

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2024/0491
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Responsible Officer:	Olivia Ramage
Land to be developed (Address):	Lot 3 DP 617781, 69 Bassett Street MONA VALE NSW 2103
Proposed Development:	Modification of consent DA2023/1068 granted for demolition and construction of mixed use development including self-storage and a take-away food and drink premises
Zoning:	E4 General Industrial
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Lex Pedersen

Application Lodged:	10/09/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	18/09/2024 to 02/10/2024
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	4.3 Height of buildings: 9.1% from FPL or 11.7%
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The modification proposes the following amendments:

Ground Floor:

- New emergency exit door adjacent to lift to comply with BCA fire safety requirements
- New structural column north of café as required by structural engineer

First Floor:

- Common circulation space:

- Removal of internal void to comply with BCA fire safety requirements
- Size decrease of south-east window

- Unit 2:

- Size increase of south-east window for more natural light and amenity
- Removal of internal glazing

- Unit 3:

- Size decrease of south-east window
- Relocation of roller door

Second Floor:

- Common circulation space:

- Removal of internal void to comply with BCA fire safety requirements
- Ambulant toilet in lieu of void area to comply with BCA accessibility requirements
- Size decrease of south-east window
- Removal of 'carspace' note adjacent to terrace as required by DA Condition

- Unit 4:

- Removal of WC

- Owner's Lounge:

- Size decrease of north glazed door to comply with BCA fire safety requirements

Roof:

- Metal roof to replace concrete roof
- Increased height to parapets to accommodate a pitched roof and provide sufficient height in each floor for required car stackers
- Decreased height to stairwell roof to provide significant reduction in bulk and scale when viewed from street level

External Finish

- Metal cladding to replace render finish for unit 2, 3 and 4

The modification proposes to modify/delete the following conditions:

- Condition 1 - Site Contamination Assessment
- Condition 2 - Acid Sulfate Soils Assessment
- Condition 12 - Amended Landscape Plan
- Condition 25 - Vehicle Access & Parking
- Condition 78 - Staff and Patronage

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

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater 21 Development Control Plan - D9.6 Front building line

SITE DESCRIPTION

Property Description:	Lot 3 DP 617781 , 69 Bassett Street MONA VALE NSW 2103
Detailed Site Description:	The subject site consists of one (1) corner allotment located on the south-western side of Bassett Street and the north-western side of Tengah Crescent. The site is irregular in shape with a frontage of 15.255m along Bassett Street and a depth of 35.955m to Tengah Crescent. The site has a surveyed area of 720.5m². The site is located within the E4 General Industrial zone under the PLEP 2014. The site is currently occupied by a single storey industrial building. The site is generally flat and does not contain any vegetation. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by

industrial buildings to the east, west and south and residential dwellings to the north.

Map:



SITE HISTORY

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

- **PLM2022/0146** - Pre-Lodgement Meeting held on 9 August 2022 for Demolition works and the construction of a three-storey vehicle storage facility and take-away cafe.
- **DA2023/1068** - Development application for Demolition works and construction of a mixed use development including self-storage units and a take away food and drink premises. Approved 27 March 2024.

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 DA2023/1068, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
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:	
(a) 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	The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2023/1068 for the following reasons: • The proposal remains for demolition works and construction of a mixed use development including self-storage units and a take away food and drink premises. • The built form of the development remains substantially the same in terms of setbacks and building footprint. The modification proposes to amend the roof material and pitch which results in a minor height increase but remains substantially the same.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2023/1068 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require,	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.

Section 4.55 (2) - Other Modifications	Comments
or (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	
(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.	See discussion on "Notification & Submissions Received" in this report.

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 (2) 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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan 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 Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.

Section 4.15 'Matters for Consideration'	Comments
	<u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 18/09/2024 to 02/10/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Eric Anthony Janssens	9 Paul Close MONA VALE NSW 2103

The following issues were raised in the submissions:

- Traffic and Parking**

The submission raised concerns that this modification and the original DA fail to provide any analysis on the envisaged customer volumes associated with the café to ensure adequate parking is provided and existing traffic and parking issues are not further compounded. The submission raises concern regarding the provision of adequate parking for café customers and requests solutions to resolve existing traffic and parking issues in Bassett Street and Paul Close in advance of the proposed development.

Comment:

This modification does not propose any changes to the approved take away food and drink premises or generate any increased demand on parking. The Assessment Report for DA2023/1068 includes the referral comments provided by Council's Traffic Engineer when assessing and supporting DA2023/1068. The report also provides discussion of the proposal's compliance with Clause B6.3 Off-Street Vehicle Parking Requirements of Pittwater 21 DCP. A Traffic Impact Assessment (prepared by URaP International and dated 8 December 2023) was also submitted with the application and reviewed by Council's Traffic Engineer. An addendum letter has been provided by URaP International dated 27 August 2024 and submitted with this application confirming that the modifications have no adverse traffic and parking impacts and no amendment would be required as part of the Traffic and Parking Report previously prepared. The modification has also been reviewed and supported by Council's Traffic Engineer. As such, the modification does not impact on traffic and parking and is considered acceptable.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respects to aspects relevant the Building Certification and Fire Safety Department. There

Internal Referral Body	Comments
	are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below. <i><u>Note:</u> The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</i>
Environmental Health (Acid Sulfate)	General Comments General Comments The proposed modification involves the following: Ground Floor: - New emergency exit door adjacent to lift to comply with BCA fire safety requirements - New structural column north of café as required by structural engineer First Floor: - Common circulation space: - o Removal of internal void to comply with BCA fire safety requirements - o Size decrease of south-east window - Unit 2: - o Size increase of south-east window for more natural light and amenity - o Removal of internal glazing - Unit 3: - o Size decrease of south-east window - o Relocation of roller door Second Floor: - Common circulation space: - o Removal of internal void to comply with BCA fire safety requirements - o Ambulant toilet in lieu of void area to comply with BCA accessibility requirements - o Size decrease of south-east window - o Removal of 'carspace' note adjacent to terrace as required by DA Condition

Internal Referral Body	Comments
	- Unit 4: - o Removal of WC - Owner's Lounge: - o Size decrease of north glazed door to comply with BCA fire safety requirements Roof: - Metal roof to replace concrete roof - Increased height to parapets to accommodate a pitched roof and provide sufficient height in each floor for required car stackers - Decreased height to stairwell roof to provide significant reduction in bulk and scale when viewed from street level External Finish: - Metal cladding to replace render finish for Unit 2, 3 & 4 and Terrace. The proposal also seeks to modify or remove consent conditions as follows: No.1 – Site Contamination Assessment A Contamination Report by 5QS Consulting Group has been undertaken to characterize the site contamination condition. It is satisfied that the land is suitable in its current state for which the development is proposed to be carried out. The report concludes that the site is suitable for the proposed light industrial development. The modification seeks the removal of Condition 1 – Site Contamination Assessment, as the required testing has now been done confirming no contamination, the report is part of this submission. No.2 – Acid Sulfate Soils Assessment A soil sampling and analysis was undertaken by 5QS Consulting Group to investigate the presence of acid sulfate soils. It is concluded that an Acid Sulfate Soils Management Plan is not required. The modification seeks the removal of Condition 2 – Acid Sulfate Soils Assessment, as the required testing has now been done, the report is part of this submission. No.12 – Amended Landscape Plan A detailed landscape plan, prepared by Sturt & Noble Associates, is submitted as a modification the approved landscape plan prepared by MHDP Architects. The revised plans have proposed new landscape and retained/replaced existing as advised in the condition. The modification seeks a revised assessment to Condition 12 –

Internal Referral Body	Comments
	Amended Landscape Plan, as the Council's issues are addressed in the revised landscape plan as part of this submission. No.25 – Vehicle Access & Parking The revised second floor plan has removed the parking spaces adjacent to the service riser as required by this Condition. The Condition is no longer necessary. No.78 – Staff and Patronage The modification seeks the removal of Condition 78 – Staff and Patronage. This is a low use, low turnover building with no permanent staff and only four Owners whose primary use is storing valuable vehicles which are rarely used. There is no reason to have a numerical control on staff and patronage for this type of building. In relation to the part of the proposal seeking to remove condition 2 (as above) of DA2023/1068, further geotechnical investigation has been undertaken. This investigation, as evidenced by the Geotechnical Report supplied with the proposal documentation, is accompanied by borehole testing and screen sampling undertaken which states "...it is interpreted that the soils present to the depths of 2 m on the site are neither actual nor potential acid sulphate soils...". As a result, it is further states that "...no specific ASS management plan is required for the construction of development involving excavations to depths not greater than about 2 m..." Accordingly the proposal is supported. It is noted that a condition of consent remains in place requiring notification should further evidence of acid sulphate soils become apparent during works Recommendation APPROVAL - No conditions
Environmental Health (Industrial)	General Comments General Comments The proposed modification involves the following: Ground Floor: - New emergency exit door adjacent to lift to comply with BCA fire safety requirements - New structural column north of café as required by structural engineer First Floor: - Common circulation space:

Internal Referral Body	Comments
	o Removal of internal void to comply with BCA fire safety requirements o Size decrease of south-east window - Unit 2: o Size increase of south-east window for more natural light and amenity o Removal of internal glazing - Unit 3: o Size decrease of south-east window o Relocation of roller door Second Floor: - Common circulation space: o Removal of internal void to comply with BCA fire safety requirements o Ambulant toilet in lieu of void area to comply with BCA accessibility requirements o Size decrease of south-east window o Removal of 'carspace' note adjacent to terrace as required by DA Condition - Unit 4: o Removal of WC - Owner's Lounge: o Size decrease of north glazed door to comply with BCA fire safety requirements Roof: - Metal roof to replace concrete roof - Increased height to parapets to accommodate a pitched roof and provide sufficient height in each floor for required car stackers - Decreased height to stairwell roof to provide significant reduction in bulk and scale when viewed from street level External Finish: - Metal cladding to replace render finish for Unit 2, 3 & 4 and Terrace. The proposal also seeks to modify or remove consent conditions as follows: No.1 – Site Contamination Assessment A Contamination Report by 5QS Consulting Group has been undertaken to characterize the site contamination condition. It is satisfied that the land is suitable in its current state for which the development is proposed to be carried out. The report concludes that the site is suitable for the proposed light industrial development. The modification seeks the removal of Condition 1 – Site

Internal Referral Body	Comments
	Contamination Assessment, as the required testing has now been done confirming no contamination, the report is part of this submission. No.2 – Acid Sulfate Soils Assessment A soil sampling and analysis was undertaken by 5QS Consulting Group to investigate the presence of acid sulfate soils. It is concluded that an Acid Sulfate Soils Management Plan is not required. The modification seeks the removal of Condition 2 – Acid Sulfate Soils Assessment, as the required testing has now been done, the report is part of this submission. No.12 – Amended Landscape Plan A detailed landscape plan, prepared by Sturt & Noble Associates, is submitted as a modification the approved landscape plan prepared by MHDP Architects. The revised plans have proposed new landscape and retained/replaced existing as advised in the condition. The modification seeks a revised assessment to Condition 12 – Amended Landscape Plan, as the Council's issues are addressed in the revised landscape plan as part of this submission. No.25 – Vehicle Access & Parking The revised second floor plan has removed the parking spaces adjacent to the service riser as required by this Condition. The Condition is no longer necessary. No.78 – Staff and Patronage The modification seeks the removal of Condition 78 – Staff and Patronage. This is a low use, low turnover building with no permanent staff and only four Owners whose primary use is storing valuable vehicles which are rarely used. There is no reason to have a numerical control on staff and patronage for this type of building. In relation to the part of the proposal seeking to remove condition 1(as above) of DA2023/1068, further geotechnical investigation has been undertaken. This investigation, as evidenced by the Geotechnical Report supplied with the proposal documentation, is accompanied by borehole testing, soil sampling and laboratory testing undertaken. The report puts forward the following comments: "...From the results of targeted sampling and chemical analysis of the soils that are representative of surface conditions on the site, it is

Internal Referral Body	Comments
	unlikely that contaminants associated with the former site usages are present within the soils in general on the property. It is anticipated that any contamination that might be present on the site would be limited to the concrete slab and walls/ceilings of the existing building, and the topsoil destined for removal from beneath these areas of the proposed development. Based on the above comments, it is interpreted that the sit will be suitable for development as a commercial/light industrial vehicle storage facility..." Accordingly the proposal is supported with the recommendation of conditions of consent relating to notification of new evidence of contamination should it become apparent during works, hazardous material survey being undertaken in relation to buildings proposed to be demolished, and soil disposal. Recommendation APPROVAL - subject to conditions
Environmental Health (Food Premises, Skin Pen.)	General Comments The proposed modification involves the following: Ground Floor: - New emergency exit door adjacent to lift to comply with BCA fire safety requirements - New structural column north of café as required by structural engineer First Floor: - Common circulation space: - o Removal of internal void to comply with BCA fire safety requirements - o Size decrease of south-east window - Unit 2: - o Size increase of south-east window for more natural light and amenity - o Removal of internal glazing - Unit 3: - o Size decrease of south-east window - o Relocation of roller door Second Floor: - Common circulation space: - o Removal of internal void to comply with BCA fire safety requirements - o Ambulant toilet in lieu of void area to comply with BCA accessibility

Internal Referral Body	Comments
	requirements - o Size decrease of south-east window - o Removal of 'carspace' note adjacent to terrace as required by DA Condition - Unit 4: - o Removal of WC - Owner's Lounge: - o Size decrease of north glazed door to comply with BCA fire safety requirements Roof: - Metal roof to replace concrete roof - Increased height to parapets to accommodate a pitched roof and provide sufficient height in each floor for required car stackers - Decreased height to stairwell roof to provide significant reduction in bulk and scale when viewed from street level External Finish: - Metal cladding to replace render finish for Unit 2, 3 & 4 and Terrace. The proposal also seeks to modify or remove consent conditions as follows: No.1 – Site Contamination Assessment A Contamination Report by 5QS Consulting Group has been undertaken to characterize the site contamination condition. It is satisfied that the land is suitable in its current state for which the development is proposed to be carried out. The report concludes that the site is suitable for the proposed light industrial development. The modification seeks the removal of Condition 1 – Site Contamination Assessment, as the required testing has now been done confirming no contamination, the report is part of this submission. No.2 – Acid Sulfate Soils Assessment A soil sampling and analysis was undertaken by 5QS Consulting Group to investigate the presence of acid sulfate soils. It is concluded that an Acid Sulfate Soils Management Plan is not required. The modification seeks the removal of Condition 2 – Acid Sulfate Soils Assessment, as the required testing has now been done, the report is part of this submission. No.12 – Amended Landscape Plan

Internal Referral Body	Comments
	A detailed landscape plan, prepared by Sturt & Noble Associates, is submitted as a modification the approved landscape plan prepared by MHDP Architects. The revised plans have proposed new landscape and retained/replaced existing as advised in the condition. The modification seeks a revised assessment to Condition 12 – Amended Landscape Plan, as the Council's issues are addressed in the revised landscape plan as part of this submission. No.25 – Vehicle Access & Parking The revised second floor plan has removed the parking spaces adjacent to the service riser as required by this Condition. The Condition is no longer necessary. No.78 – Staff and Patronage The modification seeks the removal of Condition 78 – Staff and Patronage. This is a low use, low turnover building with no permanent staff and only four Owners whose primary use is storing valuable vehicles which are rarely used. There is no reason to have a numerical control on staff and patronage for this type of building. In relation to the establishment of food premises as part of the development, the proposal contains a minor structural amendment to the cafe and as such, does not require any further conditions to be recommended by Environmental Health. Recommendation APPROVAL - no conditions
Landscape Officer	The application is for modification to development consent DA2023/1068. Considerable changes to the Landscape Plans were conditioned under DA2023/1068 and on review of this modification application all items under condition 12 Amended Landscape Plan have been satisfactorily addressed. Condition 12 Amended Landscape Plan can be deleted as part of this modification application. The Landscape Plans show the retention of 1 x <i>Leptospermum</i> street tree in Tengah Crescent and the removal of 2 x Bottlebrush street trees (one in Tengah Crescent and one in Bassett Street), as conditioned under DA2023/1068, and as such two conditions will be added as part of this modification application; Protection of Existing Street Trees and Tree Removal Within the Road Reserve. Condition 53 Landscape Completion will be slightly amended to recognise the new Landscape Plans.
NECC (Development Engineering)	No objections to approval and no changes to conditions of Consent DA2023/1068.

Internal Referral Body	Comments
NECC (Flooding)	The proposal is for the Modification of DA2023/1068. The proposed modification includes alterations to the roof, windows, internal layout and external finishes, and additions in the form of a structural column. Subject to the retention of flood conditions outlined in DA2023/1068, and the following conditions, the proposal generally complies with Section B3.11 of the Pittwater DCP and Clause 5.21 of the Pittwater LEP.
Traffic Engineer	Proposed development: Modification to DA2023/1068 (Demolition and construction of mixed use development including self-storage and a take away food and drink premise) The traffic team has reviewed the following documents: - Plans - Master set (amended), revision E dated December 2022 - Traffic Statement by Urban Research and Planning (URaP), dated 27 August 2024. - The Section 4.55 Modification Report, prepared by MHDP Architects, dated August 2024. Comments - It is acknowledged that the proposal is for a modification to the approved consent due to some minor changes including but not limited to amendment of roof material and construction type, increase height of roof pitch and parapet, additional structural column north of the cafe, removal of one car space on second floor etc. - It is noted that the proposed amendments to the approved plans do not create any new traffic concerns. - The Section 4.55 Modification report seeks to remove DA condition no. 78 stating that the proposed development is a low use, low turnover building with no permanent staff and only four owners whose primary use is storing valuable vehicles which are rarely used. Traffic team believes that there is no reason why this condition should be removed although the proposed development is low use and has low turnover. The team believes that this condition does not affect the operation of the proposed development. Hence, this condition no. 78 is to remain. - The Section 4.55 Modification report seeks to remove DA condition no. 25 as the revised plans have removed one parking space on second floor as stated in the condition. Therefore, condition 25 can be removed now. Conclusion The proposed modifications to the approved DA is supported. All the previous DA conditions excluding no. 25 to remain.

Internal Referral Body	Comments
	<u>Planner Comment:</u> Condition No.78 - Staff and Patronage was imposed by the planning officer assessing DA2023/1068 not the Traffic Team. The condition was imposed to be consistent with the Operational Management Plan. However, there is concern that such a condition has the potential to disrupt the viability of the business and stifle the development. As such, this condition is not necessary and can be deleted.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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 (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for industrial purposes for a significant period of time with no prior land uses.

APreliminary Site Investigation was provided with the original application prepared by JK Environments (dated 5 April 2023). The report recommends that a Detailed Site Investigation (DSI) should be undertaken to characterise the site contamination conditions and establish whether the site is suitable for the proposed development in its current state, or whether remediation is required.

Council's Environmental Health Officer has reviewed the application and above-mentioned report, and based on the advice from the environmental consultant that the site is suitable for the change of use, the likelihood of contamination is relatively low considering the available evidence on the previous uses of the site, and the proposed use is not residential, community or for any sensitive occupants (such as a child care center, school, health related, or the like), therefore provided a deferred commencement condition of consent that a DSI must be prepared prior to the consent becoming operational.

Further geotechnical investigation has been undertaken including borehole testing, soil sampling and laboratory testing with evidence provided. This information has been reviewed by Council's Environmental Health Team and it is considered that the site will be suitable for development as a commercial/light industrial vehicle storage facility. As such, the deferred commencement condition 1

has been satisfied.

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
Height of Buildings:	11m OR Max. 10.5m above FPL: 3.26m AHD (RL 13.76)	12.08m (RL 14.8)	12.29m (RL 15.010)	9.1%	No
Floor Space Ratio	FSR: 1:1 (720.5m ²)	1.05:1 (758m ²)	Unaltered	N/A	No (As approved)

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	No
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Whilst the modification will result in a building height that contravenes the maximum permitted by Clause 4.3 of the PLEP 2014, the application does not strictly need to address the requirements of Clause 4.6.

The application has been made under Section 4.55 of the *Environmental Planning and Assessment Act 1979*, which authorises the development for which consent was granted to be modified,

notwithstanding any breach of development standards. As such, no document pursuant to Section 35B of the *Environmental Planning and Assessment Regulation 2021* or Clause 4.6 is required.

The matters set out in Section 4.55(3) are addressed in the relevant sections of this report.

Assessment

The maximum building height prescribed by Clause 4.3 is 11m. Subclause 4.3 (2B) provides that despite subclause (2) development on land:

(a) at or below the flood planning level or identified as “Coastal Erosion/Wave Inundation” on the Coastal Risk Planning Map, and

(b) that has a maximum building height of 11 metres shown for that land on the Height of Buildings Map, may exceed a height of 11 metres, but not be more than 10.5 metres above the flood planning level.

The adopted Flood Planning Level (FPL) is RL 3.26 and therefore the maximum height prescribed by this clause is RL 13.76. The previously approved development provided a maximum height of RL 14.8 and the modification proposes a maximum height of RL 15.01.

The increase in building height arises due to the change in roof material from concrete to a metal roof due to cost and environmental reasons. The change in material results in an increased height to the parapets to accommodate a pitched roof and provide sufficient height in each floor for required car stackers. The resultant height remains below the height of the approved adjoining storage premises at No. 4 Tengah Crescent which has a ridge level of RL 15.35.

Essentially, the minor increase in height does not render the development incompatible with surrounding development and is considered acceptable in the circumstances.

7.1 Acid sulfate soils

Clause 7.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 3, as indicated on Council's Acid Sulfate Soils Planning Map.

Works at depths beyond 1.0m below the natural ground surface and/or works by which the watertable is likely to be lowered more than 1.0 metre below the natural ground surface within a Class 3 acid sulfate soil area are required to be assessed to determine if any impact will occur.

A Preliminary Acid Sulfate Soils Assessment was provided with the original application prepared by JK Environments dated 5 April 2023. The report found that an ASS assessment, including soil sampling and analysis, should be undertaken to assess the need for an ASSMP.

The Preliminary Assessment was referred to Council's Environmental Health Officer who concurred with the findings and imposed a deferred commencement condition of consent which requires this assessment to be undertaken prior to the consent becoming operational. This condition and the recommendations made in the Preliminary Assessment have been included in the conditions of consent.

Further geotechnical investigation has been undertaken and submitted with this application. This

investigation, as evidenced by the Geotechnical Report supplied with the proposal documentation, is accompanied by borehole testing and screen sampling undertaken which states "...it is interpreted that the soils present to the depths of 2 m on the site are neither actual nor potential acid sulphate soils...". As a result, it is further states that "...no specific ASS management plan is required for the construction of development involving excavations to depths not greater than about 2 m..."

This has been reviewed by Council's Environmental Health Team and the proposal is considered acceptable and the condition satisfied. It is noted that a condition of consent remains in place requiring notification should further evidence of acid sulphate soils become apparent during works

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	North - 6.5m	6.5m (ground floor) 4.5m (first floor) 6.5m (second floor)	unaltered unaltered unaltered	Yes No (As approved) Yes
Secondary Front Building Line	East - 3.25m	3.5m	unaltered	Yes
Side building line	South - Nil	Nil	unaltered	Yes
	West - Nil	Nil	unaltered	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.5 Rainwater Tanks - Business, Light Industrial and Other Development	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C2.1 Landscaping	Yes	Yes
C2.2 Safety and Security	Yes	Yes
C2.5 View Sharing	Yes	Yes
C2.7 Building Facades	Yes	Yes
C2.8 Energy and Water Conservation	Yes	Yes
C2.9 Waste and Recycling Facilities	Yes	Yes
C2.10 Pollution Control	Yes	Yes
C2.11 Signage	Yes	Yes
C2.12 Protection of Residential Amenity	Yes	Yes
C2.16 Undergrounding of Utility Services	Yes	Yes
C2.21 Food Premises Design Standards	Yes	Yes
C2.24 Take-away Food Premises	Yes	Yes
C3.1 Landscaping	Yes	Yes
C3.2 Safety and Security	Yes	Yes
C3.3 View Sharing	Yes	Yes
C3.4 Accessibility	Yes	Yes
C3.6 External Storage Areas	Yes	Yes
C3.7 Pollution Control	Yes	Yes
C3.8 Building Facades	Yes	Yes
C3.9 Energy and Water Conservation	Yes	Yes
C3.10 Waste and Recycling Facilities	Yes	Yes
C3.12 Signage	Yes	Yes
C3.13 Industrial Development Adjoining Residential Land	Yes	Yes
C3.14 Car/Vehicle/Boat Wash Bays	Yes	Yes
C3.15 Undergrounding of Utility Services	Yes	Yes
C3.19 Food Premises Design Standards	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	No	Yes
D9.7 Side and rear building line	Yes	Yes
D9.12 Fences - General	Yes	Yes
D9.16 Character of the Public Domain - Mona Vale Commercial Centre	Yes	Yes

Detailed Assessment

D9.6 Front building line

No changes are proposed to the previously approved front building lines.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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 2024

Section 7.12 contributions were levied on the Development Application.

The modification seeks to delete the deferred commencement conditions 1 - Site Contamination Assessment and 2 - Acid Sulfate Soils Assessment of DA2023/1068. Additional information has been provided in the form of a Targeted Contamination Assessment report prepared by 5QS Consulting Engineers as evidence that the conditions have been satisfied.

The report provided states that it is unlikely that contaminants associated with the former site usages are present and the site is suitable for the commercial/light industrial development. Council's Environmental Health Team has reviewed the submitted information and confirmed it satisfies Condition 1 - Site Contamination Assessment.

Further geotechnical investigation was undertaken by 5QS Consulting Engineers to investigate the presence of acid sulfate soils. The report provided states that "...it is interpreted that the soils present to the depths of 2 m on the site are neither actual nor potential acid sulphate soils...". As a result, it is further stated that "...no specific ASS management plan is required for the construction of development involving excavations to depths not greater than about 2 m...". Council's Environmental Health Team has reviewed the submitted information and confirmed it satisfied Condition 2 - Acid Sulfate Soils Assessment.

As such, the deferred commencement conditions have been satisfied and consent DA2023/1068 (as modified) is now an operational consent.

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 2021;
- 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. Mod2024/0491 for Modification of consent DA2023/1068 granted for demolition and construction of mixed use development including self-storage and a take-away food and drink premises on land at Lot 3 DP 617781,69 Bassett Street, MONA VALE, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-468239	The date of this notice of determination	Modification of Development Consent DA2023/1068 granted for Demolition works and construction of a mixed use development including self-storage units and a take away food and drink premises Add Condition No.3A - Modification of Consent - Approved Plans and supporting documentation Delete Condition No.12 - Amended Landscape Plan Delete Condition No.25 - Vehicle Access & Parking Amend Condition No.28 - Building Code of Australia Fire Safety Requirements Amend Condition No.29 - Access and Facilities for Persons with Disabilities

		Add Condition No.37A - Hazardous Materials Add Condition No.40A - Tree Removal Within the Road Reserve Add Condition No.51A - Off-site Disposal of Contaminated Soil - Chain of Custody Add Condition No.51B - Requirement to Notify about New Contamination Evidence Add Condition No.51C - Protection of Existing Street Trees Amend Condition No.53 - Landscape Completion Add Condition No.66A - Fire Safety Matters Delete Condition No.78 - Staff and Patronage
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Modified conditions

A. Add Condition No.3A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A101	E	Ground Floor Plan	MHDP Architects	August 2024
A102	E	First Floor Plan	MHDP Architects	August 2024
A103	E	Second Floor Plan	MHDP Architects	August 2024
A104	E	Roof Plan	MHDP Architects	August 2024
A201	D	North Elevation	MHDP Architects	August 2024
A202	D	South Elevation	MHDP Architects	August 2024
A203	D	East Elevation	MHDP Architects	August 2024
A204	D	West Elevation	MHDP Architects	August 2024
A301	B	Section A-A	MHDP Architects	July 2024
DA-2413-01	A	Ground Floor Landscape Plan	Sturt Noble Associates	6 August 2024
DA-2413-02	A	Level 2 Landscape Plan	Sturt Noble Associates	6 August 2024
DA-2413-05	A	Planting Schedule	Sturt Noble Associates	6 August 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Building Code of Australia 2022 Compliance Report	R1.7	Ai Consultancy	5 September 2024

Re: 69 Basset St Mona Vale NSW	-	Urban Research and Planning	27 August 2024
Targeted Contamination Assessment	245012	5QS Consulting Engineers	15 August 2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

B. Delete Condition No.12 - Amended Landscape Plan

C. Delete Condition No.25 - Vehicle Access & Parking

D. Amend Condition No.28 - Building Code of Australia Fire Safety Requirements to read as follows:

The National Construction Code (NCC)/ Building Code of Australia fire safety requirements as detailed and recommended in the Building Code of Australia 2022, Compliance Report prepared by Ai Consultancy, dated 05/09/2024, Report Ref No. 22059B - R1.7 are to be considered as part of the assessment of the Construction Certificate.

Details demonstrating compliance are to be provided to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, Access & Fire Safety for building occupant health & safety.

E. Amend Condition No.29 - Access and Facilities for Persons with Disabilities to read as follows:

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. In this regard the Access Report prepared by Ai Consultancy dated 4/4/2023, Ref No. 22113-R1.1 is to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

F. Add Condition No.37A - Hazardous Materials to read as follows:

A hazardous building materials survey is to be conducted by a suitably qualified and experienced person prior to the commencement of any demolition works on the site. The survey must investigate (but is not limited to) the following: asbestos, lead, synthetic mineral fibre (SMF) and polychlorinated biphenyls (PCBs).

The results of the survey must be provided to Council and the Principal Certifier in written report form prior to the issue of a construction certificate. The report must also include a Hazardous Building Materials Register specific to the site with recommendations for the safe management/removal of each type of hazardous building material/substance identified.

Reason: Protection of the environment and human health.

G. Add Condition No.40A - Tree Removal Within the Road Reserve to read as follows:

a) this consent approves the removal of existing trees within the road reserve as listed below:

i) 1 x Bottlebrush tree on Tengah Crescent and 1 x Bottlebrush tree on Bassett Street as shown on drawing DA-2413-01 Issue A by Sturt Noble dated 06/08/2024.

b) a qualified AQF level 5 Arborist or the Landscape Architect shall identify these trees on site and tag or mark prior to removal.

c) removal of the approved tree/s by the applicant in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services business unit prior to removal.

Reason: Public liability.

H. Add Condition No.51A - Off-site Disposal of Contaminated Soil - Chain of Custody to read as follows:

'Chain of Custody' documentation including receipts shall be kept for the exportation of waste (fill and/or soil material) from the site.

Details demonstrating compliance are to be submitted to the Crown Certifier within seven (7) days of transport and made available to Council upon request.

Reason: For protection of environment.

I. Add Condition No.51B - Requirement to Notify about New Contamination Evidence to read as follows:

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifier.

Reason: To protect human health and the environment.

J. Add Condition No.51C - Protection of Existing Street Trees to read as follows:

a) the 1 x Leptospermum street tree on Tengah Crescent (as shown on drawing DA-2413-01 Issue A by Sturt Noble dated 06/08/2024) shall be retained during all construction stages, and the street tree fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS 4970-2009 Protection of trees on development sites. As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture. All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

b) all street trees within the road verge are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Street tree protection.

K. Amend Condition No.53 - Landscape Completion to read as follows:

Landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawings DA-2413-01, DA-2413-02, and DA-2413-05 Issue A by Sturt Noble dated 06/08/2024), and inclusive of the following conditions:

- a) tree, shrub and groundcover planting within the property boundary shall be installed as indicated on the approved Landscape Plan(s),
- b) all tree planting shall be a minimum pre-ordered planting size of 75 litres or as otherwise scheduled if greater in size; meet the requirements of AS2303 – Tree Stock for Landscape Use; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 2.5 metres from buildings or more, and located either within garden bed or within a prepared bed within lawn,
- c) mass planting shall be installed in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch.

Note: landscape works within the road reserve verge is subject to section 138/139 approval and conditions.

Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

L. Add Condition No.66A - Fire Safety Matters to read as follows:

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

M. Delete Condition No.78 - Staff and Patronage

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

Signed



Olivia Ramage, Planner

The application is determined on 07/11/2024, under the delegated authority of:



Adam Richardson, Manager Development Assessments