

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2022/0195
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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>	Modification of Development Consent DA2019/0887 granted for Subdivision of land into 24 community title lots comprising 22 residential lots and 2 residue lots.
<b>Zoning:</b>	R3 Medium Density Residential
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Karimbla Properties (NO. 32) Pty Ltd
<b>Applicant:</b>	Karimbla Properties (NO. 32) Pty Ltd

<b>Application Lodged:</b>	12/05/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	Not Notified
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the deletion of conditions 45 and 48, refer to discussion under the section *Environmental Planning and Assessment Act 1979 - Section 4.55(1)* below.

### 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.

## 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'). It is irregular in shape, with a 126.96m wide frontage to Macpherson Street to the south and a total area of 2.327 Hectares.</p> <p>The site adjoins Narrabeen Creek, the centreline of which forms the northern and eastern boundaries of the site. It is identified as Buffer Area 1M of the Warriewood Valley Release Area, as shown on the Warriewood Valley Release Area Map of PLEP 2014.</p> <p>The site was formerly used for the purpose of a market garden, however, the site has been cleared in preparation for works in association with the approved civil works DA.</p> <p><u>Surrounding development</u></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 dwelling to the west.</p>

Map:



## SITE HISTORY

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

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

#### Background

The development consent DA2019/0887 was granted by Council on 28 July 2020 for Subdivision of land into 24 community title lots comprising 22 residential lots and 2 residue lots.

#### Details of Modification Application

Under Section 4.55(1) of the EPA Act 1979, a consent containing an error or mis-description may be amended. The Northern Beaches Community Participation Plan does not require the notification of Section 4.55(1) modification applications as they are considered to be of minimal environmental impact.

The application seeks to delete condition(s) No. 45 and 48, which reads as follows:

#### **45 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.*

**48 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)*

**Consideration of error**

The applicant has submitted details of correspondence between Council's Development Engineer confirming that the conditions were imposed in error. Council Officers have requested the submission of the S4.55(1) modification to have conditions 45 and 48 deleted.

The subject modification was referred to Council's Development Engineer who confirmed this, refer to comments below.

**Referral**

**Development Engineer**

The modification which proposes to remove Conditions 45 and 48 from the development consent is supported for the following reasons:

- 1) Condition 45 requires a restriction on on use to require occupants to shelter in place during a flood event. Advice received from the flood management team is that this can be removed.
- 2) Condition 48 requires a positive covenant to be placed on the bin storage facility , however the waste removal we be at the kerb from each lot and there was no bin enclosures approved with the development application.

**Pittwater 21 Development Control Plan**

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5.15 Stormwater	Yes	Yes
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes

## 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
- Inconsistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2022/0195 for Modification of Development Consent DA2019/0887 granted 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:

**A. Delete Condition 45 Restriction as to User - Emergency Response**

**B Delete Condition 48 Authorisation of Legal Documentation required for Waste Services**

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

**Signed**



**Anne-Marie Young, Planner**

The application is determined on 25/05/2022, under the delegated authority of:



**Steven Findlay, Manager Development Assessments**