.DA2018/1166 for demolition works and construction of a boarding house development for 80 boarding rooms, plus 5 manager's rooms over three (3) separate Lots known as No.613 to No.615 Pittwater Road and No 11 May Road, Dee Why ('the site'). This consent was issued by the Land and Environment Court (LEC) on 22 January 2020.

By way of background, the Sydney North Planning Panel (SNPP) originally refused the DA on the basis that the proposal was an over development of the site and was inconsistent with a number requirements of State Environmental Plan (Affordable Rental Housing) 2009. The proposal considered by the SNPP was for a 122 room boarding house.

As part of the LEC Court proceedings, the application was amended to reduce the size and scale of the development to an 80 room boarding house development.

The proposed modification seeks to amend condition 6 of DA2018/1166, which is relation to the development contribution payable. The condition currently requires a contribution of \$115,171.88, based on a cost of works of \$11,517,188 for 122 room boarding house. An amended cost estimate, prepared by a Quantity Surveyor was provided by the Applicant, identifying a new cost of works of \$8,496,298 for the 80 room boarding house. The new cost estimate reflects the reduced size of the development as approved by the Court.

The updated cost estimate is from a registered Quantity Surveyor and is considered reasonable and hence should be used to determine the amended developer contributions.

Accordingly, this report recommends that the application be approved in accordance with the amended conditions provided in Attachment 2.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify Development Consent No. DA2018/1166 in the following manner:

- Modify Condition No. 6 - Section 94 Development Contributions Plan.

The reason for the modification of Condition 6 is because the Development Application was originally lodged for a 122 room boarding house with a construction cost of \$11,517,188.

However, the final Court approval resulted in a reduction in the overall footprint of the development and a significant reduction in the size and scale and number of boarding rooms to 80, which consequentially reduced the overall cost to \$84,962.98.

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 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 provided by relevant Council / Government / Authority Officers on the proposal.

SITE DESCRIPTION

The site is made of three (3) separate properties known as No.613 to No.615 Pittwater Road and No and 11 May Road Dee Why.



Subject Site

RELEVANT BACKGROUND

Development Application No. DA2018/1166 (Original Development Consent)

Mod2020/0366– 613 -615 Pittwater Road and 11 May Road, Dee Why

Development Application DA2018/1166 for demolition works and construction of boarding house development containing 80 rooms, including 5 managers' rooms, with associated carparking, access and landscaping works was granted consent by the Land and Environment Court on 22 January 2020.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

- 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.

SECTION 4.56 CONSIDERATIONS (previously Section 96AA)

In accordance with Section 4.56, a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:

(a) Section 4.56 1(a) – Substantially the same development

The proposed modification only seeks to modify Condition No.6 which relates to the Section 94 Development Contributions. The applicant states that because the development was amended during the Land and Environment Court proceedings to reduce the size of the development and the number of boarding rooms, therefore the overall cost of the development has also been reduced.

No other changes are proposed as part of this modification, therefore the proposed modification is found to be consistent with the requirement of Section 4.56 of the EPA Act.

Consequently, it is considered that the development as proposed to be modified will remain substantially the same as that approved.

b) Notification and Section 4.56 1(b) - (d)

As the modification relates to a condition regarding monetary contributions, the application did not require notification.

Section 4.15 Assessment

In accordance with Section 4.55(3) of the Environmental Planning and Assessment Act 1979, in determining a modification application made under Section 4.55, the consent authority must take into consideration such of the matters referred to in Section 4.15 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:

Mod2020/0366– 613 -615 Pittwater Road and 11 May Road, Dee Why

Section 4.15 'Matters for Consideration'	Comments
Section 4.15C (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	Not Applicable
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None Applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	All relevant provisions of the EP&A Regulation 2000 have been taken into consideration during the assessment of the development application and this modification application.
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) The environmental impacts of the proposed development on the natural and built environment remains unchanged.</p> <p>(ii) The proposed development will not have a detrimental social impact on the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The proposed modifications do not alter the site’s suitability for the development
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See the discussion on “Public Exhibition” in this report.
Section 4.15 (1) (e) – the public interest	The modified development will remain in the public interest

NOTIFICATION

The application was not notified for the reasons mentioned above.

REFERRALS

Referral Body (Internal)	Comments Received
Strategic and Place Planning	<p>The modification application seeks to amend Condition 6 of the consent to reduce the required monetary contribution from \$115,171.88 to \$84,962.98. The original contribution was based on a cost estimate of \$11,517,188. An updated cost estimate has been provided identifying a revised cost of \$8,496,288.59.</p> <p>The revised cost estimate reflects the reduced scale of the development approved by the Land and Environment Court.</p> <p>The revised cost estimate is from a registered quantity surveyor and is considered acceptable. The Condition 6 should be amended to reflect a monetary contribution payable of \$84,962.89, calculated as 1% of the revised cost estimate.</p> <p>The proposal is therefore supported.</p>
Property and Commercial Development	<p>The proposal is for modification of a consent for an approved boarding house.</p> <p>Property has no objection to the proposal as submitted.</p>

	The proposal is therefore supported.
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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 acceptable against the applicable planning controls.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

LOCAL ENVIRONMENTAL PLANS

WARRINGAH LOCAL ENVIRONMENT PLAN 2011

The Warringah Local Environmental Plan 2011 is applicable to the development.

Is the development permissible with consent?	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 proposed modification only relates to amending Condition 6 which relates to the Development Contributions, and does alter compliance with the applicable development standards.

Compliance Assessment Summary

Relevant Clauses	Compliance with Requirements
Part 1 Preliminary	
1.2 Aims of the Plan	Yes

WARRINGAH DEVELOPMENT CONTROL PLAN 2011

No changes are proposed that are relevant to the built form controls or other planning matters under the WDCP.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

As discussed in the preceding sections of this report, the Section 7.12 contributions are to be amended as per the amended Condition 6.

Mod2020/0366– 613 -615 Pittwater Road and 11 May Road, Dee Why

CONCLUSION

The proposal has been assessed in accordance with Section 4.56 and the heads of consideration listed in Section 4.15 of the Environmental Planning & Assessment Act 1979 (as amended).

The application has been 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; and
- Northern Beaches Section 7.12 Contributions Plan 2019

In accordance with Part 3 of Schedule 2 of the EP&A Act, the Application is referred to the Sydney North Planning Panel for determination.

The S4.56 application before the Panel seeks to modify Development Consent No. DA2018/1166 as described in this report.

The proposal has been determined to be substantially the same development as that originally approved.

Accordingly, it is recommended that approval be granted to the application subject to the conditions contained in Attachment 1.

RECOMMENDATION (APPROVAL)

That the Sydney North Planning Panel, as the consent authority, grant approval to Modification Application No. Mod2020/0366 for Modification of Development Consent DA2018/1166 granted for demolition works and construction of Boarding House Development at 613-615 Pittwater Road, and 11 May Road, Dee Why, subject to modified conditions as contained in Attachment 1.