

Memo

Environment

To:	Rodney Piggott , Development Assessment Manager
From:	Daniel Milliken, Planner
Date:	26 July 2019
Application Number:	Mod2019/0319
Address:	Lot 1768 DP 752038 , 1768 / 0 Sunshine Street MANLY VALE NSW 2093
Proposed Modification:	Modification of Development Consent DA2015/0597 granted for Demolition works Alterations and additions to existing buildings Construction of new school buildings and an increase in student numbers at Manly Vale Public School

Background

The abovementioned development consent was granted by the Sydney North Planning Panel on 19 December 2016 for Demolition works, Alterations and additions to existing buildings, Construction of new school buildings and an increase in student numbers at Manly Vale Public School;

Details of Modification Application

Under Section 96(1) of the EPA Act 1979, a consent containing an error or mis-description may be amended. Warringah DCP (A7 Notification) does not require the notification of Section 96(1) modification applications as they are considered to be for minor changes that do not affect the development or the amenity of adjoining properties.

The application seeks to modify condition **No. 55 - Rights of Carriageway**, which reads as follows:

Rights of carriageway easements in favour of the Northern Beaches Council under the Conveyancing Act 1919 are to be created on the title to ensure the ongoing retention and public access of:

- a) *The variable width dual use pathway which extends from the southern side of the Gibbs Street carpark then north towards the Manly Northern Beaches War Memorial Park (proposed Lots 100, 101 in DP 1220468); and*
- b) *The variable width pathway which encircles the eastern side of McComb Hill within proposed Lots 1549, 7074 and 102 in DP 1220468 and existing Lot 1768 in DP 752038.*

The terms of the easements are to be prepared to Council's requirements, (available from Northern Beaches Council), at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify the easements.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to occupation in accordance with the state building laws.

Reason: Public interest and access. (DACENH04)

The applicant seeks to modify condition **No. 55 - Rights of Carriageway** to read as follows:

Rights of carriageway easements over Lots 100 and 101 DP 1220468 in favour of Northern Beaches Council under the Conveyancing Act, 1919 are to be created on the titles to ensure the ongoing retention of public pedestrian access of the variable width dual use pathway which extends from the southern side of the Gibbs Street car park then northwards towards the Manly Northern Beaches War Memorial.

The terms of the easements are to be prepared to Council's requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify the easements.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to occupation in accordance with state building laws.

Reason: Public interest and access.

Consideration of error or mis-description

Condition 55 was imposed to ensure that public access to Manly Warringah War Memorial State Park - known as Manly Dam, was maintained after the development.

Before the redevelopment of the school, one point of public access to Manly Dam was obtained via a path starting at the southern end of Gibbs Street (to the east of the school site), running through Lots 100 and 101 DP 1220468 (both to the south of the school site) before entering Council owned land that forms part of Manly Dam.

The second part of the original condition, requiring rights of carriageway over the "*variable width pathway which encircles the eastern side of McComb Hill within proposed Lots 1549, 7074 and 102 in DP 1220468 and existing Lot 1768 in DP 752038*", relates to lots that are to the east of the school site. There is no obvious path on these lots and the redevelopment of the school does not limit access to them from the pathway along Lots 100 and 101 DP 1220468.

In this regard, the second part of the condition is unnecessary to achieve public access to Manly Dam. It is therefore recommended that the condition be modified to the applicant's proposed wording.

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. Mod2019/0319 for Modification of Development Consent DA2015/0597 granted for Demolition works Alterations and additions to existing buildings Construction of new school buildings and an increase in student numbers at Manly Vale Public School on land at Lot 1768 DP 752038, 1768 / 0 Sunshine Street, MANLY VALE, as follows:

A. Modify Condition No. 55 - Rights of Carriageway, to read as follows:

Rights of carriageway easements over Lots 100 and 101 DP 1220468 in favour of Northern Beaches

Council under the Conveyancing Act, 1919 are to be created on the titles to ensure the ongoing retention of public pedestrian access of the variable width dual use pathway which extends from the southern side of the Gibbs Street car park then northwards towards the Manly Northern Beaches War Memorial.

The terms of the easements are to be prepared to Council's requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify the easements.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to occupation in accordance with state building laws.

Reason: Public interest and access.

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

Signed



Daniel Milliken, Principal Planner

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



Rodney Piggott, Manager Development Assessments