



statement of modification



MODIFICATIONS TO DA2019/0263

53 & 53B WARRIEWOOD ROAD

WARRIEWOOD NSW 2102

Disclaimer

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introduction

This statement of modification has been prepared by Northern Beaches Planning on behalf of Rise Projects to accompany the lodgement of an application to modify Development Consent DA2019/0263 which approved the 17 Lot Community Title subdivision at 53 and 53B Warriewood Road, Warriewood.

This statement is informed and accompanied by the following documentation:

- Civil Plans by J. Wyndham Prince Consulting
- Stormwater Certification by J. Wyndham Prince Consulting
- Traffic and Parking Assessment Report by Varga Traffic Planning Pty Ltd

site details

The site comprises two separate allotments:

- 53 Warriewood Road, Warriewood (Lot 3 DP 942319), and
- 53B Warriewood Road, Warriewood (Lot 3 DP 1115877).

53B Warriewood Road is irregular in shape, with a 32.77m wide frontage to Warriewood Road, a maximum depth of 247.845m and a total area of 6836m². 53B Warriewood Road currently contains a large single dwelling house, multiple outbuildings and a swimming pool, and adjoins Narrabeen Creek to the rear. 53B Warriewood Road is also known as Buffer Area 1C within the Warriewood Valley Release Area, as identified on the Urban Release Area Map of Pittwater Local Environmental Plan 2014.

53 Warriewood Road is a long narrow parcel of land that currently serves as a drainage reserve connecting Warriewood Road to Narrabeen Creek. 53 Warriewood Road has a 1.91m wide frontage to Warriewood Road, a maximum depth of approximately 249.64m and a total area of 397m². 53 Warriewood Road is also known as Buffer Areas 1D within the Warriewood Valley Release Area, as identified on the Urban Release Area Map of Pittwater Local Environmental Plan 2014.

When combined, the site will have a 34.68m wide frontage to Warriewood Road, a maximum depth of 247.9m, a 38.125m wide frontage to Narrabeen Creek at the rear, and a total area of 7,233m². The site experiences a fall of approximately 10.5m from the upper front boundary (north-east) down towards Narrabeen Creek (south-west), with a slope of approximately 4%. Whilst a number of significant canopy trees remain present, clearing has occurred along the creekline.

The site is identified as being flood affected and prone to bushfire.

An aerial view of the site is provided in Figure 1.



Figure 1 – Aerial view of the site and its surrounds
Source: Six Maps

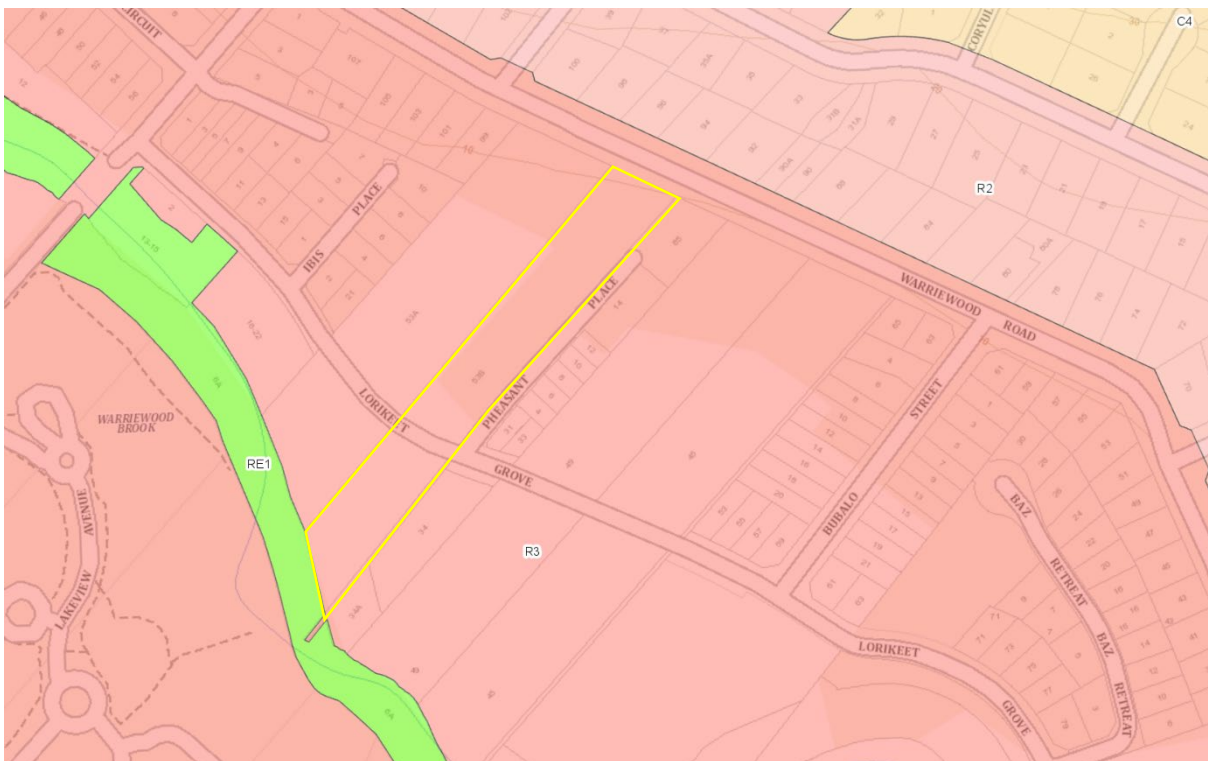


Figure 2 – Zoning Map
Source: ePlanning Spatial Viewer

The site is and will remain zoned R3 Medium Density under the provisions of PLEP 2014 and is surrounded by land of the same zoning, as shown in Figure 2. The site to the south-east on the opposite side of Pheasant Place (formerly known as 53C Warriewood Road) contains 7 x 3 storey dwelling houses and attached dwellings, with development consent for the construction of a 3 storey residential flat building to the land on the southern side of Lorikeet Grove that is yet to be constructed. Land to the north-west at 53A Warriewood Road is currently vacant, with no valid development consent for residential development.



Figure 3 – Street view of the site (right) with temporary road access to Pheasant PI (left)
Source: NBP



Figure 4 – The site as seen from Lorikeet Grove to the south-east
Source: NBP



Figure 5 –The site (right) and existing development on Pheasant Pl (left)
Source: NBP

background

On 19 March 2019, Development Application DA2019/0263 was lodged with Council, seeking consent for the Community Title subdivision of the site, including:

- 15 residential lots for future dwelling houses,
- 1 Community lot comprising the extension/widening of Pheasant Place and stormwater management infrastructure,
- The construction and dedication of Lorikeet Grove,
- The dedication of the 25m inner creekline corridor, and
- Half road reconstruction of Warriewood Road.

On 2 October 2019, DA2019/0263 was approved by Council under the delegation of the Northern Beaches Local Planning Panel. The general arrangement of the approved subdivision is shown in Figure 6, over the page.

Of relevance to this application, DA2019/0263 was approved with a temporary vehicular access arrangement to Warriewood Road that is to be removed once access to Lorikeet Grove becomes available (by virtue of the development of either 45 Warriewood Road or 53A Warriewood Road).

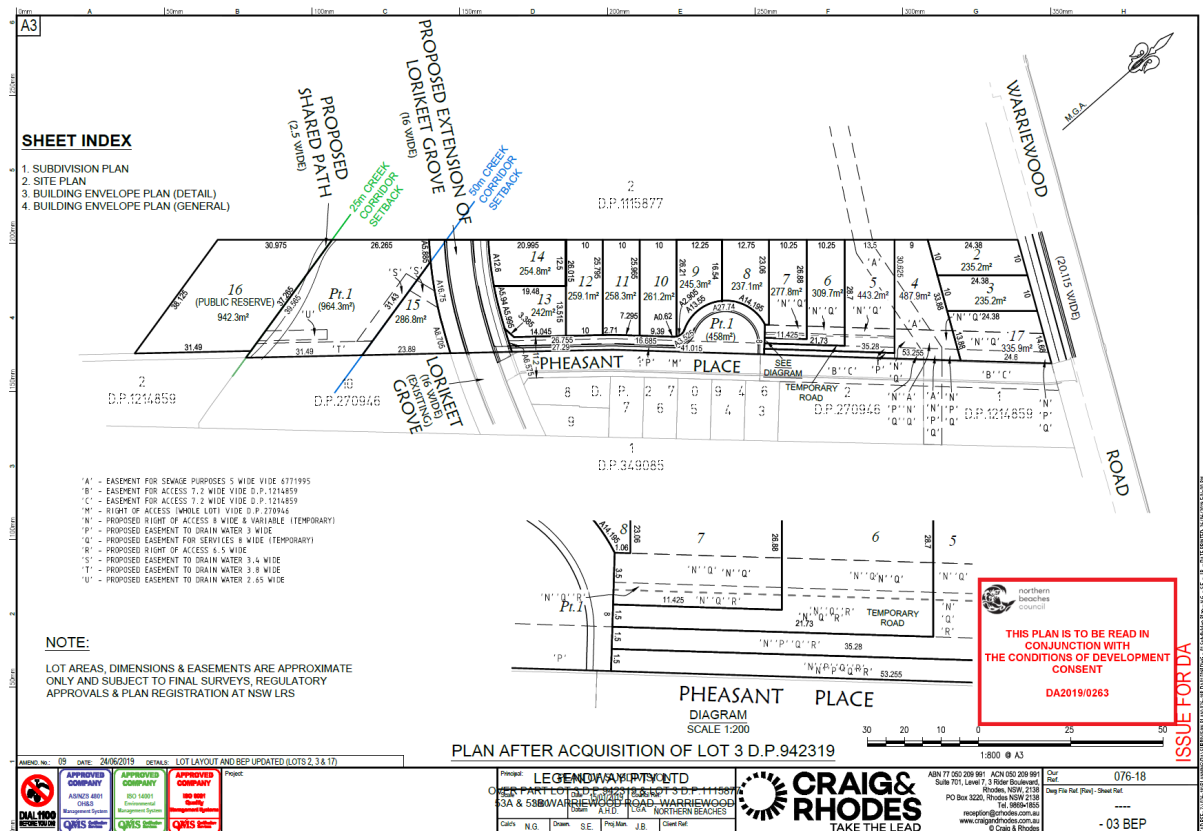


Figure 6 – Approved Subdivision Plan DA2019/0263
Source: Northern Beaches Council

proposed development

The application seeks consent for the following modifications to the subdivision approved pursuant to DA2019/0263:

- Reduction to the width of both the temporary access way extending from Warriewood Road to Pheasant Place and the permanent driveway arrangement in relation to Lots 4, 5, 6 and 7,
- Associated reduction to the width of easements,
- Alterations to the approved ground levels of Lots 2, 3 and 17 (proposed Lot 16) fronting Warriewood Road,
- Relocation of the driveways servicing Lots 2, 3 and 13, and
- Re-numbering of Lots 16 and 17

The modifications are highlighted in the Civil Plans by Rise Projects and are discussed in further detail further in this report.

With the exception of any required reference to the modified documents, the modifications will not give rise to any amendments to existing conditions of consent.

legislation, plans and policies

The following relevant state and local policies are applicable to the proposed development:

- Environmental Planning and Assessment Act (**EP&A Act**)
- Environmental Planning and Assessment Regulation 2021 (**EP&A Regulation**)
- Water Management Act 2000
- Rural Fires Act 1997
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Resilience and Hazards) 2021
- Pittwater Local Environmental Plan 2014 (**PLEP 2014**):
 - Acid Sulfate Soils Map: Class 5
 - Land Zoning Map: R3 Medium Density Residential
 - Height of Buildings Map: 10.5m
 - Biodiversity Map
 - Urban Release Area Map: Buffer Area 1C and 1D
- Pittwater 21 Development Control Plan (**P21 DCP**)
 - Warriewood Valley Locality
 - Bushfire Map: Vegetation Buffer Zone
 - Flood Hazard Map: Low & Medium Risk Precincts

The site is identified on the Land Application Map of PLEP 2014 and the provisions of this policy are applicable in relation to the site and the proposed development.

The relevant provisions of PLEP 2014 are considered, as follows:

Clause	Standard	Approved	Proposed	Compliance
Zone R3 Medium Density Residential				Yes
4.3 Height of buildings	8.5m (first 12.5m) 10.5m (rest of site)	<8.5m	<8.5m	Yes
5.21 Flood planning				Yes See discussion
6.1 Warriewood Valley Release Area				Yes
7.1 Acid sulfate soils	Class 5			Yes
7.2 Earthworks				Yes
7.6 Biodiversity				Yes
7.10 Essential services				Yes See discussion

Clause 5.21 Flood planning

The site is identified as flood prone on the Flood Risk Precinct Maps of P21 DCP, as shown in Figure 7. However, the works the subject of this modification application are located outside the existing flood extent and well above the flood planning level. The modifications proposed in this application do not impact upon the conclusions or recommendations of the Approved Water Management Report with respect to flooding, and Council can be satisfied that the modified development remains consistent with the provisions of clause 5.21 of PLEP 2014.

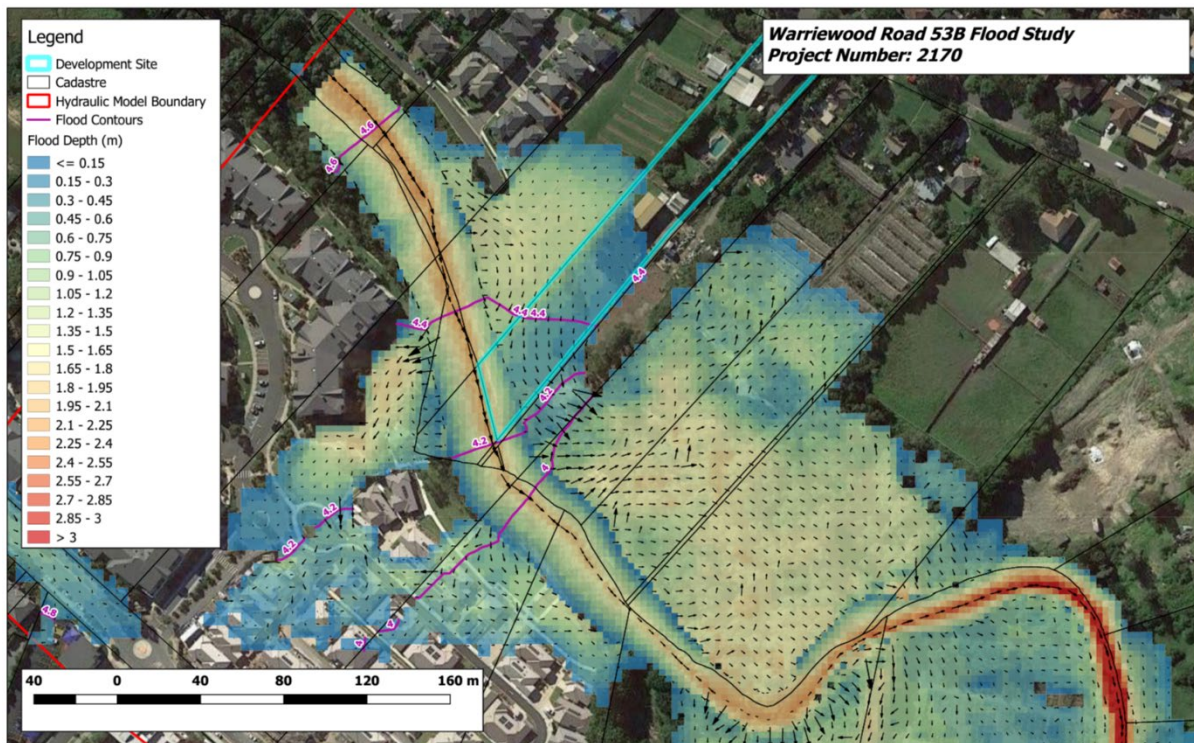


Figure 7 – Current flood conditions at 1% AEP with climate change
Source: Approved Water Management Report, revision B, prepared by Craig & Rhodes, dated 26 June 2019

Clause 6.1 Warriewood Valley Release Area

Clause 6.1(3) of PLEP 2014 prescribes a dwelling yield for development on land within the Warriewood Valley Release Area. As established by the NSW LEC in *Karimbla Construction Services (NSW) Pty Ltd v Pittwater Council* [2015] NSWLEC 83 and *Lotus Project Management Pty Ltd v Pittwater Council* [2015] NSWLEC 166, the dwelling yield prescribed is not a development standard that may be varied, but rather a threshold test that must be achieved. The proposed modification does not alter the approved development yield, and consistency with the yield prescribed by clause 6.1(3) of PLEP 2014 is maintained.

Clause 7.2 Earthworks

The application seeks to modify the finished levels of the lots fronting Warriewood Road (Lots 2, 3 and 17). The application is supported by Civil Plans and certification from suitably qualified civil and geotechnical engineers to confirm that the works will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. As such, Council can be satisfied of the matters prescribed by clause 7.2 of PLEP 2014.

Clause 7.10 Essential services

Clause 7.10 of PLEP 2014 requires the consent authority to be satisfied that, amongst other matters, the site will have suitable vehicular access. Despite the proposed reduction to the width of the temporary access roadway and shared driveway, Council can be satisfied that suitable vehicular access will be retained to the subject site and the yet to be created lots.

development control plan

P21 DCP is applicable to the site and the proposed development. The site is identified within the Warriewood Valley Locality.

The relevant provisions of P21 DCP are considered, as follows:

Clause	Control	Proposal	Compliance
A1.7 Considerations before consent is granted	Have regard for the matters for consideration under section 4.15 of the EP&A Act.	The matters for consideration prescribed by section 4.15 of the EP&A Act have been considered (below).	Yes
A4.16 Warriewood Valley Locality			Yes
B1.4 Aboriginal Heritage			Yes
B3.2 Bushfire Hazard	All development is to be designed and constructed so as to manage risk due to the effects of bushfire throughout the life of the development.	No works are proposed within portion of the site that is identified as bushfire prone. No change to Condition 2, being the GTAs issued by the NSW RFS.	Yes (No change)
B3.6 Contaminated Land and Potentially Contaminated Land			Yes
B3.11 Flood Prone Land		No works proposed within portion of the site that is identified as flood prone.	Yes (No change)
B8.1 Construction and Demolition – Excavation and Fill			Yes
B8.3 Construction and Demolition – Waste Minimisation			Yes

Clause	Control	Proposal	Compliance
B8.4 Construction and Demolition – Site Fencing and Security			Yes
C1.3 View Sharing	All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.	The proposed modifications will not result in any unreasonable impacts upon views.	Yes
C1.12 Waste and Recycling Facilities	All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan	The recommendations of the Approved Waste Management Plan remain relevant to the modified proposal.	Yes
C6.1 Integrated Water Cycle Management	Development must be accompanied by a Water Management Report that confirms consistency with the provisions of the <i>Warriewood Valley Urban Land Release Water Management Specification (2001)</i> .	The proposal results in a minor reduction to hard surfaces on the site. The application is supported by correspondence from J. Wyndham Prince Consulting to confirm that the works do not alter the recommendations of the Approved Water Management Report.	Yes
C6.2 Natural Environment and Landscaping Principles	Be sensitive to the site attributes and context, such as streetscape character, natural landform, soils, existing vegetation, views, land capability, and drainage. Maximise landscaped areas for on-site infiltration of stormwater.	The modification application seeks to reduce the extent of hard surfaces on the site to provide a greater area for landscaping and to maximise on-site infiltration of stormwater. The proposed modifications do not adversely impact approved landscaping, the creekline corridor or the wider natural environment.	Yes

Clause	Control	Proposal	Compliance
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	<p>An ecologically sustainable environment is developed and maintained.</p> <p>Ensure that development is designed on a 'whole of development/site' approach by applying the principles and processes that contribute to Ecological Sustainable Development</p>	<p>Stormwater is collected from the road network and directed into the stormwater bioretention basin and water quality treatment system approved pursuant to DA2019/0263, being a 'whole of site solution' for water management. No changes are proposed to the design of the stormwater system.</p> <p>The application is supported by correspondence from a J. Wyndham Prince Consulting to confirm that the works proposed in the subject application do not alter the recommendations of the Approved Water Management Report.</p>	Yes
C6.4 The Road System and Pedestrian and Cyclist Network	<p>Where access arrangements have not been constructed in a timely manner, the construction of temporary roads may be permitted to enable an isolated property to develop ahead of the surrounding roads being constructed to facilitate direct access onto the existing public road network.</p> <p>Temporary road must have a minimum carriageway width of 6m is provided to cater for two-way traffic.</p> <p>Access Driveways are to be in accordance with Australian Standard AS/NZS 2890.1-2004: Parking Facilities Part 1: Off-Street Car Parking.</p>	<p>DA2019/0263 provides for a 6m wide temporary access road extending between Warriewood Road and Pheasant Place. The subject modification seeks to narrow the temporary access road in part, to be consistent with the intended long term future driveway outcome on the site.</p> <p>The application is supported by a Traffic and Parking Assessment Report by Varga Traffic Planning Pty Ltd to confirm the suitability of the proposed amendments.</p>	No See discussion.

Clause	Control	Proposal	Compliance
C6.5 Utilities, Services and Infrastructure Provision	Ensure that utility services are capable to meet the demands of increased development in Warriewood Valley.	All essential services are to be provided pursuant to DA2019/0263.	Yes
C6.7 Landscape Area (Sector, Buffer Area or Development Site)	35% minimum Approved landscaped area = 86.5%	The modification application seeks to reduce the extent of hard surfaces on the site associated with driveways by approximately 85.5m ² , resulting in a further increase to the compliant landscaped area calculation. The proposed modifications do not adversely impact approved landscaping, the creekline corridor or the wider natural environment.	Yes
C6.8 Residential Development Subdivision Principles	Development occurs in an efficient and orderly manner.	No changes are proposed to the subdivision layout or the sizes of any lots. The application proposes to re-number Lots 16 and 17, so that all the residential lots are in sequence.	Yes
C6.10 Additional Specifications for development of Buffer Area 1a to 1m	Development is to occur in accordance with the Indicative Layout Plan.	No changes are proposed to the subdivision layout or the sizes of any lots. Minor changes are proposed to the location of access driveways (Lots 2, 3 and 13), however the amended locations will not result in the loss of on-street parking or the placement of street trees.	Yes See discussion

Clause C6.4 The Road System and Pedestrian and Cyclist Network

Modifications to Shared Driveway/Temporary Access

DA2019/0263 was approved with a 6m wide access way connecting between Warriewood Road and Pheasant Place. The first portion of the accessway (over Lot 17 and Part Lot 4) was approved as a temporary access way, that is to be removed once access to Lorikeet Grove becomes available (by

virtue of the development of either 45 Warriewood Road or 53A Warriewood Road). The second portion of the accessway (over Lots 5, 6, 7 and Part Lot 4) was approved as a permanent driveway shared between the four lots, which would also be used for temporary access in the short-term.

In consideration of the development of Lots 4, 5, 6 and 7, it has become apparent that the 6m wide driveway shared between four dwellings is somewhat excessive, particularly given its relatively short length (35m), available sightlines and in consideration of the location of the approved cul-de-sac, which acts as a generous passing/waiting bay.

Whilst the Warriewood Valley specific controls of Parts C and D of P21 DCP are silent with respect to shared driveways, it is noted that clause B6.2 (Internal Driveways) of P21 DCP, that applies to shared driveways across the remainder of the former Pittwater LGA, prescribes the following:

Combined driveway for more than 2 dwellings: 3.0 metres minimum except where the driveway length exceeds 40 metres, a passing bay to an overall minimum width of 5.0 metres for a length of 10 metres with suitable transitions to the adjacent narrow driveway.

The subject modification seeks to reduce the width of the resultant driveways to 4.3m where servicing more than one lot and then 3m where servicing Lot 4 only. The revised configuration ensures that all vehicles can enter and exit their respective site in a forward direction without resulting in any unreasonable congestion on Pheasant Place. The proposal has been reviewed by Varga Traffic Planning Pty Ltd who confirm that the design meets the relevant provisions of AS2890.1.

The application also seeks to reduce the width of the temporary accessway. The 6m wide portion on Lot 17 and Part Lot 4 is to be retained, with the remainder of the length narrowed to conform with the modified driveway design. This reduces the amount of waste associated with the construction and demolition of the temporary access road, and in turn, the impact to future owners of each burdened allotment.

It is acknowledged that the modified temporary accessway is less than the prescribed 6m width in some parts, inconsistent with the requirement of this clause. However, the proposed reduction is considered to be reasonable noting the limited number of dwellings that the temporary arrangement seeks to serve, the configuration and limited length of the road and the provision of passing bays. Again, the revised temporary arrangement is justified and supported in the accompanying Traffic and Parking Assessment Report by Varga Traffic Planning Pty Ltd.

The easements associated with the temporary access arrangements will remain in accordance with the existing conditions of consent.

Modifications to levels of lots fronting Warriewood Road

DA2019/0263 approved earthworks across the site as a whole to provide a more moderate gradient between Warriewood Road and the elevated level of Lorikeet Grove. However, in accordance with the approved plans, the steepest part of the resultant site is the portion of the land immediately adjoining Warriewood Road. The modification application seeks to alter the approved ground levels of the lots fronting Warriewood Road, to provide a level front setback area. The primary reason for this change is to achieve compliant driveway levels between the road reserve and any future garage, noting that based on the approved levels, a driveway/hardstand parking area would be required to be elevated above ground. The alteration to the finished levels of the lots fronting Warriewood Road also provides

for a more usable front setback area, which is of greater importance given the size of the allotments in question.

Council can be satisfied that safe, convenient and direct access will be maintained for future occupants of the development, and that the modified proposal remains consistent with the outcomes of this control.

Clause C6.10 Additional Specifications for development of Buffer Area 1a to 1m

Relocation of driveways to Lots 2 and 3

Clause C6.10 of P21 DCP identifies that the number of driveways to Warriewood Road is to be minimised by virtue of shared driveways for dwellings that front Warriewood Road. The modification application seeks to modify the shared driveway approved with respect to Lots 2 and 3, with the provision of separate driveways for both lots.

The proposed modification will not result in an excessive number of driveways along the frontage of the subject site, with only 3 driveways along the frontage of the site, commensurate with the intensity and proximity of other driveways fronting Warriewood Road. Further, the proposed modified driveway location does not result in the loss of on-street parking, as the proposed driveway location for Lot 2 is proposed along the splay of the approved indented parking bay. Rather, it appears that the proposed modifications will provide for one additional on-street parking space between the resultant modified driveways.

Relocation of driveway to Lot 13

As a result of the detailed design analysis undertaken in preparation of the dwelling design for Lot 13, it became apparent that the most appropriate location for private open space and the primary living areas is at the northern-most portion of Lot 13, in the location of the single garage and tandem parking space anticipated by DA2019/0263.

Strict compliance with the driveway location approved pursuant to DA2019/0263 would eliminate any possibility to obtain direct sunlight to private open space and windows associated with living areas, noting that the tandem arrangement and necessary setbacks would extend across the entirety of the 13.5m wide allotment.

Noting that Lorikeet Grove is not identified as one of the higher order streets throughout Warriewood Valley (being Warriewood Road, Macpherson Street and Garden Street), the proposed non-compliance is not considered to result in any significant adverse impacts upon the hierarchy of the street system. Furthermore, the proposed access arrangement is consistent with that of other corner sites along Lorikeet Grove, noting that the garages for the dwellings at 31, 59, 61 and 79 Lorikeet Grove are all accessed from Lorikeet Grove (as opposed to the relevant secondary street frontage).

The incorporation of a garage to Lorikeet Grove does not result in any adverse impacts upon the streetscape and will not detract from consistency with the outcomes of this control. As such, the proposed non-compliance is reasonably supported on merit.

state environmental planning policy (resilience and hazards)

Coastal Hazard

The site is identified as land in the proximity area for coastal wetlands on the Coastal Wetlands and Littoral Rainforests Area Map, and as such, the provisions of Chapter 2 of SEPP (Resilience and Hazards) are applicable in relation to the site and this proposal.

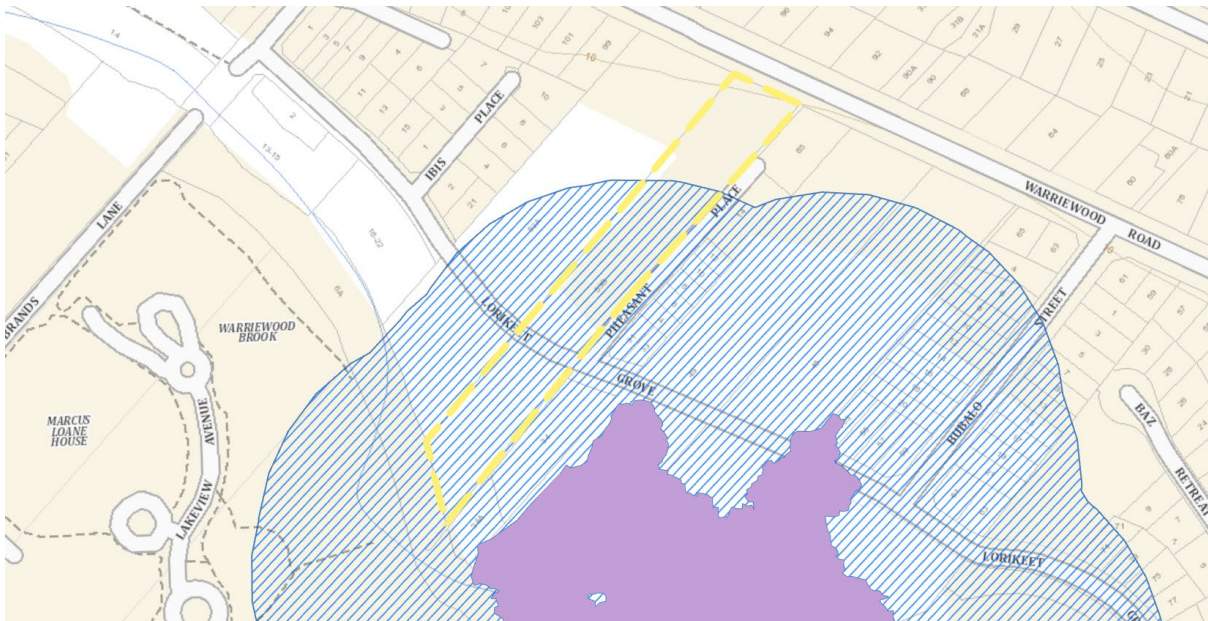


Figure 8 – Extract of Coastal Wetlands and Littoral Rainforests Area Map
Source: ePlanning Spatial Viewer

Development on land in proximity to coastal wetlands

The consent authority can be satisfied that the proposed modifications will not significantly impact upon the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland, consistent with the provisions of section 2.8 of this policy. With the exception of minor amendments at the upper, front portion of the site, the proposed development is consistent with that anticipated by DA2019/0263, with runoff from all resultant roadways to connect to the approved stormwater retention basin adjacent to the creekline corridor, within the community lot. The approved stormwater retention basin has been designed in strict accordance with Council's Water Management Specification, with appropriate stormwater quality improvement devices and outlet into the creek.

Coastal Zone

The proposed development is not likely to cause increased risk of coastal hazards on the land or other land, and the consent authority can be satisfied with respect to section 2.12 of this policy.

The proposed development is consistent with the relevant provisions of Chapter 2 of SEPP (Resilience and Hazards)

Remediation of Land

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. The application is made with respect to a yet to be created lot approved pursuant to DA2019/0263.

DA2019/0263 was supported by Phase 1 and Phase 2 Contamination Assessment Reports that provided a series of recommendations to ensure that the site is suitable for residential development. The proposed modifications do not alter the recommendations of these reports and Council can be reasonably satisfied that the site will be appropriately remediated in accordance with the outcome anticipated by DA2019/0263.

The proposed development is consistent with the relevant provisions of Chapter 4 of SEPP (Resilience and Hazards)

*state environmental planning policy
(biodiversity and conservation)*

Vegetation in Non-Rural Areas

The provisions of Chapter 2 of this policy are applicable to all non-rural land across the state and aim to protect the biodiversity values of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural areas through the preservation of trees and other vegetation.

The proposed development does not seek consent for the removal of any existing trees or vegetation and is consistent with the requirements and objectives of SEPP (Biodiversity and Conservation).

environmental planning and assessment act

The application is made pursuant to s4.55(1A) of the EP&A Act, which provides:

Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- (a) *it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) *it has notified the application in accordance with—*

- (i) *the regulations, if the regulations so require, or*
- (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Minimal environmental impact

The application seeks to narrow the width of the driveways servicing Lots 4, 5, 6 and 7 and in turn, reduce the width of a portion of the temporary road access extending between Warriewood Road and Pheasant Place. The application is supported by a Traffic and Parking Assessment Report by Varga Traffic Planning Pty Ltd, which confirms that the proposal to narrow the driveway and temporary access arrangements will not have any unacceptable traffic implications.

The retention of the 6m wide temporary access road on Lot 17 will ensure that any queuing that occurs is maintained within the subject site, however as identified in the accompanying Traffic Report, the likelihood of 2 vehicles travelling in opposite directions at the same time is just 0.3%.

The proposed development will result in a net reduction of hard surfaces associated with driveways and reduces consumption of building materials and waste associated with the removal of the roadway that is temporary in nature.

The modification to the finished levels of the approved earthworks at the front of the site will not be readily perceived from the public domain and are consistent with the levels of nearby recently approved and completed development sites.

The proposed changes to the driveway locations of Lots 2, 3 and 13 do not result in any detrimental impacts upon the streetscape or the provision of on-street parking.

Council can be satisfied that the proposal is of minimal environmental impact.

Substantially the same

In *Vacik Pty Ltd v Penrith City Council* [1992] NSWLEC 8 (and then endorsed in *North Sydney Council v Michael Standley & Associates Pty Ltd* [1998] NSWLR 468 and *Moto Projects (No 2) Pty Ltd v North Sydney Council* [1992] NSWLEC 280 (**Moto Projects**)), the term “substantially” was said to mean “essentially or materially having the same essence”. Further, in *Sydney City Council v Ilenace Pty Ltd* [1984] 3 NSWLR 414, the term “modify” was said to mean “to alter without radical transformation”.

In *Moto Projects*, it was said that the comparative task involves more than a comparison of the physical features or components of the development as currently approved and modified, but rather that the comparison should involve a qualitative and quantitative appreciation of the development in their proper contexts, including the circumstances in which the development consent was granted.

Council can be satisfied that the proposed development will not result in a radical transformation of the development as approved and that the proposed modifications will result in a development that is essentially and materially the same as that which was originally approved, as follows:

- The number of lots, and the size, pattern and configuration of the lots remain unchanged.
- There is no change to the intended use of any part of the site.
- The primary infrastructure remains unchanged, noting that there are no changes to the primary works associated with Warriewood Road, Lorikeet Grove, Pheasant Place or the stormwater management infrastructure.
- The primary access arrangements remain unchanged, with temporary access maintained to Warriewood Road, with permanent access to be gained via Lorikeet Grove once access to Lorikeet Grove becomes available (by virtue of the development of either 45 Warriewood Road or 53A Warriewood Road).
- The landscaped treatment to Warriewood Road, Pheasant Place, Lorikeet Grove and the creekline corridor remains entirely unchanged.
- The alterations to the temporary arrangements do not result in any adverse impacts to the amenity of occupants of the development, noting that the likelihood of 2 vehicles travelling in opposite directions at the same time is just 0.3%.
- The alterations to the temporary arrangements do not result in any adverse impacts upon the wider community with regard to traffic on Warriewood Road or Lorikeet Grove, noting that if any queuing was to occur, it would be maintained within either Lot 17 or the cul-de-sac of Pheasant Place (a private road).
- The alterations to the permanent driveway arrangements maintain suitable turning areas and compliance with AS2890.1, such that appropriate access for future residents is maintained.
- The proposed changes to the driveway locations remain consistent with the location of other driveways approved throughout the Warriewood Valley Release Area, and in turn, are consistent with the established streetscape.

As such, Council can be satisfied that the proposed development is substantially the same as that originally approved.

Section 4.15 of the EP&A Act

In accordance with section 4.55(3) of the EP&A Act, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

In this instance, no reasons were nominated by the consent authority with respect to the approval of DA2019/0263.

The matters prescribed by section 4.15(1) of the EP&A Act are considered, as follows:

Clause	Provision	Comment
(a)	<p><i>the provisions of—</i></p> <ul style="list-style-type: none"> <i>i. any environmental planning instrument, and</i> <i>ii. any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</i> <i>iii. any development control plan, and</i> <i>iv. any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and</i> <i>v. the regulations (to the extent that they prescribe matters for the purposes of this paragraph),</i> <p><i>that apply to the land to which the development application relates,</i></p>	The relevant provisions of PLEP 2014, all relevant SEPPs, and P21 DCP have been considered and addressed in this statement.
(b)	<i>the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</i>	The likely impacts of the proposed development have been addressed with respect to relevant plans and policies in this statement. The proposed development will not result in any unacceptable impacts upon the natural or built environment, or any social or economic impacts in the locality.
(c)	<i>the suitability of the site for the development,</i>	The subject site is suitable for the proposed development.
(d)	<i>any submissions made in accordance with this Act or the regulations,</i>	The application will be notified to all neighbouring properties, with any submissions received to be considered by Council.
(e)	<i>the public interest.</i>	The proposed development is in the public interest, in so far as it is consistent with the objectives and outcomes of PLEP 2014 and P21 DCP.

Overall, Council can be satisfied that the proposed modifications are consistent with the provisions of s4.55 of the EP&A Act, and that the consent can be modified in the manner proposed.

conclusion

The proposal is a well resolved and considered design solution for the site, which provides a more appropriate long-term solution for access, without compromising the necessary short-term access arrangement.

The proposal involves non-compliance with the 6m minimum width for temporary accessways prescribed by clause C6.4 of P21 DCP. We ask that Council apply flexibility in this regard, consistent with the provisions of 4.15(3A)(b) of the EP&A Act, noting that the outcomes of the control are nonetheless achieved.

Overall, the proposed development will positively contribute to the development of the Buffer Area and the wider Warriewood Valley Locality and the application warrants Council's support in this regard.



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