

WILLOWTREE PLANNING



25 July 2025

Ref: WTJ25-185
Contact: Michaela Lyons

Northern Beaches Council
725 Pittwater Road
Dee Why NSW 2099

Via NSW Planning Portal

SECTION 4.55(2) APPLICATION TO MODIFY DETERMINATION NO. DA2024/0492

SITE AT: 49 BLACKBUTTS ROAD AND 21A WARILI ROAD, FRENCHS FOREST (LOT 1, DP1298188 & LOT 1, DP524083)

Dear Council,

This Planning Statement has been prepared in support of a Section 4.55(2) Modification Application (MA) submitted to the Northern Beaches Council (Council), seeking to modify to development consent **DA2024/0492 (Appendix 1)** which granted consent for:

Neighbourhood title subdivision comprising of 13 lots and new road access

This Statement has been prepared in support of Section 4.55(2) Modification Application submitted to Northern Beaches Council, seeking to:

- Remove 18 trees within Lots 6-8 to facilitate the delivery of essential civil works; and
- Provision of an ancillary retaining wall for landscaping works at Lots 9 – 13.

This application is made pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), on behalf of Sekisui House Services Pty Limited (the Proponent). This MA is considered to result in minimal environmental impact and is substantially the same development to which was originally approved.

The Structure of this Report is as follows:

- **Part A** Site Analysis
- **Part B** Modified Proposal
- **Part C** Legislative and Policy Framework
- **Part D** Environmental Assessment
- **Part E** Conclusion

The S4.55 Architectural Plans provided at **Appendix 2** reflect ongoing design refinements on behalf of the site operator and project team to ensure that the end development is responsive to the needs of the end user and supportable by Northern Beaches Council.

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PART A SITE ANALYSIS

1.1 SITE LOCATION AND CHARACTERISTICS

The site is identified as 49 Blackbutts Road and 21A Warili Road, Frenchs Forest containing the following land holdings:

TABLE 1. SITE IDENTIFICATION		
Site Address	Legal Description(s)	Land Area (approx.)
49 Blackbutts Road, Frenchs Forest	Lot 1809 DP 752038	10,013m ² .
21A Warili Road, Frenchs Forest	Lot 1 DP 524038	

The site is a rectangular shaped lot fronted by Blackbutts Road to the north, Warili Road to the south and is surrounded by low density residential housing to the east, south and west. The surrounding area is characterised by smaller residential lots with single detached dwellings. 21A Warili Road is a small access handle lot that provides access from Warili Road in the south.

The site is occupied by multiple one and two storey buildings and established trees and is located in the suburb of Frenchs Forest, within the Northern Beaches Local Government Area (LGA). The local context exhibits a low-density residential character, with surrounding development consisting primarily of detached dwelling houses, townhouses and villas. There are a number of public recreational areas, as well as shopping centres in close proximity to the site. Across Blackbutts Road to the north is Frenchs Forest Showground and Lionel Watts Park. The site is located within 700m of walking distance of Glenrose shopping centre. There is a bus stop located adjacent to the site on Blackbutts Road for local buses.

The site is not located on land identified as heritage conservation area or near and items of heritage significance. The land is not identified as being flood prone or bush fire prone.



SECTION 4.55(2) APPLICATION

Modification to DA2024/0492

49 Blackbutts Road and 21A Warili Road, Frenchs Forest



Figure 1. Cadastral Map (Source: SIX Maps, 2025)

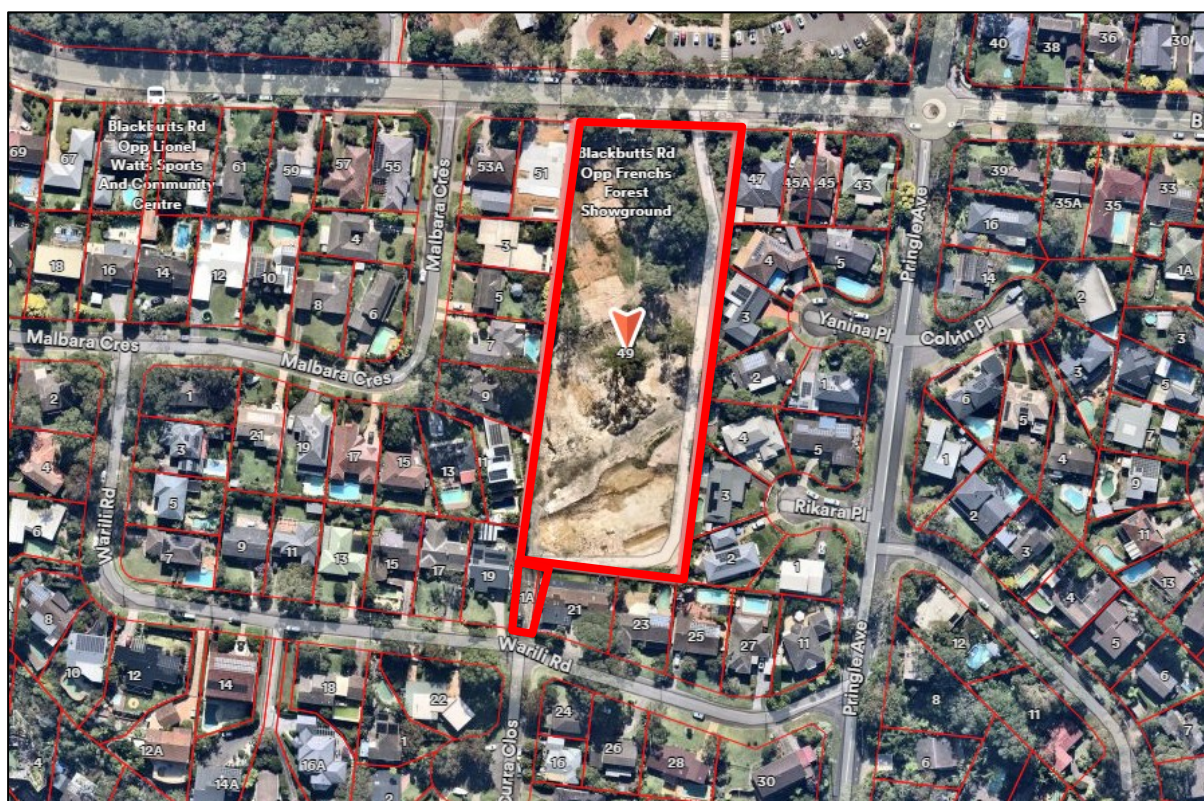


Figure 2. Aerial Map (Source: Near Map, 2025)



SECTION 4.55(2) APPLICATION

Modification to DA2024/0492

49 Blackbutts Road and 21A Warili Road, Frenchs Forest

1.2 DEVELOPMENT HISTORY

Northern Beaches Council's online application tracker has been reviewed and is provided as **TABLE 2**.

TABLE 2. DEVELOPMENT HISTORY		
DA Reference	Description	Submitted
Section 4.55 Modifications	Section 4.55 (1) Misddescription - Modification of Development Consent DA2024/0492 granted for Neighbourhood title subdivision comprising of 13 lots and new road access	26/05/2025
DA2025/0700	Construction of a dwelling house on proposed future lot 2	13/06/2025
DA2025/0699	Construction of a dwelling house on proposed future lot 3	13/06/2025
DA2025/0698	Construction of a dwelling house on proposed future lot 4	13/06/2025
DA2025/0697	Construction of a dwelling house on proposed future lot 5	13/06/2025
DA2025/0696	Construction of a dwelling house on unregistered Lot 6	13/06/2025
DA2025/0695	Construction of a dwelling house on unregistered Lot 7	13/06/2025
DA2025/0686	Construction of a dwelling house on unregistered Lot 8	13/06/2025
DA2025/0684	Construction of a dwelling house on unregistered Lot 9	13/06/2025
DA2025/0683	Construction of a dwelling house on unregistered Lot 10	12/06/2025
DA2025/0637	Construction of a dwelling house on unregistered Lot 13	06/06/2025
DA2025/0638	Construction of a dwelling house on unregistered Lot 12	06/06/2025
DA2025/0639	Construction of a dwelling house on unregistered Lot 1	06/06/2025
DA2024/0492	Neighbourhood title subdivision comprising of 13 lots and new road access	01/05/2024
DA2024/0081	Demolition of all existing structures on site	13/02/2024
DA2013/0721.	Tree removal	2013
DA2012/0727	Tree removal	2012



PART B MODIFIED PROPOSAL

2.1 PROPOSED MODIFICATIONS

The MA seeks to modify DA2024/0492 in the following manner:

- Remove 18 trees within Lots 6-8 to facilitate the delivery of essential civil works; and
- Provision of an ancillary retaining wall for landscaping works at Lots 9 – 13.

The proposed tree removal is to enable essential civil works, including bulk earthworks and drainage infrastructure necessary to service the site. While the design process prioritised tree retention wherever feasible, the removal of the following trees is unavoidable due to direct conflicts with critical infrastructure and civil engineering requirements:

T57, T59, T83, T84, T85, T86, T88, T89, T91, T96, T97, T98, T99, T100, T103, T104, T105, and T106

Details of the engineering constraints are as follows:

- **Drainage:** The drainage line for Lots 5-13 requires additional fill to achieve compliant cover levels, which unavoidably encroaches into the Tree Protection Zone without compromising system functionality.
- **Earthworks & Retaining Walls:** Earthworks eliminate low points and create building platforms. Retaining walls are required at this stage to ensure lot integration and alignment with future dwelling floor levels.
- Tree's 57, 59, 88, 84, 86, 96 and 100 are located within the proposed civil works footprint and will require removal to facilitate the construction.

2.3 AMENDED DEVELOPMENT CONSENT

The desired development outcome as outlined above requires the following modifications to development consent **DA-ref**.

The proposed amendments are demonstrated in blue, with deletions as a ~~striketrough~~ and additions as underlined.

Condition No. 2 General

2.1 Scope of consent

This consent relates to the following drawings/details submitted to Council with the Development Application, subject to compliance with any other conditions of this consent:

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
0923/3D	-	Plan Showing Proposed Neighbourhood Scheme	YSCO Geomatics	23/1/2025
C01.41	3	GENERAL ARRANGEMENT PLAN	Enspire Solutions Pty Ltd	31/03/2025



SECTION 4.55(2) APPLICATION

Modification to DA2024/0492

49 Blackbutts Road and 21A Warili Road, Frenchs Forest

C03.01	4	EROSION AND SEDIMENTATION CONTROL PLAN	Enspire Solutions Pty Ltd	31/03/2025
C03.01	6	EROSION AND SEDIMENTATION CONTROL PLAN	Enspire Solutions Pty Ltd	08/07/2025
C03.21	3	EROSION AND SEDIMENTATION CONTROL DETAILS	Enspire Solutions Pty Ltd	31/03/2025
C04.01	4	EARTHWORKS CUT AND FILL PLAN	Enspire Solutions Pty Ltd	31/03/2025
C04.01	6	EARTHWORKS CUT AND FILL PLAN	Enspire Solutions Pty Ltd	08/07/2025
C04.21	3	EARTHWORKS CUT AND FILL SECTIONS	Enspire Solutions Pty Ltd	31/03/2025
C04.21	5	EARTHWORKS CUT AND FILL SECTIONS	Enspire Solutions Pty Ltd	08/07/2025
C05.01	5	SITEWORKS AND STORMWATER MANAGEMENT PLAN SH	Enspire Solutions Pty Ltd	31/03/2025
C05.01	7	SITEWORKS AND STORMWATER MANAGEMENT PLAN SHEET 01	Enspire Solutions Pty Ltd	08/07/2025
C05.02	5	SITEWORKS AND STORMWATER MANAGEMENT PLAN SHEET 02	Enspire Solutions Pty Ltd	31/03/2025
C05.02	7	SITEWORKS AND STORMWATER MANAGEMENT PLAN SHEET 01	Enspire Solutions Pty Ltd	08/07/2025
C06.01	3	ROAD TYPICAL CROSS SECTIONS	Enspire Solutions Pty Ltd	31/03/2025
C07.01	3	ROAD LONGITUDINAL SECTION	Enspire Solutions Pty Ltd	31/03/2025
C11.01	4	PAVEMENT, SIGNAGE AND LINEMARKING PLAN - SHEET 01	Enspire Solutions Pty Ltd	31/03/2025
C11.02	3	PAVEMENT, SIGNAGE AND LINEMARKING PLAN - SHEET 02	Enspire Solutions Pty Ltd	31/03/2025
C11.02	6	PAVEMENT, SIGNAGE AND LINEMARKING PLAN - SHEET 02	Enspire Solutions Pty Ltd	08/07/2025



SECTION 4.55(2) APPLICATION

Modification to DA2024/0492

49 Blackbutts Road and 21A Warili Road, Frenchs Forest

C13.01	2	SITE SECTIONS	Enspire Solutions Pty Ltd	31/03/2025
C14.01	3	SITEWORKS DETAILS	Enspire Solutions Pty Ltd	31/03/2025
C15.01	2	RETAINING WALL ELEVATIONS - SHEET 01	Enspire Solutions Pty Ltd	31/03/2025
C15.02	2	RETAINING WALL ELEVATIONS - SHEET 02	Enspire Solutions Pty Ltd	31/03/2025
C17.01	4	OSD TANK PLAN AND SECTION	Enspire Solutions Pty Ltd	31/03/2025
C17.01	6	OSD TANK PLAN AND SECTION	Enspire Solutions Pty Ltd	08/07/2025
C18.01	3	STORMWATER DETAILS	Enspire Solutions Pty Ltd	31/03/2025
C20.01	3	PRE-DEVELOPMENT CATCHMENT PLAN	Enspire Solutions Pty Ltd	31/03/2025
C20.21	4	POST-DEVELOPMENT CATCHMENT PLAN	Enspire Solutions Pty Ltd	31/03/2025
C20.21	6	POST-DEVELOPMENT CATCHMENT PLAN	Enspire Solutions Pty Ltd	08/07/2025
C22.01	3	TURNING PLAN	Enspire Solutions Pty Ltd	31/03/2025

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Operational Waste Management Plan	B	Consulting. An elephant Foot company.	13/03/2024
Preliminary Site Investigation	20499/1- AA	Geotechnique Pty Ltd	31/01/2024
Detailed Site Investigation	20499/2- AA	Geotechnique Pty Ltd	16/08/2024
Geotechnical Investigation Report	1	Crozier Geotechnical Consultants	26/03/2024



SECTION 4.55(2) APPLICATION

Modification to DA2024/0492

49 Blackbutts Road and 21A Warili Road, Frenchs Forest

Landscape Architecture—DA Package Landscape Masterplan	A E	Taylor Brammer Taylor Brammer	5/04/2024 22/07/2025
Civil Engineering and Stormwater Report	3	Enspire	15/01/2025
Civil Engineering Report	5	Enspire	25/06/2025
Traffic Impact Assessment	2.0	SCT Consulting	26 March 2024
Flora and Fauna Assessment	Final	Kingfisher	April then updated July and
			September 2024
Arboricultural Impact Assessment Report	2.0	The Tree Guardian Arboricultural Consultancy	1 August 2024
Neighbourhood Management Statement	Form 30	Colin Biggers & Paisley Lawyers	06/09/2024
Civil Advice Letter	1	Enspire Solutions	16/07/2025
Arboricultural Impact Assessment Report	1	The Tree Garden Arboricultural Consultancy	21/07/2025
Landscape Detail Plan 1	E	Taylor Brammer	22/07/2025
Landscape Detail Plan 2	E	Taylor Brammer	22/07/2025
Landscape Details	B	Taylor Brammer	22/07/2025



SECTION 4.55(2) APPLICATION

Modification to DA2024/0492

49 Blackbutts Road and 21A Warili Road, Frenchs Forest

PART C STATUTORY PLANNING FRAMEWORK

3. CONTROLS AND POLICY OVERVIEW

3.1 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The EP&A Act is the principle planning and development legislation in NSW. Pursuant to Part 4, the MA is local development.

3.1.1 Section 4.15 – Matters for Consideration

Section 4.15(1) of the EP&A Act specifies the matters which a consent authority must consider when determining a development application. The relevant matters for consideration under Section 4.15(1) of the EP&A Act are provided in **TABLE 3** below.

TABLE 3. SECTION 4.15(1)(A) CONSIDERATIONS	
Section	Response
Section 4.15(1)(a)(i) any environmental planning instrument, and	The Warringah Local Environmental Plan 2011 (WLEP 2011) is the relevant Environmental Planning Instrument (EPI) applying to the site, which is assessed in Section 4 of this letter.
Section 4.15(1)(a)(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	No draft EPIs are applicable to the site.
Section 4.15(1)(a)(iii) any development control plan, and	The Warringah Development Control Plan 2011 (WDGP 2011) applies to the site.
Section 4.15(1)(a)(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	No planning agreement is proposed.
Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	The EP&A Regulation is addressed in Section 3 .
Section 4.15(1)(b)-(c)	These matters are addressed in PART D of this letter.

3.1.1 Section 4.46 – Integrated Development

Section 4.46 of the EP&A Act defines ‘integrated development’ as matters which require consent from Council and one or more authorities under related legislation. In these circumstances, prior to granting consent, Council must obtain from each relevant approval body their General Terms of Approval (GTA) in relation to the development. The MA is not identified as nominated integrated development.

3.1.2 Section 4.55 – Modifications of consents - generally

The modifications sought warrant consideration of the provisions of Section 4.55 of the EP&A Act. The provisions of Section 4.55(2) of the EP&A Act provided in **TABLE 4** below require consideration in this instance.



SECTION 4.55(2) APPLICATION

Modification to DA2024/0492

49 Blackbutts Road and 21A Warili Road, Frenchs Forest

TABLE 4. SECTION 4.55(2) ASSESSMENT	
Clause	Response
(2) Other modifications 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 MA will result in the same ultimate development outcome to that previously approved. The main modification sought relates to the removal of trees and insertion of a landscaped retaining wall in lots 9-13, ensuring the original approval subdivision is retained. Refer to Section 3.1.3 below.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) 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	It is acknowledged that Council must consult with any relevant public authority or approval body, concerning the MA.
(c) it has notified the application in accordance with— (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and	The MA will be notified in accordance with Council's policy and the regulations,
(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.	It is acknowledged that Council must consider any submissions received, concerning the proposed modifications.
(3) In determining an application for modification of a consent under this section, 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 consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.	The MA is consistent with the matters referred to in Section 4.15(1) of the EP&A Act. Refer to Section 3.1.1 of this statement.

3.1.3 Section 4.55(2)(a) - Substantially the same

The NSW Land and Environment Court has established several precedents as to what may be considered substantially the same development, and what should be factored into the consideration of this threshold test.



SECTION 4.55(2) APPLICATION

Modification to DA2024/0492

49 Blackbutts Road and 21A Warili Road, Frenchs Forest

The scope of a maximum modification of a consent without constituting assessment as a standalone application can be analysed through the ambit of *Michael Standley & Associates Pty Ltd v North Sydney Council* [2005] NSWLEC 358, whereupon Commissioner Mason P. found in relation to modification of development consents that the word “modify” was given the ordinary meaning of “to alter without radical transformation”. Therefore, the extent to which a consent may be modified is that to which the consent, as modified, is as approved without radical transformation or alteration.

The development, as modified, is substantially the same development and will not result in a radical transformation of **DA2024/0492** for the following reasons:

- The modification maintains the subdivision of the site for the purpose of residential dwellings, as approved;
- The function, form and importantly, public perception of the site, would remain unchanged; and
- The modification seeks to improve site conditions in preparation for the end development of residential dwellings.

The MA is considered to not result in a “radical transformation” of the consent, as currently approved, satisfying the radical transformation test pursuant to *Michael Standley & Associates Pty Ltd v North Sydney Council* [2005] NSWLEC 358.

Whilst the MA seeks minor amendments to the approved design and layout, this is not considered to constitute a radical change to the ultimate development outcome of the site. This is further analysed in *Moto Projects (No 2) Pty Ltd v North Sydney Council* [1999] NSWLEC 280 which applies a quantitative and qualitative test to determine what qualifies a development as being “substantially the same”.

Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280 provides that a comparison of the development as approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is “essentially or materially” the same as the approved development. The comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).

Further, a recent case *Ahmad Corp Pty Ltd v Fairfield City Council* [2018] NSWLEC 1526, was held in the court which saw a modification application approved by the courts which added an additional storey and 12 additional units to a mixed-use development, notwithstanding increases in Height of Building and FSR. The following key findings were stipulated within the case (bolded for emphasis):

[49] ...The proposed modified building retains **the same use, and the same building typology**, as that for which consent was granted. It **remains a multi-storey mixed use development with ground floor retail uses, and the addition of another storey does not materially change the development or the essence of the development**.

[50] *Fifthly, although the changes proposed through the modification application are quantitatively significant when expressed as a percentage, I accept that they are not so large so as to transform the development. **The increase in the floor space, the storeys and the overall height is significant, but is not so large as to change its essence or render it something other than “substantially the same development”.***

Whilst the MA seeks to amend the approved design and layout, the modifications are not considered to materially alter the essence of the development and can be sought via the provisions of Clause 4.55(2) of the EP&A Act. Further, from a qualitative perspective, the MA retains its identity as a neighbourhood title subdivision comprising of 13 lots and new road access.



SECTION 4.55(2) APPLICATION

Modification to DA2024/0492

49 Blackbutts Road and 21A Warili Road, Frenchs Forest

As consequence, the MA is considered to be substantially the same development as approved satisfying the requirements of Section 4.55(2) of the EP&A Act.

3.2 ENVIRONMENTAL PLANNING & ASSESSMENT REGULATION 2021

This application has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation).

3.2.1 Schedule 3 – Designated Development

Section 4(1) of the EP&A Regulation states that any development described in Part 2 of Schedule 3, would be declared to be Designated Development for the purposes of the EP&A Act. The MA does not trigger the relevant thresholds and is therefore not considered 'Designated Development'.

3.3 DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

No Draft Environmental Planning Instruments apply to the site.

3.4 LOCAL PLANNING CONTEXT

3.4.1 Warringah Local Environmental Plan 2011

The site is subject to the provisions of WLEP2011. Relevant permissibility and development standards are summarised in the subsequent sections of this report.

Zoning and permissibility

The site is zoned R2 Low Density Residential pursuant to the WLEP2011.

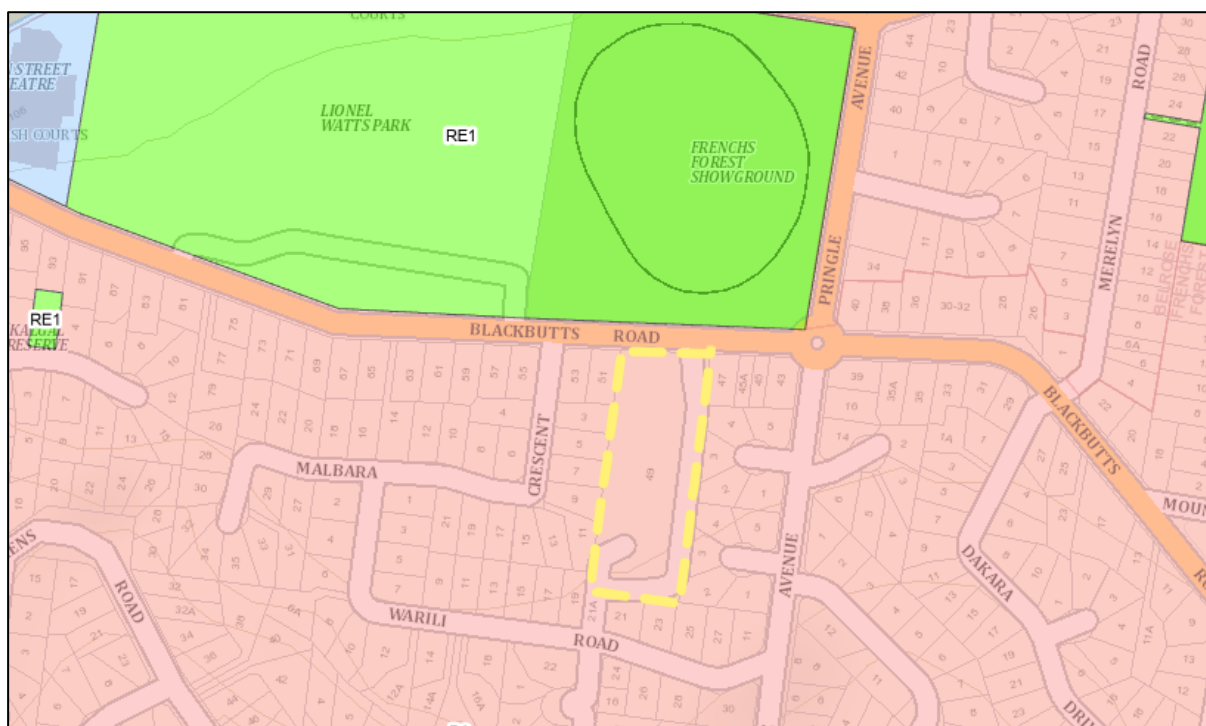


Figure 3. WLEP2011 Zoning Map (Source: NSW Legislation, 2025)

The objectives of the R2 zone include:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.

Within the R2 zone, the following development is permitted with consent:

Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Educational establishments; Emergency services facilities; Environmental protection works; Exhibition homes; Group homes; Health consulting rooms; Home businesses; Hospitals; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Tank-based aquaculture; Veterinary hospitals

The proposed future use of the site is for the purpose of low-density residential accommodation, specifically dwelling houses. Dwelling houses are permitted with consent in the R2 zone pursuant to WLEP 2011. The MA is considered to be consistent with the objectives of the R2 zone.

Development standards

This section provides is a summary of all WLEP2011 provisions, as they apply to the proposed development.

TABLE 5. DEVELOPMENT STANDARDS	
Clause	Comment
Principle development standards	
Clause 4.1 – Minimum Lot Size	The site is subject to a minimum subdivision lot size development standard of 600m ² . The MA seeks the removal of trees and erection of landscaping walls only, therefore no further consideration of Clause 4.1 is warranted.
Clause 4.3 – Height of Buildings	The site is subject to a maximum height of buildings development standard of 8.5m. The MA seeks the removal of trees and erection of landscaping walls only. Therefore, no further consideration of Clause 4.3 is warranted.
Clause 4.4 – Floor Space Ratio	The site is not subject to a maximum floor space ratio development standard. Notwithstanding, the MA seeks the removal of trees and erection of landscaping walls only, with no buildings proposed to be constructed. Therefore, no further consideration of Clause 4.4 is warranted.
Clause 4.6 – Exceptions to development standards	The MA does not seek variation to any development standards.



SECTION 4.55(2) APPLICATION

Modification to DA2024/0492

49 Blackbutts Road and 21A Warili Road, Frenchs Forest

TABLE 5. DEVELOPMENT STANDARDS	
Clause	Comment
Clause 5.10 – Heritage	The site is not located on land identified an item of environmental heritage or located within a heritage conservation area. Therefore, no further consideration of Clause 5.10 is warranted.
Clause 7.21 – Flood Planning	The site is not identified as flood prone land.
Clause 6.1 – Acid Sulfate Soils	The site is not identified as being affected by acid sulfate soils.
Clause 6.3 – Earthworks	<p>The MA includes earthworks as described in the Civil Engineering and Stormwater Report provided in the original application. Clause 6.3(3) prescribes that before granting development consent for earthworks, the consent authority must consider the following matters—</p> <ul style="list-style-type: none"> (a) <i>the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,</i> (b) <i>the effect of the proposed development on the likely future use or redevelopment of the land,</i> (c) <i>the quality of the fill or the soil to be excavated, or both;</i> (d) <i>the effect of the proposed development on the existing and likely amenity of adjoining properties,</i> (e) <i>the source of any fill material and the destination of any excavated material,</i> (f) <i>the likelihood of disturbing relics,</i> (g) <i>the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</i> <p>The Civil Engineering and Stormwater Report and Geotechnical Report satisfactorily address the above matters.</p>
Clause 6.4 – Development on sloping land	<p>The site is identified as predominantly within risk ‘Class A’ with the eastern and western edges for the southern half classified as ‘Class B’ on the Landslide Risk Map.</p> <p>Clause 6.4(3) prescribes that development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <ul style="list-style-type: none"> (a) <i>the application for development has been assessed for the risk associated with landslides in relation to both property and life, and</i> (b) <i>the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and</i> (c) <i>the development will not impact on or affect the existing subsurface flow conditions.</i> <p>A Geotechnical Report includes a landslip risk assessment that considers the matters raised in Clause 6.4(3) and concludes that the MA is considered suitable for the site provided the</p>



TABLE 5. DEVELOPMENT STANDARDS	
Clause	Comment
	recommendations of the report and sensible engineering design and construction are implemented.

3.5 WARRINGAH DEVELOPMENT CONTROL PLAN 2011

The *Warringah Development Control Plan 2011* (WDCP 2011) supplements WLEP 2011 and provides more detailed provisions to guide development.

There are no changes to the original assessment of the approved Community Title subdivision against the Warringah Development Control Plan 2011 (WDCP2011). An updated set of Architectural Plans, Amended Arboricultural Impact Assessment Report, Updated Civil Engineering and Stormwater Report, Updated Ecological Assessment and Updated Landscape Plan have been included with the Modification Application.

The Warringah Development Control Plan lacks specific height requirements for landscaping walls. Since the proposed landscaping walls are under 900mm in height, they should not necessitate detailed assessment based on their low profile.

SECTION 4.55(2) APPLICATION

Modification to DA2024/0492

49 Blackbutts Road and 21A Warili Road, Frenchs Forest

PART D ENVIRONMENTAL ASSESSMENT

4. LIKELY IMPACTS OF DEVELOPMENT

4.1 Context and Setting.

The MA would not exhibit any significant environmental impacts and will not adversely impact on the amenity or operations of any adjoining sites. Therefore, the proposal is considered compatible with the site context and setting.

4.2 Built Form

The proposal, as modified, does not intensify the visible built form of the development. The only slight proposed change to the built form surrounds the installation of retaining walls at a height of 900mm max on Lots 9-13.

4.3 Design and Appearance

The MA maintains the ultimate built form design and appearance, with only minor external amendments proposed. The Landscape Plans in **Appendix 7** provide a comparison of the approved built form, and the resulting built form following the proposed modifications.

4.4 Tree Removal

The proposal requires the removal of 18 additional trees to ensure the civil works can proceed in the current subdivision. The trees have Tree Protection Zones that cannot be maintained with the removal of a section of the kerb and therefore must be removed in order for the site to operate and have trucks enter and exit.

This removal is seen as highly necessary for the site to operate safely with trucks entering and exiting. Refer to **Appendix 7** for further landscaping and tree removal details.

4.5 Traffic and Transport

There are no proposed modifications to the current traffic and transport provisions on Site.

4.6 Other Matters for Consideration

All other matters for consideration have been previously assessed as part of **DA2024/0492** and remain unaffected by the proposed modifications.

4.7 Suitability of Site for Development

The site will remain suitable for the purpose of residential that will respond to the characteristics of the site and surrounding locality.

4.8 Submissions

No submissions have been received at the time of writing this statement. Any submissions received post lodgement shall be reviewed and considered.

4.9 The Public Interest

The development as modified would have no adverse impact on the public interest. The proposed modifications would improve the functionality of operations, with no adverse visual or amenity impacts for neighbouring properties or the public domain.



SECTION 4.55(2) APPLICATION

Modification to DA2024/0492

49 Blackbutts Road and 21A Warili Road, Frenchs Forest

PART E CONCLUSION

This application seeks consent for modifications to development consent **DA2024/0492** pursuant to Section 4.55(2) of the EP&A Act. The proposal has been prepared after taking into consideration the following key issues:

- Development history of the site;
- Development Consent **DA2024/0492**;
- Site context and locality;
- Relevant heads of consideration under Section 4.55(2) of the EP&A Act; and
- Relevant statutory and non-statutory planning instruments.

The proposed modifications are considered acceptable, and worthy of support by Northern Beaches Council, for the following reasons:

- The proposed tree removal is to enable essential civil works, including bulk earthworks and drainage infrastructure necessary to service the site. While the design process prioritised tree retention wherever feasible, the removal of the following trees is unavoidable due to direct conflicts with critical infrastructure and civil engineering requirements;
- The proposed modifications maintain compliance with the key development standards contained within the WLEP2011; and
- The development, as modified, will remain substantially the same, and will not result in additional environmental impacts.

In light of the above, the modifications proposed to development consent **DA2024/0492** are considered worthy of support by Northern Beaches Council.

Should you require additional information, please do not hesitate to contact Michaela Lyons via email at mlyons@willowtp.com.au.

Yours faithfully,



Andrew Cowan
Director
Willowtree Planning Pty Ltd

