

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/0887
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<b>Responsible Officer:</b>	Anne-Marie Young
<b>Land to be developed (Address):</b>	Lot 25 DP 5464, 2 Macpherson Street WARRIEWOOD NSW 2102
<b>Proposed Development:</b>	Subdivision of land into 24 community title lots comprising 22 residential lots and 2 residue lots.
<b>Zoning:</b>	R3 Medium Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	Yes
<b>Owner:</b>	Karimbla Properties (NO. 32) Pty Ltd
<b>Applicant:</b>	Karimbla Constructions Services (NSW) Pty Ltd

<b>Application Lodged:</b>	16/08/2019
<b>Integrated Development:</b>	Yes
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Subdivision only
<b>Notified:</b>	25/02/2020 to 24/03/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	3
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 1,795,808.00
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### EXECUTIVE SUMMARY

This Development Application (DA) seeks approval for subdivision of the site into 22 residential lots and 2 residue lots for the private access loop road and 25m inner creek buffer lot. The proposal is consistent with the conditions imposed in the Civil Works application reference N0398/17 approved by the Land and Environment Court. The application is referred to DDP as more than three (3) submissions have been received.

Principle assessment issues with the DA relate to flooding, biodiversity and landscape, building envelope compliance, transport - driveway dimensions and contributions. Three submissions raised issues in relation to flooding and the location of the sewer line in private property. Flooding issues have been addressed with the submission of additional information and conditions of consent. In respect of

the sewer line the Applicant will require notification of compliance from Sydney Water and approval of a Section 73 Certificate.

On balance, the proposal is recommended for conditional approval having considered the relevant issue and the assessment of the information submitted in support of the DA.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposal seeks consent for 24 lot community title subdivision to accommodate future residential development.

The works proposed under this application include:

- Proposed Lot 1 – Private access loop road and creek buffer lot;
- Proposed Lots 2 – 22 – future residential lots under community title which range in size between 220sqm and 396sqm; and
- Proposed Lot 24 – Land to be dedicated to Council, being the 25-metre inner creek line corridor.

The residential lots range from between 220sqm to 396sqm with lot frontages between 10m and 28m.

Additional details of the building envelope were submitted in February 2020 which includes details of the indicative footprint of 21 detached two storey dwellings with separate driveways, integrated garage zones and 20sqm private open space to the rear. The dwellings have a 900m setback to the side at ground level and 1500mm side setback at first floor level. The floor to ceiling height is indicated to be 3.2m and a hipped roof is suggested.

Eighteen (18) lots will have access to the new loop road and four (4) lots will benefit a 5.6m wide rear access road (amended from 4m in width).

## **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 - 6.1 Warriewood Valley Release Area  
Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils  
Pittwater Local Environmental Plan 2014 - 7.3 Flood planning  
Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection  
Pittwater Local Environmental Plan 2014 - 7.10 Essential services  
Pittwater 21 Development Control Plan - B3.2 Bushfire Hazard  
Pittwater 21 Development Control Plan - B3.6 Contaminated Land and Potentially Contaminated Land  
Pittwater 21 Development Control Plan - B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)  
Pittwater 21 Development Control Plan - B3.13 Flood Hazard - Flood Emergency Response planning  
Pittwater 21 Development Control Plan - C6.1 Integrated Water Cycle Management  
Pittwater 21 Development Control Plan - C6.2 Natural Environment and Landscaping Principles  
Pittwater 21 Development Control Plan - C6.4 The Road System and Pedestrian and Cyclist Network  
Pittwater 21 Development Control Plan - C6.5 Utilities, Services and Infrastructure Provision  
Pittwater 21 Development Control Plan - C6.7 Landscape Area (Sector, Buffer Area or Development Site)  
Pittwater 21 Development Control Plan - C6.8 Residential Development Subdivision Principles  
Pittwater 21 Development Control Plan - D16.1 Character as viewed from a public place  
Pittwater 21 Development Control Plan - D16.7 Side and rear building lines

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 25 DP 5464 , 2 Macpherson Street WARRIEWOOD NSW 2102
<b>Detailed Site Description:</b>	<p>The site is legally described as Lot 25, Section C, Deposited Plan 5464, and is commonly referred to as 2 Macpherson Street, Warriewood ('the site'). The site is irregular in shape, with a 126.96m wide frontage to Macpherson Street to the south and a total area of 2.327 Hectares. The site adjoins Narrabeen Creek, the centreline of which forms the northern and eastern boundaries of the site.</p> <p>The site was formerly used for the purpose of a market garden, however, the site has recently been cleared in preparation for works in association with the approved civil works DA. Whilst the central portion of the site appears to have been built up over time and is generally level (3.28 - 3.71m AHD), the perimeter of the site falls away in each direction towards the creekline, the western side boundary and the street.</p> <p>Macpherson Street is a two-lane roadway that was recently upgraded to alleviate impacts associated with flooding, and as a result, the roadway and adjacent footpath is elevated above natural grounds levels at a minimum RL of 4.16m AHD. Two access driveways have been constructed to provide vehicular and pedestrian access to the site.</p> <p>A Sydney Water Sewerage Treatment Plant is located opposite the site on the southern side of Macpherson Street, with a seniors housing development is located to the east, medium density residential to the north and an existing</p>

dwelling to the west. The site is identified as Buffer Area 1M of the Warriewood Valley Release Area, as shown on the Warriewood Valley Release Area Map of PLEP 2014.

Map:



## SITE HISTORY

On 27 November 2014, Development Application N0431/14 was lodged with Council, seeking consent for the construction of thirty semi-detached dwelling houses and associated infrastructure at the subject site.

On 18 December 2014, Development Application N0431/14 was refused by Council for the following reasons:

- 1) The proposed development is inconsistent with the objectives of clause 6.1 of Pittwater Local Environmental Plan 2014, specifically the need for development to be undertaken in accordance with the Warriewood Valley Strategic Review, which identifies that the subject site has no capacity for residential development.*
- 2) The “no dwellings” yield prescribed by clause 6.1(3) of Pittwater Local Environmental Plan 2014 prohibits residential development on the site, and cannot be varied pursuant to clause 4.6 of Pittwater Local Environmental Plan 2014.*

On 24 December 2014, the Applicant lodged a Class 1 Appeal with the Land and Environment Court of NSW in regards to the refusal of Development Application N0431/14. The proceedings were ultimately listed for a separate ‘question of law’ hearing to address the following:

*Is the “no dwellings” specification for ‘Buffer area 1m’ in the table to clause 6.1(3) of the Pittwater Local Environment Plan 2014 (“PLEP”) a ‘development standard’ to which clause 4.6 of the PLEP applies?*

On 21 May 2015, the Justice Pain found in favour of Council and agreed that the “no dwellings” specification for the site in clause 6.1(3) of PLEP 2014 was in fact a prohibition and not a development standard.

On 17 November 2016, the Applicant lodged a Planning Proposal (PP0003/16), which seeks to amend the provisions of clause 6.1(3) of PLEP 2014 to provide for 22 dwellings on the subject site.

On 31 January 2017, Council resolved not to support the Planning Proposal for the following reasons:

- a. It is inconsistent with the relevant strategic study being the 'Warriewood Valley Strategic Review Report (2013)', endorsed by the former Director General of the Department of Planning and Infrastructure on 26 June 2013 and adopted by Pittwater Council on 12 June 2013.*
- b. It has not demonstrated adequate strategic merit or site-specific merit in line with the 'NSW Planning & Environment's Planning Proposals: A guide to preparing planning proposals (2016)'.*
- c. The information submitted to support the planning proposal for 2 Macpherson Street, Warriewood is substantially deficient.*
- d. It is inconsistent with Local Planning Direction '4.3 Flood Prone Land' (issued under Section 117(2) of the Environmental Planning and Assessment Act 1979) and insufficient justification has been provided to support the inconsistency.*

On 10 March 2017, Council received notice that a request for a Rezoning Review had been submitted for consideration by the Sydney North Planning Panel.

On 12 April 2017, the Sydney North Planning Panel determined that the Planning Proposal should proceed to Gateway determination.

On 30 June 2017, Council received notice from the delegate of the Greater Sydney Commission that the Planning Proposal should proceed, subject to condition in the Gateway Determination.

On 26 October 2018, the Planning Proposal was formally gazetted to permit 22 lots on the site including:

- The construction of a new road,
- Civil infrastructure associated with the new road
- Creekline reconstruction, and
- Creekline rehabilitation/revegetation.

On 31 May 2019, development application N0398/17 for the civil works was approved by the Land and Environment Court.

#### History of subject application

On 5 November 2019, the Applicant as requested to withdraw the application as the following issues were identified: Insufficient information to assess building envelope compliance, flood levels, stormwater detention, biodiversity and issues with the road layout, landscaping and contribution calculations.

On 12 February 2020, the Applicant submitted additional information to address the issues raised in the letter dated 5 November 2019.

On 10 March 2020, the Applicant submitted an updated subdivision plan to address issues relating to contributions.

On 21 April 2020, the applicant submitted a letter from ARUP traffic consultants to address issue relating to waste traffic and the proposed road layout.

On 22 June 2020, the Applicant submitted an OSD layout plan.

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

The relevant matters for consideration under 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	<p>Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018.</p> <p>Environmental Health reviewed the reports associated with the DA and found that the management plans and remediation efforts proposed are satisfactory with no further remediation required. In summary, Health have confirmed that the levels of metals was low, immobility of benzo(a)pyrene as coal ash, asbestos removed, and noting that the ground level will be modified once offsite soil has been added to build above flood level. Condition are included to address these issues.</p>
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)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was received on 5 February 2020 in relation to the building envelope, flooding the road layout and landscaping. The additional information was notified.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the</p>

Section 4.15 Matters for Consideration'	Comments
	<p>consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 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.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p><b>(i) Environmental Impact</b> 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.</p> <p><b>(ii) Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The north-west parts of the site are mapped as containing Bush Fire Vegetation (Buffer to Category 2). The application was referred to New South Wales Rural Fire Service (NSW RFS) issued who issued General Terms of Approval (GTA) subject to conditions, refer to RFS discussion below.

## NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Warriewood Residents Association Incorporated	Warriewood Valley Land Release Area Abb Dummynotification Purp WARRIEWOOD NSW 2102
Mr Richard John McIntyre	4 Macpherson Street WARRIEWOOD NSW 2102
Mr Lindsay Andrew Dyce	8 Mahogany Boulevard WARRIEWOOD NSW 2102

The following issues were raised in the submissions and each have been addressed below:

- Flooding issues, and
- Sewer pipe runs through private property.

The original application was notified and one submission was received from the Warriewood Residents Association which raised the following issues:

- ***Insufficient flood evacuation information. A condition should be included requiring developers and certifiers to follow the design guidelines of the Warriewood Valley Management Plan (WVMP). Additional flood modelling is required.***

### Comment

The original application lacked sufficient details to assess flooding. Additional information has been submitted on this matter including a flood evacuation management plan. The information has been reviewed by Council's Flooding Engineer who confirms that the details are acceptable subject to conditions.

The amended plans were re-notified and a further submission was received from the Warriewood Residents Association reiterating issues in relation to flooding. In addition, two (2) submission has been received from neighbours which raised the following issues:

- **The Services and Utilities Co-ordination Plan (drawing No. C070) shows Meriton's sewer servicing pipe running into and through private property. No permission has been granted for this and it is very unlikely to be given.**

### Comment:

The Applicant has confirmed that the service pipe will be linking the Sydney Water system on their land. The Applicant will require a notification of compliance from Sydney Water and a Section 73 Certificate.

- **Concern about flooding placing residents in an active floodplain and the impact of the**



***development on upstream properties. The flood modelling does not include a survey of the bridge and upstream and down stream sections of Narrabeen Creek as they currently exist and the filling of the creek bed with rocks. In addition, rock placements have been installed between the concrete abutments under the bridge. Concern is also raised regarding the increased breeding grounds for mosquitoes in this area.***

Comment:

The assessment of flood risk at 2 Macpherson Street, Warriewood including the establishment of design flood conditions, determination of the impact of the development on flooding and the management of flood risk to life, were the subject of a previous Development Application (N0398/17) which related to the civil works for the site and was approved by the Land and Environmental Court on 31 May 2019.

The Development Application (DA2019/0887) is proposing a community title subdivision with minimal physical works included. Council's engineers are satisfied that this application complies with the necessary requirements of the Warriewood Valley Water Management Specification and Pittwater 21 Development Control Plan in relation to the development of flood prone land.

Council will investigate the rocks obstructing the creek upstream of the bridge over Narrabeen Creek. I note that in order to receive their subdivision certificate, the developer will be required to prove that the construction of the creek (including levels and rock placement) complies with the design approved in the development application process and at construction certificate.

The rock placements between the concrete abutments under the bridge and the rock armouring were constructed in accordance with Council's approved design in order to provide scour protection for the foundations of the bridge.

In regards to concerns about the increased breeding grounds for mosquitoes in this area it is confirmed that Council is continuing to work with the NSW Government on the issue of Ross River Virus and undertakes a proactive mosquito monitoring program in the area in partnership with NSW Health.

In summary, the Flood Impact Assessment Rev4 dated 5 December 2019 prepared by Cardno (NSW/ACT) Pty Ltd has demonstrated that all residential allotments are located above the Flood Planning Area (including climate change provisions) and Probable Maximum Flood area and are consistent with the requirements of the Warriewood Valley Water Management Specification, 2001 and Clause 6.1 of the Pittwater 21 Development Control Plan. Flood free evacuation in a Probable Maximum Flood event is not possible from the subject residential allotments. Restrictions are included on the title to reflect that the future occupants must shelter-in-place during extreme flood events. Given that the flooding issues have been resolved with the submission of additional information it is considered that this issue has been resolved.

**REFERRALS**

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	<p><b>General Comments</b></p> <p>Class three and four acid sulphate soils beneath a proposed 24 Lot community title subdivision. Management Plan by Coffey from 29 October 2018 is appropriate and must be adhered to.</p>

Internal Referral Body	Comments
	<p>Environmental Health recommend an approval condition based on the above mentioned report.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to a condition</p>
Environmental Health (Contaminated Lands)	<p><b>General Comments</b></p> <p>A 24 Lot community subdivision in Warriewood with a history of contaminated land. Environmental Health reviewed the reports associated with this and found that the management plans and remediation efforts are satisfactory - no further remediation is required. In short, the levels of metals was low, immobility of benzo (a)pyrene as coal ash, asbestos removed, and noting that the ground level will be modified once offsite soil has been added to build above flood level.</p> <p>We therefore recommend approval without the need for conditions.</p> <p><b>Recommendation</b></p> <p>APPROVAL - without conditions</p>
Landscape Officer	<p>The development application is for the subdivision of land into 24 community title lots comprising 22 residential lots and 2 residue lots at 2 Macpherson Street Warriewood.</p> <p>Pittwater LEP 2014, Pittwater 21 DCP 2014, and Warriewood Valley Landscape Masterplan &amp; Design Guidelines (Public Domain) are the relevant landscape guidance documents. The landscape component of the application consists of public domain works fronting the subdivision lots, between the internal roads and the front boundaries of the Lots 2 to 23, and excludes the public domain works between Lots 2, 3, 22, 23 and Macpherson Street, which are approved under development consent N0398/17.</p> <p>The landscape works are illustrated on drawing numbers L000 Landscape Cover Page issue B; L001 Landscape Plant Scedule; L201 Landscape Plan issue A; L202 Landscape Plan issue B; L900 Landscape Details issue A; and L901 Landscape Maintenance Specification, all prepared by Meriton.</p> <p>The landscape works to the internal road verges is subject to the requirements of S-4 Access Street of Warriewood Valley Release Area Masterplan and Design Guidelines. S-4 Access Street nominates street tree planting to one side of the road and to the other side street lights, path and turf is required as a minimum.</p>

Internal Referral Body	Comments
	<p>Development consent N0398/17 includes street tree planting to one side of the road.</p> <p>This application proposes street lights, path, turf and street tree planting to the opposite side of the road. The street tree planting is contained within a 800mm wide garden bed from edge of path to the front boundary. It is noted that under Warriewood Valley Release Area Masterplan and Design Guidelines, no front fences or walling is permitted forward of the building line, hence the opportunity for tree growth under this circumstance is not restricted, and the available ground surface soil volume is therefore extended into the Lots.</p> <p>The landscape component of the application is acceptable, subject to conditions of consent that the garden width area is not obstructed by utility services or the like that would not permit tree pit excavations.</p>
NECC (Bushland and Biodiversity)	<p><b>Revised Comments</b></p> <p>The current application seeks consent for a 24 Lot Community Title Subdivision to accommodate future residential development, and will not result in additional biodiversity impacts above that previously assessed and consented to as part of the construction of a road and earthworks (DAN0398/17). I note the response from Karimbla Constructions dated 5 February 2020. The letter addresses the majority of concerns raised within the original biodiversity referral comments.</p> <p>I have also reviewed the consent conditions in relation to DAN0398/17, including the approved VMP (Conacher Consulting, dated April 2019) and Bulk Earthworks Plan DAC1015, issue F, dated 28 March 2019.</p> <p>In particular, I note Condition B7, which states  "The recommendations of the approved Vegetation Management Plan, as referenced in condition A1 of this consent, are to be implemented prior, during and post construction, and adhered to until the land is dedicated to Council . Details demonstrating pre-construction compliance are to be certified by the project ecologist and submitted to the Certifying Authority prior to the issue of the Construction Certificate."</p> <p>To ensure consistency with consent N0398/17, and ongoing continuity with the protection, restoration and ongoing maintenance and monitoring of the vegetation management actions to be implemented within the riparian corridor, several conditions have been adapted for the proposed biodiversity consent conditions for the subdivision development.</p> <p><b>Original Comments</b></p> <p>Council's Natural Environment - Biodiversity section cannot complete this assessment until further information is provided.</p>

Internal Referral Body	Comments																		
	<p>This application was assessed against Pittwater LEP Clause 7.6 Biodiversity and Pittwater DCP 4.15. The site is also mapped within the Coastal Management SEPP as Coastal Wetlands and Coastal Wetlands Proximity Area. There is a small portion of vegetation within the northwestern corner that is mapped as having "Biodiversity Value" within the Biodiversity Values Map prescribed by the NSW Biodiversity Conservation Act 2016.</p> <p>The proposal is for a 24-lot Community title subdivision including bush regeneration and landscaping works. The site has a court-approved DA (N0398/17) which includes civil works on the site (access road and stormwater infrastructure WSUDs).</p> <p>The submitted <b>Threatened Species Assessment Report</b> (Conacher Consulting August 2019) assesses the impacts of the proposal on threatened entities. Figures 1.1 and 2.1 show an area in pink titled "Vegetation Removal Area" which includes areas mapped as "Native Vegetation". These figures are significantly different from Figure 2.1 within the Conacher Consulting July 2017 version of the report. This earlier version is consistent with the Riparian Corridor Vegetation Management Plan. Further clarification for changes in these figures is required. Ideally, these figures will be updated to be consistent with the Figure 2.1 within the Flora and Fauna Assessment Report (Conacher Consulting July 2017). The area of Swamp Oak Floodplain Forest EEC to be impacted has changed between the July 2017 and August 2019 impact assessment reports with no justification, although the subdivision works are enclosed by approved civil works. A comparison table below (Table 1) includes area calculations provided in both Assessment of Significance for SOFF EEC. This report satisfies impact assessment requirements subject to justification of these figures.</p> <p><i>Table 1. SOFF EEC impact calculations</i></p> <table border="1" data-bbox="512 1500 1441 1877"> <thead> <tr> <th data-bbox="512 1500 646 1653">Report</th> <th data-bbox="646 1500 750 1653">Total SOFF EEC</th> <th data-bbox="750 1500 901 1653">Removal Area</th> <th data-bbox="901 1500 1093 1653">Modification Area (APZ)</th> <th data-bbox="1093 1500 1292 1653">Total Disturbance Area</th> <th data-bbox="1292 1500 1441 1653">SOFF EEC to be retained</th> </tr> </thead> <tbody> <tr> <td data-bbox="512 1653 646 1765">July 2017</td> <td data-bbox="646 1653 750 1765">0.4 ha</td> <td data-bbox="750 1653 901 1765">0.15 ha</td> <td data-bbox="901 1653 1093 1765">0.11 ha</td> <td data-bbox="1093 1653 1292 1765">Not reported</td> <td data-bbox="1292 1653 1441 1765">0.14 ha</td> </tr> <tr> <td data-bbox="512 1765 646 1877">August 2019</td> <td data-bbox="646 1765 750 1877">0.21 ha</td> <td data-bbox="750 1765 901 1877">0.12 ha</td> <td data-bbox="901 1765 1093 1877">0.05 ha</td> <td data-bbox="1093 1765 1292 1877">0.17 ha</td> <td data-bbox="1292 1765 1441 1877">0.04 ha</td> </tr> </tbody> </table> <p>The submitted <b>Riparian Corridor Vegetation Management Plan</b> (Conacher Consulting August 2019) provides management actions for the 25m "Outer Riparian Corridor". This report is to be updated to include:</p>	Report	Total SOFF EEC	Removal Area	Modification Area (APZ)	Total Disturbance Area	SOFF EEC to be retained	July 2017	0.4 ha	0.15 ha	0.11 ha	Not reported	0.14 ha	August 2019	0.21 ha	0.12 ha	0.05 ha	0.17 ha	0.04 ha
Report	Total SOFF EEC	Removal Area	Modification Area (APZ)	Total Disturbance Area	SOFF EEC to be retained														
July 2017	0.4 ha	0.15 ha	0.11 ha	Not reported	0.14 ha														
August 2019	0.21 ha	0.12 ha	0.05 ha	0.17 ha	0.04 ha														

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• Bush regeneration works for a minimum of 5 years post-construction</li> <li>• The works program must be amended to include Key Performance Indicators for each management action / task. For example: By the end of the second year of the project a ratio of weed density/endemic native plant density not exceeding 5% weed density and not less than 95% native plant cover must be achieved.</li> <li>• Addition of a table titled "Schedule of Management Costs" which provides the costs of all management actions, including quantity of plants (itemised by stratum) and bush regeneration staffing costs.</li> <li>• A table of suitable species for replanting is to be included which is consistent with the ecological communities found onsite and surrounding land, (including the EECs). This is included in the previous report.</li> </ul> <p>The submitted <b>Landscape Plan</b> (Meriton, 21/09/2018) references a "Landscape Early Works Package" within the area subject to restoration and rehabilitation in accordance with the Riparian Corridor Vegetation Management Plan (Conacher Consulting August 2019). This plan is to be updated to show and label the Riparian Zone Offset Area (proposed lot 24). The "Landscape Early works Package" is to be submitted which shows proposed landscaping works within proposed Lot 1, which act to provide a buffer to riparian vegetation.</p> <p><i>Required information:</i> Updated plans / reports which clarify impacts and management tasks as detailed above.</p>
NECC (Development Engineering)	<p><b>Development engineering comments 1/7/20</b></p> <p>The On Site Stormwater Detention plans are satisfactory. The plans detail the provision of pre-formed tanks below the ground on each of the lots. Accordingly a condition has been drafted to ensure all future housing development complies with the OSD/stormwater drainage concept plan.</p> <p>No objections to the subdivision development application subject to conditions.</p> <p><b>Development Engineering comments 12/3/20</b></p> <p><b>The application is not supported because the applicant as advised in October 2019 has not addressed the following stormwater/on site detention requirement for the site:</b></p>

Internal Referral Body	Comments
	<p>The proposed subdivision and housing development has not provided On site stormwater detention as required to meet the objectives of Section 4.6.3 and Appendix A of the "Warriewood Valley Urban Release Water Management Specification " .  A concept stormwater drainage plan and hydraulic modelling/calculations are required detailing the provision of On Site Stormwater Detention and are to meet the objectives of the "Warriewood Valley Urban Release Water Management Specification " .</p> <p><b>Development Engineering comments October 2019</b></p> <p>The proposed subdivision and housing development has not provided On site stormwater detention as required to meet the objectives of Section 4.6.3 and Appendix A of the "Warriewood Valley Urban Release Water Management Specification " .  A concept stormwater drainage plan and hydraulic modelling/calculations are required detailing the provision of On Site Stormwater Detention and are to meet the objectives of the "Warriewood Valley Urban Release Water Management Specification " .</p>
NECC (Riparian Lands and Creeks)	The riparian area of Narrabeen Creek has been addressed under the court-approved Civil Works application (N0398/17). Erosion and sediment controls are dealt with under the water management referral.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The Flood Impact Assessment Rev4 dated 5 December 2019 prepared by Cardno (NSW/ACT) Pty Ltd has demonstrated that all residential allotments are located above the Flood Planning Area (including climate change provisions) and Probable Maximum Flood area and are consistent with the requirements of the Warriewood Valley Water Management Specification, 2001 and Clause 6.1 of the Pittwater 21 Development Control Plan. Flood free evacuation in a Probable Maximum Flood event is not possible from the subject residential allotments. Restrictions are included on the title to reflect that the future occupants must shelter-in-place during extreme flood events.
NECC (Water Management)	Water management for the common land has been addressed in the Civil Works application (N0398/17). For the works associated with subdivision of the individual lots in this application, sediment and erosion controls must be installed prior to any disturbance of soil on the site and maintained until all work is complete and groundcover re-established or ground stabilised.
Strategic and Place Planning (Urban Design)	<b>Urban Design Comments 17 Feb 2020:</b> Amended drawings dated 5 Feb 2020 have envelope control dimensions and information indicated.

Internal Referral Body	Comments
	<p><b>Urban Design Comments made previously:</b>  The proponent has submitted an indicative Building Envelope Plan (SEE - Annexure 3) indicating setbacks for the ground floor building footprint. However the first floor building footprints have no dimension for the side setbacks. Building height and envelope controls are also not indicated.</p> <p>The Pittwater LEP Height of Buildings - Maximum 8.5 m should also be indicated on the drawing. The built form supported generally will be a two-storey detached house with a roof form.</p>
Strategic and Place Planning (S94 Warriewood Valley)	<p>The subject property is identified as Buffer 1m on the PLEP Urban Release Area Map. The property fronts Macpherson Street to the south. The northern and eastern boundaries are defined by the centreline of Narrabeen Creek. The property is currently vacant but once contained a nursery which has since been demolished.</p> <p>The application proposes Community Title subdivision and associated civil works to create:</p> <ul style="list-style-type: none"> <li>• an allotment containing the ring road (approved under the earlier earthworks DA N0398/17) and water management infrastructure, labelled Lot 1</li> <li>• 22 residential allotments, labelled Lots 2-23 inclusive</li> <li>• an allotment to contain the inner creekline corridor, labelled Lot 24.</li> </ul> <p>The SEE contains a development contribution calculation. Council does not support this calculation for a number of reasons. The Applicant's calculation is based on 21 allotments. The contribution must be calculated based on the proposal to create 22 residential allotment on a vacant site that has never accommodated a dwelling.</p> <p>The Warriewood Valley Development Contributions Plan Amendment 16 Revision 3 2018 (the Contributions Plan) identifies that the inner 25m creekline corridor of the property is to be dedicated to Council. Table 4 of the Contributions Plan identifies that the area of inner creek corridor on the property is approximately 6,751m<sup>2</sup>.</p> <p>The submitted Survey prepared by JBW Surveyors, dated 25 September 2018, identifies the total site area is 2.13 hectares. The submitted Plan of Subdivision, prepared by B&amp;P Surveys, dated 20 June 2017, identifies that Lot 24 containing the inner creek corridor is 8,764m<sup>2</sup> in size. A note on the Plan of Subdivision identifies that this calculation is based on DP5464.</p> <p>DP5464 was surveyed in 1906. This survey identifies the site as 2.32 hectares based on the rear property boundary being the creek centreline at that point in time. The Contributions Plan advises:</p> <p style="text-align: center;"><i>Noting that the position of the creek centreline has meandered over the years, to avoid confusion, the area of</i></p>

Internal Referral Body	Comments
	<p data-bbox="632 315 1401 383"><i>creekline required to be dedicated to Council is to be measured as 25m from the current rear property boundary.</i></p> <p data-bbox="517 423 1433 636">The area of Lot 24 as shown on the submitted Plan of Subdivision is not supported. The Plan of subdivision must be amended to identify the 25m inner creekline corridor measured from the current centreline of the creek based on the submitted survey prepared by JBW Surveyors, dated 25 September 2018. Based on the recent survey the inner creekline corridor area would total approximately 6,792m<sup>2</sup>.</p> <p data-bbox="517 669 1426 875">The submitted Statement of Environmental Effects (SEE) purports that the creek reconstruction and rehabilitation works identified for Buffer 1m in Appendix 2 of the Contributions Plan has been approved under a separate application on the site for earthworks, being DA N0398/17. The SEE requests a contributions credit for the value of these works which the Applicant has incorrectly calculated.</p> <p data-bbox="517 916 1430 1122">DA N0398/17 was approved by the Land &amp; Environment Court on 31 May 2019. The application sought approval for earthworks and the construction of a ring road and was not related to residential development. This application involved significant cut in the creek corridor to create a 1%AEP flood-free building pad in the centre of the site.</p> <p data-bbox="517 1162 1430 1509">The Team Leader, Floodplain Planning &amp; Response has advised that the information submitted with the Construction Certificate for N0398/17 has not demonstrated that the creek reconstruction will accommodate the 1%AEP. Additionally, the Contributions Plan identifies that a works-in-kind agreement is the necessary mechanism for an applicant seeking to satisfy an obligation to pay a monetary contribution by providing some other kind of material public benefit. The Contribution Plan identifies that Council is under no obligation to accept a works-in-kind agreement and in considering any such offer, will assess the benefits to Council and the community.</p> <p data-bbox="517 1550 1426 1861">Notwithstanding, the creek works in N0398/17 were proposed by the applicant to provide a flood free building pad in the centre of the site. The Contributions Plan identifies that these works are not contemplated to be commenced by Council until 2020/21. However, the works schedule is subject to changes to actual development timeframes, community needs and economic conditions. If the Applicant requires that these works are completed ahead of Council's anticipated timeframe they will need to undertake them at their own cost.</p> <p data-bbox="517 1901 1034 1933"><b>Additional Comments 18 March 2020</b></p> <p data-bbox="517 1973 1398 2107">The revised plan of subdivision identifies an acceptable area of creekline corridor to be dedicated to Council. A contribution calculation has been prepared in accordance with the Contributions Plan and financial model. The proposal is acceptable subject to</p>



Internal Referral Body	Comments
	conditions.
Traffic Engineer	<p><u>Comments on revised plans:</u>  This comment has to be read in conjunction with the previous comments.  The amended plans have provided a wider accessway for the lots No.1, 2, 21 and 22 and has addressed the concern regarding the maneuvers in and out of the garages within the accessway.</p> <p><u>Original Traffic Comments :</u>  The proposal is for subdivision of the site into 24 community title lots (22 residential and 2 residue) as follows:  The vehicular trips to the site are proposed to be via two connections, an in and out access creating a one-way road loop on Macpherson Street.  Macpherson Street is a local collector road which falls under Council's ownership.  The proposed circulating road is intended to be a private road. As this road will only be servicing the lots within. Traffic raises no objection to the road remaining in private ownership. Appropriate means to ensure this is documented appropriately will need to be managed by planners.  The Traffic team will require that applicant submit a signage plan that will need to properly notify of the 'one-way' configuration, and additionally the applicant will need to ensure that the entry treatments are undertaken in such a way as to differentiate between private and public road reserves.  The garages of Lot No.3 to 20 have access to the one way access way with adequate maneuvering area, however the garages of Lots No.1, 2, 21 and 22 will have access through a driveway off the one way circulating access way. The proposed driveway appears to be narrow not providing adequate maneuver area for vehicles to turn in and out of the garages. The driveway has to be adequately wide allowing vehicles to make the turns in and out of the garages.</p> <p>In view of the above, no objection is raised subject to conditions.</p>
Waste Officer	<p>Waste Management Assessment - Additional Information/Clarification supplied by applicant - 29/6/2020.  Recommendation  Approval subject to conditions.</p> <p>Information has been supplied by the applicant that indicates that the road can be traversed by a standard three axle heavy rigid waste collection vehicle.</p> <p>A special condition of consent will be required for "no standing zone" on the road pavement at the two 90 degree bends in the road.</p> <p>Waste Management Assessment  Recommendation  Refusal</p>

Internal Referral Body	Comments
	<p>The Traffic Impact Assessment Report (Road Design clause 6.1) states:  <i>The largest expected vehicle to use the road layout is the standard Medium Rigid Vehicle (MRV) of 8.8m length. This vehicle represents a typical garbage vehicle and emergency vehicles such as fire trucks.</i></p> <p>Waste collection services through out Warriewood Valley are delivered via the use of heavy rigid vehicles (HRV) up to 12 metres in length and 23 tonnes in weight. This is the industry standard for residential collections.</p> <p>The applicant is required to provide a suitable road design that allows for the safe operation of the HR vehicles described above.</p> <p>Please provide evidence that the proposed road design can accommodate Council's requirements (swept path and weight) or amended road design to meet the requirements.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Integrated Development – NSW Rural Fire Service (Subdivisions and Special Fire Protection Purposes under Section 100B of Rural Fires Act)	<p>The New South Wales Rural Fire Service (NSW RFS) issued the General Terms of Approval (GTA), under Division 4.8 of the 'Environmental Planning and Assessment Act 1979', and a Bush Fire Safety Authority, under Section 100B of the 'Rural Fires Act 1997', are now issued subject to the following conditions:</p> <p>Asset Protection Zones - measures to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.</p> <p>Water and Utilities - measures to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.</p> <p>Landscaping - to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.</p> <p>The GTA's and conditions are included in the recommendation.</p>
Nominated Integrated Development – Department of Industry – Natural Resources Access Regulator (Controlled Activity Approval	The Department of Natural Resource Access Regulator (NRAR) issued the General Terms of Approval (GTA) on 16 October 2019 which are included in the recommendation.

External Referral Body	Comments
for works within 40m of watercourse)	

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\***

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

## **State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)**

### **SEPP 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. The potential for contamination within the site has previously been investigated under Development Application N0398/17 and a Validation Report has been submitted with the subject application.

Council's Environmental Health Unit have reviewed the reports associated with application and found that the management plans and remediation efforts are satisfactory - no further remediation is required. In short, the levels of metals was low, immobility of benzo(a)pyrene as coal ash, asbestos removed, and noting that the ground level will be modified once offsite soil has been added to build above flood level.

In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

### **SEPP (Infrastructure) 2007**

#### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

**SEPP (Coastal Management) 2018**

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

**10 Development on certain land within coastal wetlands and littoral rainforests area**

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
  - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
  - (c) *the carrying out of any of the following:*
    - (i) *earthworks (including the depositing of material on land),*
    - (ii) *constructing a levee,*
    - (iii) *draining the land,*
    - (iv) *environmental protection works,*
  - (d) *any other development.*

Comment:

The Land and Environment Court approval allowed for earthworks / civil works including the construction of a road. The subject application for sub-division to accommodate future residential development will not result in any additional biodiversity impacts including impacts to the coastal wetlands subject to conditions.

**11 Development on land in proximity to coastal wetlands or littoral rainforest**

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
  - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

Refer above.

**13 Development on land within the coastal environment area**

- (1) *Development consent must not be granted to development on land that is within the coastal*

*environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - (b) coastal environmental values and natural coastal processes,*
  - (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
  - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
  - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (f) Aboriginal cultural heritage, practices and places,*
  - (g) the use of the surf zone.*
- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
  - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

Subject to conditions the proposed sub-division can be managed to ensure that the integrity of the biophysical, hydrological and ecological environment can be protected. The proposal will not impact on foreshore access or aboriginal heritage.

**14 Development on land within the coastal use area**

- (1)
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
    - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
    - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
    - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
    - (iv) Aboriginal cultural heritage, practices and places,
    - (v) cultural and built environment heritage, and
  - (b) is satisfied that:
    - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
    - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
    - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and

- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

As above.

**15 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The development will not increase the risk of coastal hazards.

In summary, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

**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

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size The site is zoned within the Warriewood Urban Valley Release Area and is identified as Buffer 1m:	Clause 6.1(3) of PLEP allows for a max of 22 dwellings are permitted	22 residential lots which vary in size from 220sqm to 388sqm. The remaining 2 lots are for the private access loop road and the inner creek buffer corridor lot.	N/A	Yes
Height of Buildings:	8.5m	Indicative envelopes have been submitted which show 7.8m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.6 Subdivision - consent requirements	Yes
4.1AA Minimum subdivision lot size for community title schemes	Yes
6.1 Warriewood Valley Release Area	Yes

Clause	Compliance with Requirements
7.1 Acid sulfate soils	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

### Detailed Assessment

#### **6.1 Warriewood Valley Release Area**

The subject site is located within The Warriewood Valley Release Area and is identified as Buffer 1m.

Clause 6.1 (3) limits the development of the site to a maximum of 22 dwellings.

#### Comment:

The Development Application proposes the 24 Lot Community Title Subdivision to accommodate future residential development; 22 lots will be for future residential dwellings and the remaining 2 lots will be for the private access loop road and creek buffer lot and the 25m inner creek line corridor which will be dedicated to Council.

Clause 4 requires the consent authority to be satisfied that the the proposed development will not have any significant adverse impact on any of the following:

- (a) *opportunities for rehabilitation of aquatic and riparian vegetation, habitats and ecosystems within creek line corridors,*
- (b) *the water quality and flows within creek line corridors,*
- (c) *the stability of the bed, shore, and banks of any watercourse within creek line corridors.*

#### Comment

The subject site is characterized by a creek line corridor located at the rear of the subject site known as 'Narrabeen Creek'. Development Application (N0398/17) for the civil works including cut and fill to create a suitable building platform for future development, private road, drainage works and environmental management works was approved by the Land and Environmental Court on 31 May 2019.

DAN0398/17, including the approved Vegetation Management Plan (VMP) (Conacher Consulting, dated April 2019) and Bulk Earthworks Plan DAC1015, issue F, dated 28 March 2019.

Condition B7, requires:

*"The recommendations of the approved Vegetation Management Plan, as referenced in condition A1 of this consent, are to be implemented prior, during and post construction, and adhered to until the land is dedicated to Council . Details demonstrating pre-construction compliance are to be certified by the project ecologist and submitted to the Certifying Authority prior to the issue of the Construction Certificate."*

To ensure consistency with consent N0398/17, and ongoing continuity with the protection, restoration and ongoing maintenance and monitoring of the vegetation management actions to be implemented within the riparian corridor, several conditions have been adapted for the proposed biodiversity consent conditions for the subdivision development. Subject to conditions the proposal complies with the provisions of Clause 6.1 of the PLEP 2014.

## 7.1 Acid sulfate soils

The site is mapped as being part Class 2 and part Class 3 acid sulphate soils. An Acid Sulphate management plan prepared by Coffey dated 29 October 2018 has been submitted and has been assessed by Environmental Health as acceptable. A condition requires compliance with the Coffey Plan.

## 7.3 Flood planning

Clause 7.4(3) states:

*Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*

- (a) is compatible with the flood hazard of the land, and*
- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) incorporates appropriate measures to manage risk to life from flood, and*
- (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

### Comment

Council Flood Engineer has confirmed that the Flood Impact Assessment Rev 4, dated 5 December 2019, prepared by Cardno (NSW/ACT) Pty Ltd has demonstrated that all residential allotments are located above the Flood Planning Area (including climate change provisions) and Probable Maximum Flood area and are consistent with the requirements of the Warriewood Valley Water Management Specification, 2001 and Clause 6.1 of the Pittwater 21 Development Control Plan. Flood free evacuation in a Probable Maximum Flood event is not possible from the subject residential allotments. Restrictions are included on the title to reflect that the future occupants must shelter-in-place during extreme flood events. As such, the proposal complies with the provisions of clause 7.3 of the PLEP 2014.

## 7.6 Biodiversity protection

Sub-Clause 7.6(3) states:

*Before determining a development application for development on land to which this clause applies, the consent authority must consider whether the development is likely to have:*

- (a) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
- (b) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
- (c) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (d) any adverse impact on the habitat elements providing connectivity on the land, and*
- (e) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*



## Comment

Clause 7.6 Biodiversity and clause 4.15 of the Pittwater DCP apply. In addition, the site is mapped within the Coastal Management SEPP as Coastal Wetlands and Coastal Wetlands Proximity Area. There is a small portion of vegetation within the northwestern corner that is mapped as having "Biodiversity Value" within the Biodiversity Values Map prescribed by the NSW Biodiversity Conservation Act 2016.

The Applicant has submitted additional to address biodiversity concerns. Council's Biodiversity Unit have confirmed that the proposal will not result in additional biodiversity impacts above that previously assessed and consented to as part of the construction of a road and earthworks (DAN0398/17).

To ensure consistency with consent N0398/17, and ongoing continuity with the protection, restoration and ongoing maintenance and monitoring of the vegetation management actions to be implemented within the riparian corridor, several conditions have been adapted for the proposed biodiversity consent conditions for the subdivision development. Subject to these conditions the proposal can be managed to ensure there is minimal impact on the ecological value and significance of the fauna and flora on the land and its biodiversity structure in compliance with sub-clause 7.6(3) of the PLEP 2014.

### **7.10 Essential services**

Clause 7.20 requires that:

*Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:*

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

## Comment

The Civil works have been approved by the Land and Environment Court under DA N0398/17 which provides for suitable access, drainage works and environmental management. The subject application will facilitate footpaths and the location of services including light poles, water, sewer and gas.

### **Pittwater 21 Development Control Plan**

#### Built Form Controls

<b>Clause C6.8 Built Form Control</b>	<b>Requirement</b>	<b>Proposed</b>	<b>% Variation*</b>	<b>Complies</b>
Front building line	-Machperson Street - 5m to articulation zone / 6.5m to garage and dwelling  -All other dwellings 1.5m to articulation zone 4m to garage  Corner lots 1 m to articulation zone	6.5m to dwelling  lots 4- 11, 21- 14 = 4m to articulation zone  4.5m to 6m to garage	N/A	Yes

	and 2m to garage			
Rear building line	- Lots with a depth of 20m or less - 4m for ground floor and upper floor  - Lots with a depth greater or equal to 20m - 4m ground floor and 6m upper floor	Lots 4- 11, 21- 14 = 6m  Lots 2,3 22 and 23 = 6.5	N/A	Yes
Landscaped area	20sqm	20sqm	N/A	Yes

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C6.1 Integrated Water Cycle Management	Yes	Yes
C6.2 Natural Environment and Landscaping Principles	Yes	Yes
C6.4 The Road System and Pedestrian and Cyclist Network	Yes	Yes
C6.5 Utilities, Services and Infrastructure Provision	Yes	Yes
C6.7 Landscape Area (Sector, Buffer Area or Development Site)	Yes	Yes
C6.8 Residential Development Subdivision Principles	Yes	Yes
C6.9 Residential Land Subdivision Approval Requirements	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.6 Front building lines	Yes	Yes
D16.7 Side and rear building lines	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D16.10 Private and Communal Open Space Areas	Yes	Yes

### Detailed Assessment

#### **B3.2 Bushfire Hazard**

The site is mapped as bush fire prone land buffer 100m and 30m. The application was referred to RFS and the condition recommended by RFS are included in the decision, see RFS referral within this report.

#### **B3.6 Contaminated Land and Potentially Contaminated Land**

As discussed above, Environmental Health have reviewed the reports associated with the subject application and found that the management plans and remediation efforts are satisfactory - no further remediation is required.

#### **B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)**

Sub-Clause B3.12 (3) Climate Change Assessment for Land Identified within the Warriewood Valley Land Release Area requires:

*For land identified within the Warriewood Valley Land Release Area involving development to which this control applies, a climate change assessment shall be incorporated in the Water Management Report as required by Clause C6.4 Flood - Warriewood Valley Residential Sectors, Buffer Areas or Development Sites, Clause C6.5 Flood - Warriewood Valley Employment Generating Sectors, Buffer Areas or Development Sites and in accordance with Council's Warriewood Valley Urban Land Release Water Management Specification (February 2001 or as amended). The climate change assessment shall include the impacts of climate change on the property over the life of the development and the adaptive measures to be incorporated in the design of the project. The following climate change scenarios shall be considered:*

*Scenario 1: Impacts of sea level rise only*

*Scenario 2: Impacts of sea level rise combined with increased rainfall volume.*

#### Comment:

The Flood Impact Assessment Report includes climate change parameters in the determination of flood levels and the sizing of creek infrastructure. As such, the report appropriately addressed climate change in accordance with clause B3.12 (3) and Council's Flooding Engineer has no objections subject to conditions.

#### **B3.13 Flood Hazard - Flood Emergency Response planning**

Clause B3.13 requires:

*Areas of the Pittwater LGA potentially impacted by flash flooding or overland flow or lagoon flooding or a combination of flooding are to ensure development is undertaken in a way that is reflective of the*

flood risk.

*If safe evacuation can be demonstrated to Council's satisfaction through the submitted Flood risk Emergency Assessment, then the controls for shelter in place are not applicable.*

### Comment

The Floor Impact Assessment includes Flood Emergency Management Plan (FEMP) which have been assessed by Council's Flood Engineer as acceptable. The Plan includes the following measures:

- Flood Awareness;
- Flood Warning;
- Flood Evacuation.

The report concludes that there is insufficient time to rely upon evacuation for the site requiring a Shelter-in-Place response. The finished floor levels of all 2 storey dwellings are to be built at or above PMF (4.90 mAHD), which will ensure dwellings are flood free. The isolation time is expected to be negligible and the development will not require the dwellings to be engineered to ensure structural stability. The FEMP report has been review by Council's Flood Engineer who offered no objections to the proposal subject to conditions. As such, the development complies with clause B313.

## **C6.1 Integrated Water Cycle Management**

Clause C6.1 requires

*The Water Management Report, submitted with the application, must demonstrate how the water cycle will be managed and integrated with the development. The Water Management Report is to be prepared by appropriately qualified professionals and certified by an experienced and qualified engineer specialising in hydraulics. It is to be in accordance with Council's Warriewood Valley Urban Land Release Water Management Specification (February 2001 as amended) and relevant legislation taking into account the Narrabeen Lagoon Flood Study (September 2013 as amended) and the Pittwater Overland Flow Flood Study (2013 as amended).*

*The Water Management Report must identify the minimum floor level requirements for development in accordance with the Flood Hazard and Flood Category applicable to the proposed land use specified in Flood Risk Management Policy.*

*The subdivision of land requires the building platforms for each additional allotment to be created at or above the Flood Planning Level (plus climate change). The Plan of Subdivision is to include the Flood Planning Level (plus climate change) for each new allotment created.*

*Creekline corridors in the Warriewood Valley Release Area are to be restored to a 'natural watercourse' that results in healthy ecosystems whilst maintaining their capacity for flood conveyance during high flows as stipulated in the Warriewood Valley Urban Land Release Water Management Specification (2001). The creekline corridors are intended to fulfil a multi-functional purpose, containing the pedestrian and cycle network.*

*The 25 metre Outer Creekline Corridor (commonly known as the 'private buffer strip') to be provided on each side of the Inner Creekline Corridor is to be retained in private ownership and is to perform the functions of part water quality control and a fauna/flora corridor (Lawson & Treloar, 1998). The private buffer strip is to be a multifunctional corridor, appear to be part of the public domain, and may contain:*

*the pedestrian path/cycleway sited above the 20% AEP flood level to reduce the incidence of flood damage to a manageable level and achieve a satisfactory safety level for regular use. The location of the pedestrian path/cycleway is variable to ensure connectivity with existing sections of the path and retention of vegetation. The alignment of pedestrian paths/cycleways and associated landscaping must provide adequate sightlines for cyclists;  
water quality control ponds;  
other water quality treatment measures; and/or  
roads and other impervious areas traditionally sited in the public domain, for up to 25% of the outer Creekline Corridor area subject to merit assessment.*

*Any part of residential lots, dwellings, garages, fences and other vertical built structures are not permitted within the 25 metre wide Outer Creekline Corridor.*

*A landscape plan for the Inner and Outer Creekline Corridors is to be prepared and submitted with the application. Extensive stands of Casuarina glauca, groves of Eucalyptus robusta with other native feature trees, an indigenous understorey and ground covers are to comprise a minimum of 75% of the total creekline corridor area. Native groundcovers should be used as an alternative to lawn.*

*The design of the stormwater management system (quantity and quality) is to be included in the integrated water cycle management scheme for the development.*

*All development stages are to meet or exceed the water quality acceptance criteria within the Warriewood Valley Urban Land Release Water Management Specification (2001) for site discharges. Validation of the acceptance criteria is required by water and sediment quality monitoring and reporting.*

*Sediment and pollution control facilities are to be designed, installed and maintained so that upon completion of construction the facilities will prevent, discourage and intercept accidental and deliberate discharge of harmful substances in Warriewood Valley waterways.*

#### *Groundwater*

*The Water Management Report must identify the depth of the groundwater table. If groundwater is to be managed as a result of excavation/basements/stormwater or flood mitigation measures on the proposed development, the groundwater management measures are to be detailed in the report.*

#### Comment

The Water Management Report complies with the clause and demonstrates how the water cycle will be managed with the development. The Report identifies the minimum floor level requirements having considered climate change.

The 25m inner creekline corridor, lot 24, will be dedicated to Council. The application will be subject to a condition requiring the payment of contributions. As part of the Multi-functional Creek Line Corridor Strategy work will include the rehabilitation and reconstruction of the creek line approved under N0398/17.

Landscape Plans have been submitted with the application which have been assessed by Council Landscape Officer as acceptable.

Subject to conditions, the design of the stormwater management system has been assessed as acceptable and the water quality, management assessment and monitoring meet the criteria within the relevant specifications.

## **C6.2 Natural Environment and Landscaping Principles**

Clause C6.2 requires planting adjoining creekline corridors, buffer strips and reserves, to be given to local species identified as food sources for native fauna.

### Comment:

Conditions are included in the recommendation requiring compliance with the species lists contained in the Warriewood Valley Landscape Masterplan and Design Guidelines (Public Domain).

## **C6.4 The Road System and Pedestrian and Cyclist Network**

Clause C6.4 requires:

*The design and construction of the road and pedestrian network shall, regardless of the form of subdivision and future ownership of the road(s), provide full pedestrian and vehicular access and on-street parking and function as a public road network.*

### Comment

The subdivision design allows for future residential lots to be access from within the site via the private internal loop road which complies with the requirements of the control the and includes the provision of a pedestrian pathway.

The proposal has been amended to increase the width of the laneway / secondary access to lots 2,3 22 and 23 in compliance with the controls and to the satisfaction of Council's Transport Engineer.

## **C6.5 Utilities, Services and Infrastructure Provision**

The existing infrastructure and utility services that are available to the site were considered and approved under DA N0398/17. Services including sewerage, water, power, telecommunications and gas will be made available to each lot. The Applicant will be required to lodge a notification of compliance to Sydney Water and a Section 73 Certificate.

## **C6.7 Landscape Area (Sector, Buffer Area or Development Site)**

Clause C6.7 requires:

*Where a sector, buffer area or development site has a frontage to a creek, a minimum 35% of the site area is to be landscaped area.*

### Comment

The site has a frontage to a creek, approximately 10,891sqm or 51% of the site area is landscaped in compliance with the control.

## **C6.8 Residential Development Subdivision Principles**

### *Subdivision Principles*

*1. The design of the subdivision should be generally consistent with the following keyprinciples:*

- Sectors, buffer areas and development sites with an effective lot width less than 60 metres should ideally pursue opportunities for site amalgamation to facilitate orderly planning and development*

*outcomes and the efficient use of land.*

- The subdivision layout including the lot size must respond to the physical characteristics particular to each sector, such as slope and existing significant vegetation, and site constraints including bushfire risk.*
- The subdivision layout is to incorporate adequate pedestrian, cycle and vehicle links to the road network, public transport nodes, pedestrian/cyclist network and public open space areas.*
- Roads should adjoin creekline corridors and open space areas to facilitate surveillance, provide access to and prevent isolation and degradation of these spaces.*
- Lots must have the appropriate area, dimensions and shape to accommodate the housing product proposed as well as canopy trees and other vegetation, an private outdoor open space, rainwater tanks, vehicular access and onsite parking.*
- Lots are to be orientated to optimise solar access for dwellings and areas of private open space. Widest or deepest lots are to be orientated with north to the front, with the narrowest orientated with north to the rear.*
- Larger lots should be located on corners.*

*Not more than 40% of the lots created through a subdivision proposal may be of the same lot type. Every development application for subdivision must be accompanied by a Lot Mix table showing the lot types, number and percentage of the overall total.*

#### *Titling arrangements*

- 1. The design of the subdivision must consider the future ownership, access and management of the internal road network, water management facilities and any other infrastructure.*
- 2. Details of proposed requirements for services and infrastructure, including garbage collection and emergency services, access and maintenance necessary for the subdivision to function are to accompany the development application.*

#### Comment

The proposed lots in the subdivision will maintain a 10-20 metre managed asset protection zone (APZ). The APZ will generally be cleared of existing vegetation. The landscaping works include back of kerb to property boundary and streetscape works and a pedestrian pathway which have been assessed by Council's Landscape Unit as acceptable subject to conditions.

A one-way road system which will comprise a 7.5-metre-wide access road (private residential street to be retained within community title ownership) with pavement on either side providing access to the development from Macpherson Street has been approved under DA N0398/17. Council's Transport Unit support the proposal subject to conditions.

The lot sizes and configurations will allow for a range of two storey dwelling types to be built; 18 of the 22 proposed residential lots would have direct access to the public road network; 4 of the proposed residential lots will be benefited by a 4.0m wide access and service easement (secondary road / laneway).

The proposed residential lots range in size from 220 sqm to 388 sqm, all have lot width equal to or greater than 9m and the larger lots are located on the corners in compliance with the control. Seventy two (72) % of lots are of the same / similar lot type which is contrary to the maximum 40% same lot type. An exception to this part of the clause has been assessed as acceptable given that the proposal demonstrates compliance with all other aspects of the envelope controls. In addition, the proposal includes articulation zones which provide an opportunity for the frontages of the future houses to provide expression, variety and interest hence meeting the intent of the sub-clause.

Emergency services and garbage trucks using the private loop road were considered and approved as part of the early works DA. Council's Waste Services Unit have confirmed that the proposal is acceptable subject to conditions.

### **D16.1 Character as viewed from a public place**

Clause D16.1 applicable controls:

As the DA is for sub-division with only indicative envelopes of the dwellings provide a full assessment of clause D16.6 will be considered under the detailed application for the dwellings. Notwithstanding this the following sub-sections of Clause D16.6 are relevant to the subject application.

- *The bulk and scale of buildings to be minimised;*
- *Dwelling to address the road.*
- *Landscaping is to be integrated with the building design to screen and soften the visual impact of the built form.*
- *Garage door widths are to be in accordance with the following:*

*Lot dimension Garage type Width of garage door presented to the street*

*Front loaded lots Area  $\geq 225m^2$  or 9m to 12.5m wide Single with a second hardstand area in front of the garage.*

*$\geq 12.5m$  wide Single or tandem.  $\leq 3m$  or not exceeding 40% of the lot width, whichever is less.*

*$\geq 12.5m$  wide Double  $\leq 6m$  or not exceeding 40% of the lot width, whichever is less.*

*Rear loaded lots  $\geq 4.5m$  or with an area  $< 225m^2$  Single 3. Double 6m.*

*Corner lots with garage on the secondary street frontage*

*Any Single 40% of the lot length as presented to the secondary street up to 3m.*

*Double 40% of the lot length as presented to the secondary street up to 6m.*

### Comment

All dwellings are orientated to the street which will ensure the development addresses the street and provide for casual surveillance. The indicative envelopes illustrates that the dwellings comply with the built form controls for the Warriewood Valley area therefore ensuring that the bulk and scale is appropriate. Conditions are included in the recommendation requiring landscape to be integrated into the site to help soften the visual impact of the built form.

Single garages (4.5m wide) are integrated into the dwelling with a hardstand area in front of the garages to lots 4- 11 and 21-14. The location of the garages on the corner lots have been assessed as acceptable as there is no secondary street to these lots. The location of the garages to lots 2,3,22 and 23 onto the rear lane (secondary street) is also acceptable.

In summary, the indicative design confirms that the proposal has the potential to achieve the objective of the control to ensure that the the scale and density of the development to enhance the existing streetscape and natural environment to provide a sense of address and a reduction of visual clutter.

### **D16.7 Side and rear building lines**

D16.7 requires the following side and rear building lines:

*Side setbacks* for lots between 9m - 14m in width a 900mm side setback is required at ground floor and 1500mm for the upper floor.



*Rear setbacks* for lots with a depth of less than 20m a 4m setback is required at both the ground and upper floor level. Lots with a depth greater or equal to 20m a 4m rear setback is required at ground level and 6m on the upper floor.

### Comment

Indicative building envelopes have been submitted which show compliance with the side setback requirements. The ground floor rear set backs measure 6m to lots 4-11 and lots 14 -21, 6.5m to lots 2, 3, 22, and 23 and 4m to lots 12 and 13. All upper floors have a 6m setback with the exception of lot 13 which less than 20m in depth and has a compliant 4m setback of the ground and upper floor.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

### **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

In summary, a detailed assessment has been required for the following specific issues:

#### *Flooding and stormwater detention.*

The assessment of flood risk at 2 Macpherson Street, Warriewood including the establishment of

design flood conditions, determination of the impact of the development on flooding and the management of flood risk to life, were the subject of a previous Development Application (N0398/17) which related to the civil works for the site and was approved by the Land and Environmental Court on 31 May 2019.

A revised flood report has been submitted which includes Flood Emergency Management Planning Measures. Council's Engineers are satisfied that this application complies with the necessary requirements of the Warriewood Valley Water Management Specification and Pittwater 21 Development Control Plan in relation to the development of flood prone land.

A revised layout includes details of the location of OSD. The indicative OSD locations have been assessed by Council's Engineers as acceptable subject to conditions.

*Drive way dimensions to lots 1, 2,21 and 22.*

The access road to the rear of lots 1, 2,21 and 22 has been increased in width to 5.6m to provide adequate manoeuvre area for vehicles to turn in and out of the garages. Council's Transport Unit have no objections to the revised layout subject to conditions.

*Insufficient information to assess building envelope.*

Additional drawings have been submitted which confirm that the building envelope comply with the built form controls of the Warriewood Valley Release Area. Council's Urban Designer has no objections to the proposal.

*Insufficient information to assess biodiversity impacts.*

Additional biodiversity information has been submitted which has been assessed by Council's Biodiversity Unit as acceptable subject to conditions.

*Insufficient information to assess landscape issues.*

Additional landscape information has been submitted which has been assessed by Council's Landscape Unit as acceptable subject to conditions.

*Insufficient information to assess waste collection issues relating to the road design.*

The original civil works approval includes the one way loop road. The Applicant's Transport Engineer, ARUP, has confirmed that a single unit truck/bus (12.5m) / Heavy Rigid Vehicle (HRV) can physically traverse the road layout as required and undertake the waste collection as required. Council's Waste Management Unit have confirmed that the proposal is acceptable subject to conditions.

*Incorrect calculation of 7.12 contributions.*

The revised plan of subdivision identifies an acceptable area of creekline corridor to be dedicated to Council. Council's Contribution Officer has no objections to the proposal subject to conditions.

In summary, it is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed. As such, the proposal is recommended for approval subject to conditions.

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 Development Consent to DA2019/0887 for Subdivision of land into 24 community title lots comprising 22 residential lots and 2 residue lots. on land at Lot 25 DP 5464, 2 Macpherson Street, WARRIEWOOD, subject to the conditions printed below:

**DEVELOPMENT CONSENT OPERATIONAL CONDITIONS**

**1. On Site Stormwater Detention ( future housing lots)**

Future housing development on individual lots is to provide on-site stormwater detention in accordance with Northern Beaches Council’s –Warriewood Valley Urban Release -Water Management specification and generally in accordance with the concept drainage plans prepared by A T and L , drawing number SKC 014, dated 21/6/20. Detailed drainage plans for future housing development are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NER) or RPENG (Civil).

The individual lot site storage and permissible site discharges are to be in accordance with the values specified on the concept drainage plan . Underground storage tanks are to be Lattice (LU5000) tanks or equivalent .

Reason: To ensure stormwater discharges are managed to prevent downstream impacts.

**2. Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA000 Rev A Cover Sheet	5 February 2020	Meriton
DA001 Rev C Building Envelope	5 February 2020	Meriton
DA002 Rev C Driveway and garage locations	5 February 2020	Meriton
DA003 Rev C Private Open Space	5 February 2020	Meriton
DA004 Rev C Setbacks	5 February 2020	Meriton
DA005 Rev C Indicative Elevation	5 February 2020	Meriton

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
C002 Rev C General Notes	22 July 2019	At&I Civil Engineering and Project Management
C005 Rev E General Arrangement Plan	30 January 2020	At&I Civil Engineering and Project Management
C006 Rev E Typical Sections sheet 1 of 2	30 January	At&I Civil Engineering and

	2020	Project Management
C007 Rev E Typical Sections sheet 2 of 2	30 January 2020	At&I Civil Engineering and Project Management
C010 Rev E Site Works and Stormwater Plan sheet 1 of 2	30 January 2020	At&I Civil Engineering and Project Management
C011 Rev E Site Works and Stormwater Plan sheet 2 of 2	30 January 2020	At&I Civil Engineering and Project Management
C020 Rev D Site Works Details	30 January 2020	At&I Civil Engineering and Project Management
C030 Rev D Pavement Plan	30 January 2020	At&I Civil Engineering and Project Management
C050 Rev D MC01 Cross Section Sheet 1	27 November 2019	At&I Civil Engineering and Project Management
C051 Rev D MC01 Cross Section Sheet 2	27 November 2019	At&I Civil Engineering and Project Management
C052 Rev D MC01 Cross Section Sheet 3	27 November 2019	At&I Civil Engineering and Project Management
C053 Rev D MC01 Cross Section Sheet 4	27 November 2019	At&I Civil Engineering and Project Management
C054 Rev D MC01 Cross Section Sheet 5	27 November 2019	At&I Civil Engineering and Project Management
C055 Rev D MC01 Cross Section Sheet 6	27 November 2019	At&I Civil Engineering and Project Management
C056 Rev D MC01 Cross Section Sheet 7	27 November 2019	At&I Civil Engineering and Project Management
C057 Rev D MC01 Cross Section Sheet 8	27 November 2019	At&I Civil Engineering and Project Management
C058 Rev D MC01 Cross Section Sheet 9	27 November 2019	At&I Civil Engineering and Project Management
C070 Rev E Services and Utilities Coordination Plan	30 January 2020	At&I Civil Engineering and Project Management
C080 Rev E Sediment and Erosion Control Plan	30 January 2020	At&I Civil Engineering and Project Management
C081 Rev C Sediment and Erosion Control Details	22 July 2019	At&I Civil Engineering and Project Management
C081 Rev C Sediment and Erosion Control Calculations	22 July 2019	At&I Civil Engineering and Project Management
C090 Rev E Internal Stormwater Catchment Plan	30 January 2020	At&I Civil Engineering and Project Management
SKC014 Rev A OSD Layout Plan	21 June 2020	At&I Civil Engineering and Project Management

**Reports / Documentation – All recommendations and requirements contained within:**

<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Flood Impact Assessment Report	5 December 2019	Cardno

Arboricultural Impact Assessment Report	20 November 2019	Jackson Nature Works
Traffic Report Rev C Ref 256447	14 July 2019	ARUP
Pre-Construction Traffic Supplementary letter	27 November 2019	ARUP
Threatened Species Assessment Report Ref 9094 V4	August 2019	Conacher Consulting
Riparian Corridor Vegetation Management Plan Ref 9094 V6	August 2019	Conacher Consulting
Bushfire Assessment Report Ref 9094	August 2019	Conacher Consulting
Water Quality Monitoring Plan Ref 11527 V4	12 July 2019	Eco Logical
Acid Sulfate Soil Management Plan Ref 754-SYDEN205656-R06b	29 October 2019	Coeffy
Validation Report Ref SYDEN205656-R05	19 July 2019	Coeffy

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

c) The development is to be undertaken generally in accordance with the following:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
L000 Rev B Landscape Cover Page	30 January 2020	Meriton
L201 Rev B Landscape Plan	30 January 2020	Meriton
L202 Rev B Landscape Plan	30 January 2020	Meriton
L900 Rev A Landscape Details	12 August 2019	Meriton
L000 Rev A Landscape Cover Page	30 August 2019	Meriton
L001 Rev A Landscape Plant Schedule	30 August 2019	Meriton
L800 Rev A Landscape Typical Sections	30 August 2019	Meriton
L900 Rev A Landscape Details	30 August 2019	Meriton
L901 Rev A Landscape Maintenance Specification	30 August 2019	Meriton

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

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

### 3. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>

Natural Resource Regulator	General Terms of Approval Reference IDAS1119101	16 October 2019
NSW Rural Fire Services	General Terms of Approval Reference D19/2999	26 September 2019

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's.

## FEES / CHARGES / CONTRIBUTIONS

### 4. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

### 5. Construction, Excavation and Associated Works Security Bond (Road works)

The applicant is to lodge a bond with Council of \$50000 as security against any damage to the Macpherson Street bridge structure and road pavement as a result of any subdivision on works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's Infrastructure.

### 6. Warriewood Valley Contributions Plan - Creekline corridor

The following is to be made for the provision of local infrastructure and services pursuant to section 7.11 of the Environmental Planning and Assessment Act 1979 and the Warriewood Valley Development Contributions Plan (as amended):

- A monetary contribution of \$1,320,770.41 (subject to (a) below) is payable to Northern Beaches Council, and
- Dedication of 6,739sqm of creekline corridor land in accordance with b) below.

a) Written evidence (receipt/s) from Council for the payment of the monetary contribution is to be provided to the Certifying Authority prior to issue of the construction certificate or subdivision certificate (whichever occurs first), or prior to the issue of the subdivision certificate where no construction certificate is required. If the cash contribution (total or in part) remains unpaid after the financial quarter in which the development consent is issued, the amount unpaid (whether it be the full monetary contribution amount or a part thereof) will increase on a quarterly basis in accordance with the applicable Consumer Price Index.

b) The Applicant shall dedicate to Northern Beaches Council a total of 6,739sqm of land for the provision of multi-functional creekline corridor in lieu of a monetary contribution amount calculated in accordance with Table 4 of the Contributions Plan attributed to the creekline corridor to the value of \$213,386.83. The required dedication is to take place by way of subdivision.

c) The Applicant may negotiate with Council for the direct provision of other facilities and services, and/or the dedication of land (other than land identified in (b) above) in lieu of the monetary contribution above (or any portion of that monetary contribution) or the deferral of payments through a Material Public Benefit Agreement between Council and the Applicant in accordance with the Warriewood Valley Development Contributions Plan (as amended). The agreement for Material Public Benefit Agreement between the Applicant and Council must be finalised, formally signed and in place prior to the payment of the monetary contribution.

The Warriewood Valley Development Contributions Plan (as amended) may be viewed at 725 Pittwater Rd, Dee Why or alternatively, on Council's website Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan that enables the provision of public infrastructure and services commensurate with the increased demand resulting from development in the Warriewood Valley Release Area.

## **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE SUBDIVISION WORKS CERTIFICATE**

### **7. Subdivision Works Certificate**

A Subdivision Works Certificate is to be approved by Certifying Authority for the provision of engineering works.

Engineering plans for the subdivision works within this development consent are to be submitted to the Certifying Authority for approval under Section 6.13 of the Environmental Planning and Assessment Act 1979.

Civil Engineering plans for the subdivision works are to be designed in accordance with the Council's specification for engineering works – AUS-SPEC #1. The plans shall be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or RPENG for civil engineering.

The Subdivision Works Certificate must be supported by engineering plans, calculations, specification or any certification relied upon. The plans and accompanying information submitted with the Subdivision Works Certificate must comply with the conditions included with this consent.

Before any works are carried out under the approved Subdivision Works Certificate a Principal Certifier appointed.

As per the Environmental Planning and Assessment Act 1979, only Council can issue a Subdivision Certificate which means only Council can be appointed as the Principal Certifier for subdivision works.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specifications.

**8. Utilities Services**

Prior to the issue of the Subdivision Works Certificate, the Applicant is to obtain the following:

- a) A letter from the utility provider confirming that satisfactory arrangements have been made for the approved development have been made; and
- b) Evidence that notification has been received from a utility authority that, requirements for the development can be provided.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Subdivision Works Certificate.

Reason: To ensure that services have been provided as required by this Consent.

**9. Pre-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:Engineering Specifications.

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Subdivision Works Certificate.

Reason: Protection of Council's Infrastructure.

**10. Pre-Commencement Dilapidation Report**

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the any Subdivision Works Certificate and the commencement of any works including demolition.

Reason: Protection of Council's Infrastructure during construction.

**11. Geotechnical Report Recommendations have been correctly incorporated into designs and structural plans**

The Applicant is to submit Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) and is to be completed and submitted to the Accredited Certifier, prior to issue of the Subdivision Works Certificate.

Reason: To ensure geotechnical risk is managed appropriately.

**12. Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Subdivision Works Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.



Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

## **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

### **13. Soil and Water Management Plan**

#### **Soil and Water Management Plan (site area over 2500sqm)**

A Soil and Water Management Plan (SWMP) shall be prepared by a suitably qualified Civil Engineer, who has membership to the Engineers Australia and National Engineers Register, and implemented onsite prior to commencement and/or any disturbance of soil. The SWMP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004).

The SWMP must include the following as a minimum:-

- a) Site boundaries and contours;
  - b) Vehicle access points, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- c) Location of all drains, pits, downpipes and waterways on and nearby the site;
- d) Planned stages of excavation, site disturbance and building;
- e) Stormwater management and discharge points;
- f) Integration with onsite detention/infiltration;
- g) Sediment control basin locations and volume (if proposed);
- h) Proposed erosion and sediment controls and their locations;
- i) Location of washdown and stockpile areas including covering materials and methods;
- j) Vegetation management including removal and revegetation;
  - k) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- l) Inspection and maintenance program;
- m) North point and scale.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the

issue of the Construction Certificate.

Reason: To promote the long-term sustainability of ecosystem functions..

**14. Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- The sewer service line shown on Drawing reference C070 Rev E (Service and Utilities Coordinate Plan) prepared by at&l dated 30 January 2020 shall not traverse private property.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the subdivision certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

**15. Implementation of Vegetation Management Plan**

Details demonstrating pre-construction compliance with the Vegetation Management Plan (Conacher April 2019) approved as part of the road construction and earthworks consent (DA N0398/17) are to be certified by the project ecologist and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** Biodiversity/Vegetation Conservation and Management.

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

**16. Implementation of Vegetation Management Plan**

The recommendations of the approved Vegetation Management Plan (Conacher April 2019) approved as part of the road construction and earthworks consent (DA N0398/17) are to be implemented prior, during and post construction, and adhered to until the land is dedicated to Council . Details demonstrating pre-construction compliance are to be certified by the project ecologist and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that the riparian zone is rehabilitated and protected in accordance with the consent.

**17. Protection Fencing**

Protection fencing measures (including sedimentation fences) are to be installed in accordance with all approved plans including those specified in Section 2.2.5 of the Vegetation Management Plan (Conacher April 2019) approved as part of the road construction and earthworks consent (DA N0398/17). Protection measures are to be maintained for the duration of the works. Protection fencing that is no longer required is to be removed once all works are completed. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of works.

**Reason:** Environmental Protection

**18. Engagement of ecologist**

A Project Ecologist is to be employed for the duration of the approved works to ensure all vegetation management measures are carried out according to the conditions of consent. The

Project Ecologist will provide certification that conditions relating to the Vegetation Management Plan (Conacher April 2019) approved as part of the road construction and earthworks consent (DA N0398/17) are carried out. The Project Ecologist will ensure that all conditions relating to the vegetation management of the property are fully implemented. The Project Ecologist must have one of the following memberships and/or accreditation:

- Practising member of the NSW Ecological Consultants Association OR
- Biodiversity Assessment Method assessor accreditation under the NSW Biodiversity Conservation Act 2016

**Reason:** To ensure that the riparian zone is rehabilitated and protected in accordance with the consent.

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

### **19. Acid Sulphate Soils management**

All excavation, construction and associated works must be conducted in accordance with the Acid Sulphate Soil Management Plan (ASSMP) titled Acid Sulphate Soil Management Plan written by Coffey on 29 October 2018. Specifically, the recommendations of section 4 of the ASSMP are to be followed.

Reason: To ensure management of any acid sulphate soils.

### **20. Soil and Water Management Plan Implementation**

All Site drainage and sediment and erosion control works and measures as described in the Soil and Water Management Plan and any other pollution controls, as required by these conditions shall be implemented prior to commencement of any other works at the Site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment

## **CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

### **21. Landscape completion**

Landscaping is to be implemented in accordance with drawing numbers L000 Landscape Cover Page issue B; L001 Landscape Plant Schedule; L201 Landscape Plan issue A; L202 Landscape Plan issue B; L900 Landscape Details issue A; and L901 Landscape Maintenance Specification, all prepared by Meriton, inclusive of the following requirements:

- i) all utility services, if any on this side of the road verge, are to be installed under the path and not within the garden area set aside for tree planting,
- ii) all street trees shall be pre-ordered to be delivered to site at the nominated pot size,
- iii) the tree planting of *Tristaniopsis laurina* 'Luscious' is to be installed at 200 litre pot size as nominated on the plans, planted at least 500mm from the edge of the path. Any plant species or pot size substitution is not permitted unless approved by Council,
- iv) samples of the tree species shall be delivered to site for inspection and approval by Council,

v) each tree shall have a tree guard consisting of 4 x 75 x 75 x 2100 posts (at least 600mm into the ground), with 50 x 30 top and mid rail, removed at the end of the landscape maintenance period.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved plans and inclusive of any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

**22. Condition for prior to occupation certificate - Signage and Linemarking**

A plan demonstrating the proposed signage and line marking within Council's Public Domain shall be prepared by a suitably qualified person and submitted to and approved by the Local Traffic Committee prior to the issue of any Occupation Certificate. The plan shall also address necessary signage to identify the one-way configuration as well as entry and exit pavement treatments to differentiate between the private and public road reserves.

Note: The applicant is advised that the plan will require approval by the local Traffic Committee if the proposal requires change in existing parking conditions and hence, adequate time should be allowed for this process

Reason: To ensure consistent parking amenity. (DACTRFPOC1)

Signage and Linemarking – Implementation.

The applicant is to install all signage and line marking, as per the plan approved by the Local Traffic Committee, at no cost to Council. These works are to be undertaken prior to the issue of any Occupation Certificate.

Reason: To ensure signage is installed for enforcement to commence upon occupation (DACTRFPOC2)

## **ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

**23. Landscape maintenance**

A 12 month establishment period shall apply for all new landscaping within the road verge. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe natural life. Planting that may die or is removed must be replaced.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

**24. Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website [http://www.pittwater.nsw.gov.au/environment/noxious\\_weeds](http://www.pittwater.nsw.gov.au/environment/noxious_weeds)

**Reason:** Weed management.

**25. No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

**Reason:** Weed management.

**26. Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

**Reason:** To protect Aboriginal Heritage.

**27. Dead or Injured Wildlife**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

**Reason:** To mitigate potential impacts to native wildlife resulting from construction activity.

**CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE**

**28. Neighbourhood Management Statement for Waste Services**

Where a development proposes the creation of a neighbourhood scheme, the Neighbourhood Management Statement shall include wording in relation to the provision of waste services in accordance with Council's standard requirements (available from Warringah Council).

**Reason:** To ensure ongoing access for servicing of waste facilities (DACWTF05)

**29. Parking Restrictions for Waste Services**

A "No Parking" restriction be placed on the road pavement (both sides of the road) from 6.00am to 6.00pm on waste collection day outside lots 11, 12 and 13.

**Reason:** To ensure unimpeded access for waste collection vehicles (DACHEFPOC1)

**30. Environmental Reports Certification**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

- (a) Flood Impact Assessment Report, dated 5 December 2019, prepared by Cardno;
- (b) Arboricultural Impact Assessment Report, dated 20 November 2019, prepared by Jackson Nature Works;
- (c) Traffic Report Rev C Ref 256447, dated 14 July 2019, prepared by ARUP;
- (d) Pre-Construction Traffic Supplementary letter, dated 27 November, prepared by 2019 ARUP;
- (e) Threatened Species Assessment Report Ref 9094 V4, dated August 2019, prepared by Conacher Consulting;
- (f) Riparian Corridor Vegetation Management Plan Ref 9094 V6, dated August 2019 prepared by Conacher Consulting;

- (g) Bushfire Assessment Report Ref 9094, dated August 2019, prepared by Conacher Consulting;
- (h) Water Quality Monitoring Plan Ref 11527 V4, dated 12 July 2019 prepared by Eco Logical;
- (i) Acid Sulfate Soil Management Plan Ref 754-SYDEN205656-R06b, dated 29 October 2019, prepared by Coeffy, and
- (j) Validation Report Ref SYDEN205656-R05, dated 19 July 2019, prepared by Coeffy.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the sub-division certificate.

Reason: To ensure compliance with standards.

**31. Provision of Services for Subdivision**

The applicant is to ensure all services including water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan of subdivision. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that utility services have been provided to the newly created lots.

**32. Services**

The Applicant shall ensure all utilities/services and street lighting is installed. The Applicant is to submit a Certification stating the above requirement has been complied with by the relevant authority(s) and/or authorised contractor.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure services have been provided in accordance with the relevant authorities requirements.

**33. Sydney Water Compliance Certification**

The Applicant shall submit a Section 73 Compliance Certificate under the Sydney Water Act 1994 issued by Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and fees to be paid. Please make early contact with the coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water.

**34. Certification of Utility Services**

The provision of all utilities/services and/or street lighting are to be certified by the relevant authority(s) and/or authorised contractor. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure services have been provided in accordance with the relevant authorities requirements

**35. Easement for Drainage**

The Applicant shall create an easement for drainage (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision, to accompany the Section 88B instrument to ensure all drainage infrastructure is located within the appropriate easement(s).

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.

**36. Easement for Services**

The Applicant shall create an easement for services (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision, to accompany the Section 88B instrument to ensure all utility services are located within the appropriate easement(s).

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.

**37. Release of Subdivision Certificate**

The final plan of subdivision will not be issued by Council until the development has been completed in accordance with terms and conditions of the development consent.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919.

**38. Subdivision Certificate Application**

The Applicant shall submit a Subdivision Certificate Application to Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919, four copies of the final plan of subdivision and all relevant documents including electronic copies. This documentation is to be submitted to Council prior to the issue of the Subdivision Certificate. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919.

**39. Street naming**

The private street naming must comply with Council's list for the Warriewood Valley release area and can be found on Council's website.

Reason: To comply with Councils policies.

**40. Removal of Sediment and Erosion Controls**

Before demobilising from the site and once vegetation cover has been re-established or ground stabilised with options such as grass or soil stabilisation sprays across 70 percent of the site, the applicant is to remove all temporary sediment and erosion controls.

Any area of the site that requires ongoing stabilisation must have jute mesh or matting incorporated into any revegetated areas and future development lots must be stabilised with grass or soil stabilisation sprays. Mulch may be used on slopes subject to sheet flow with a gradient of no more than 1 metre in height for every 3 horizontal metres. Mulch must be laid to a depth of 50-100mm. If using mulch within two metres of the top of bank of a waterway, coir logs or similar must be placed at the downslope edge of the mulched area to prevent migration of the mulch to the waterway.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Subdivision Certificate.

Reason: Protection of the receiving environment.

**41. Lot classification report**

A site/ lot classification report prepared by a geotechnical engineer must be prepared and submitted following the completion of all subdivision works confirming that all residential lots are compliant with AS 2870 and are suitable for development. The report must be accompanied by a table which summarises the classification of all lots created as part of the subdivision.

Reason: Compliance with Councils Development Control Plan

**42. Compliance certification engineering works.**

A compliance certificate prepared by a civil engineer with NER or RPENG(Civil) accreditation stating all relevant inspections of the civil works including street lighting, utility services , footpaths , cross overs and all stormwater drainage works are compliant with the relevant Australian standards , utility authority specifications and Councils Auspec One specification.

The compliance certification is to be provide to Council prior to the issue of the subdivision certificate,

Reason: To ensure compliance of works with Auspec one and the Utility authority requirements.

**43. Title Encumbrances**

All easements, rights of carriageway, positive covenants and restrictions as to user as indicated on the plans and required by this consent are to be created on the title naming Northern Beaches Council as the sole authority empowered to release or modify. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate

Reason: To ensure proper management of land

**44. Restriction as to User - Emergency Response**

A restriction as to user shall be created on the titles of the allotments to:

1. Require occupants of the dwellings to seek Shelter-in-place refuge during extreme flood events
2. Prohibit self-evacuation during extreme flood events unless advised otherwise by emergency



services agencies

Northern Beaches Council shall be nominated as a party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that the emergency response arrangements for the properties are understood and adhered to.

#### **45. Certification of Vegetation Management and ongoing work**

The Project Ecologist or Ecological Consultant is to certify that:

- a) Native plant selection and planting as per Vegetation Management Plan (Conacher April 2019) approved as part of the road construction and earthworks consent (DA N0398/17) has been completed;
- b) All actions prescribed in the approved Vegetation Management Plan (Conacher April 2019) have been undertaken fully and where relevant completed and that an appropriate program of regeneration and maintenance has been entered into to comply with requirements of the Plan prior, during and post construction, and adhered to until the land is dedicated to Council;
- c) confirm that they comply with the recommendations of the approved Vegetation Management Plan and will undertake to:
  - a. visit the site immediately following completion of the works in the creekline corridor on site; and
  - b. visit the site on a three (3) monthly basis for a period of 2 years and/or until the land is dedicated to Council (whichever is the longest) to ensure implementation of the Vegetation Management Plan.

Reason: Vegetation management

#### **46. Positive Covenant access to waste storage facilities**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to provide access to the waste storage facilities prior to the issue of an Interim/Final Occupation Certificate. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities (DACWTF03)

#### **47. Authorisation of Legal Documentation required for Waste Services**

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land. (DACWTF04)