

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2018/0566
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<b>Responsible Officer:</b>	Rebecca Englund
<b>Land to be developed (Address):</b>	Lot 1 DP 5055, 8 Forest Road WARRIEWOOD NSW 2102
<b>Proposed Development:</b>	Modification of Development Consent N0440/15 granted for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping.
<b>Zoning:</b>	R3 Medium Density Residential RU2 Rural Landscape
<b>Development Permissible:</b>	Yes - Zone RU2 Rural Landscape Yes - Zone R3 Medium Density Residential
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Warriewood Vale Pty Ltd
<b>Applicant:</b>	Boston Blyth Fleming Pty Ltd Warriewood Vale Pty Ltd

<b>Application lodged:</b>	23/10/2018
<b>Integrated Development:</b>	Yes
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Other
<b>Notified:</b>	03/11/2018 to 03/12/2018
<b>Advertised:</b>	03/11/2018
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval

### 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

Environmental Planning and Assessment Act 1979 - Section 4.56 - Environmental Planning and Assessment Act 1979 - Section 4.56 - with S79C Assessment  
Pittwater 21 Development Control Plan - D16.8 Spatial Separation

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 5055 , 8 Forest Road WARRIEWOOD NSW 2102
<b>Detailed Site Description:</b>	<p>The Site is legally described as Lot 1 in Deposited Plan 5055, and is commonly referred to as 8 Forest Road, Warriewood. Narrabeen Creek runs along the northern boundary of the Site, creating a slightly irregular rectangular shaped allotment, with a total area of 5.678 Hectares.</p> <p>The Site is subject to split zoning; with 2.855 Hectares zoned R3 Medium Density (R3) and the remaining 2.823 Hectares zoned RU2 Rural Landscape (RU2), as shown on the Zoning Map of PLEP 2014. The division between the zones is irregular, dissecting the 324.48m long western side boundary at a distance of approximately 231m from the south-western corner of the Site and the 275.20m long eastern boundary at a distance of approximately 70m from the south-eastern corner of the site. The zone boundary is consistent with the boundary of the Warriewood Valley Release Area, and the R3 zoned portion of the site forms part of Sector 501 of the Warriewood Valley Release Area, as shown on the Warriewood Valley Release Area Map of PLEP 2014. The portion of the Site zoned RU2 is not within the Warriewood Valley Release Area. The R3 zoned portion of the site previously contained multiple outbuildings and dilapidated glass houses, which have since been demolished under a separate CDC. An existing dwelling straddles the zone and Land Release boundary, but is primarily situated on R3 zoned land. The RU2 zoned portion of the site is heavily landscaped and free of development.</p> <p>Access is currently gained at the north-eastern corner of the Site, via a roadway that was constructed within the Jubilee Road public road reserve by the owners of the adjoining Community Title residential estate to the east (previously known as 6 Forest Road). With the exception of</p>

this one existing residential estate to the east and a portion of RU2 zoned land to the north, Jubilee Avenue is characterised by industrial and business park development, including warehouses, offices, wholesalers, and a number of childcare centres.

An unmade public road reserve (Boundary Street) adjoins the western side property boundary, with large vegetated parcels of E2 Environmental Conservation (E2) zoned land to the west and south-west. Mater Maria Catholic School is situated to the south, separated from the Site by an unmade public road reserve (Forest Road). 4 Forest Road, an undeveloped R3 zoned allotment, adjoins the south-eastern portion of the Site, forming the remainder of Sector 501 of the Warriewood Valley Release Area, as shown on the Warriewood Valley Release Area Map of PLEP 2014. The remainder of properties along Forest Road comprise medium density residential development.

Map:



## SITE HISTORY

On 3 May 2017, Development Application N0440/15 was approved by the LEC.

The application has been amended on two previous occasions.

On 23 October 2018, the subject modification application was lodged with Council.

## PROPOSED DEVELOPMENT IN DETAIL

The application seeks to modify the design of the 14 approved townhouses, deleting the third floor loft space from each of the dwellings proposed and altering the design of the roof forms.

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

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

**Section 4.56 Assessment**

The relevant matters for consideration under Section 4.56 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.56 - Other Modifications	Comments
(1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under N0440/15.</p> <p>The third floor loft spaces in the townhouses were a minor component of the individual townhouses and the development of the site as a whole, and overall, the proposed development is considered to be materially and essentially the same as that which was originally approved.</p>
(b) 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 under section 72 that requires the notification or advertising of applications for modification of a development consent, and	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Regulation 2000 and Pittwater 21 Development Control Plan ('P21 DCP').</p>
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	<p>Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of N0440/15.</p>
(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.	<p>No submissions were received in relation to this application.</p>

### Section 4.15 Assessment

In accordance with Section 4.56(1A) of the *Environmental Planning and Assessment Act 1979*, in determining an modification application made under Section 4.56 the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	P21 DCP applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 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 in the original consent.</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 matter has been addressed via a condition in the original consent.</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 matter has been addressed via a condition in the original consent.</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 in the original consent.</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>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the P21 DCP section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed</p>

Section 4.15 'Matters for Consideration'	Comments
	land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received in relation to this application.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled *Planning for Bush Fire Protection 2006*. The original application was referred to the NSW RFS for comments and recommendations, and conditions of consent were imposed in this regard. These conditions remain relevant with regard to the proposed modifications.

## 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 of the application Council received no submissions.

## MEDIATION

No requests for mediation have been made in relation to this application.

## REFERRALS

No referrals were sent in relation to this application

## 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)**

Nil

**Pittwater Local Environmental Plan 2014**

Is the development permissible?	Zone RU2: Yes Zone R3 : Yes
After consideration of the merits of the proposal, is the development consistent with: aims of the LEP?	Yes
zone objectives of the LEP?	Zone RU2: Yes Zone R3 : Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
6.1 Warriewood Valley Release Area	Yes

**Pittwater 21 Development Control Plan**

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
C6.8 Residential Development Subdivision Principles	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.7 Side and rear building lines	Yes	Yes
D16.8 Spatial Separation	No	Yes

Detailed Assessment

**D16.8 Spatial Separation**

The proposed townhouses were approved with spatial separation distances of 3m between each row of townhouses, slightly inconsistent with the 4m minimum prescribed. The removal of the upper floor does not alter this setback, however it will reduce the bulk of the development and improve the effect of the spatial separation provided (in so far as the setback will be more meaningful as the height of the buildings is reduced). The proposal remains consistent with the outcomes of this control.

**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

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. Mod2018/0566 for Modification of Development Consent N0440/15 granted for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping. on land at Lot 1 DP 5055,8 Forest Road, WARRIEWOOD, subject to the conditions printed below:

### **A. New Condition A1B - Modification of Consent - Approved Plans and supporting Documentation to read as follows:**

The development must be carried out in compliance (except as amended by any other condition of consent) with the documents and plans listed in Conditions A1 and A1A, as amended by the following:



a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Site Plan A-001, revision 6	14 June 2018	Drew Dickson Architects
Ground Floor - East A-100.1, revision 7	13 June 2018	Drew Dickson Architects
First Floor - East A-101.1, revision 7	13 June 2018	Drew Dickson Architects
Roof Plan - East A199.1, revision 6	13 June 2018	Drew Dickson Architects
Townhouse Elevations A-203, revision 5	13 June 2018	Drew Dickson Architects
Boundary Elevations A-210.1, revision 4	14 June 2018	Drew Dickson Architects
Boundary Elevations A-210.2, revision 4	14 June 2018	Drew Dickson Architects
Section - Townhouses A-301, revision 5	14 June 2018	Drew Dickson Architects

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

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

**Signed**



**Rebecca Englund, Principal Planner**

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



**Matthew Edmonds, Manager Development Assessments**