

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0581
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Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 6 DP 270822, 32 - 38 Hakea Drive WARRIEWOOD NSW 2102 Lot 7 DP 270822, 39 - 46 Hakea Drive WARRIEWOOD NSW 2102 Lot 1 DP 270822 is neighbourhood property, 0 Hakea Drive WARRIEWOOD NSW 2102 Lot 5 DP 270822, 26 - 31 Hakea Drive WARRIEWOOD NSW 2102
Proposed Development:	Modification of Development Consent N0085/11 granted for Construction of an Infill Affordable Housing development, Focal Neighbourhood Centre, provision of infrastructure, creekline corridor works and subdivision
Zoning:	R3 Medium Density Residential R3 Medium Density Residential R3 Medium Density Residential R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Warriewood Properties Pty Ltd
Applicant:	Warriewood Properties Pty Ltd

Application lodged:	01/11/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	Not Notified
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	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

Pittwater 21 Development Control Plan - A5.1 Exhibition, Advertisement and Notification of Applications

SITE DESCRIPTION

<p>Property Description:</p>	<p>Lot 6 DP 270822 , 32 - 38 Hakea Drive WARRIEWOOD NSW 2102 Lot 7 DP 270822 , 39 - 46 Hakea Drive WARRIEWOOD NSW 2102 Lot 1 DP 270822 is neighbourhood property , 0 Hakea Drive WARRIEWOOD NSW 2102 Lot 5 DP 270822 , 26 - 31 Hakea Drive WARRIEWOOD NSW 2102</p>
<p>Detailed Site Description:</p>	<p>The subject site previously consisted of one (1) allotments located on the southern side of Macpherson Street, known as Lot 11 Section C DP 5464. The site was subdivided via Development Consent N0085/11 and subsequent modifications. The site currently contains 30 lots, including one community land lot, and superlots 5, 6 and 7. These superlots have approval for further subdivision into 13 lots, as per N0182/16, though the approved lots are currently unregistered.</p> <p>The site is irregular in shape with a splayed frontage of 102.675m along Macpherson Street and a depth of 120m. The site has a surveyed area of 1.434 hectares.</p> <p>The site is located within the R3 Medium Density Residential zone and accommodates 33 townhouses and one commercial premises, with another six townhouses under construction.</p> <p>Detailed Description of Adjoining/Surrounding Development</p>

Adjoining and surrounding development is characterised by medium density residential development.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- N0400/08 for Subdivision of site and erection of 22 detached two storey dwellings was approved on 17 February 2010 under staff delegation.
- N0283/09 for Construct a retail facility comprising a 3,200sqm supermarket, 750sqm specialty shops and café, parking for 150 vehicles, a 2 bedroom caretakers unit, and associated landscaping and creekline rehabilitation works; Subdivision of the land such that the creekline corridor is dedicated to Council was refused on 18 November 2009 by the former Joint Regional Planning Panel.
- N0603/09 for Construct a retail facility comprising a 2,315sqm supermarket, 147sqm of specialty shops, a cafe of 80sqm, a centre management office, associated amenities, ATM machines, parking for 97 vehicles, associated landscaping, drainage and creekline modification and rehabilitation works, subdivision of the land such that the creekline corridor is dedicated to Council was refused on 30 June 2010 under staff delegation.
- N0085/11 for Construction of an Infill Affordable Housing development comprising of 46 residential terraces/townhouses (23 maintained as affordable rental housing for a period of 10 years), Focal Neighbourhood Centre (510m² of retail floor area), provision of roads, parking and other infrastructure, restoration and dedication of the creekline corridor and subdivision of the land was approved on 07 July 2011 by the former Joint Regional Planning Panel.
- N0085/11/S96/1 for Construction of an Infill Affordable Housing development comprising of 46 residential terraces/townhouses (23 maintained as affordable rental housing for a period of 10 years), Focal Neighbourhood Centre (510m² of retail floor area), provision of roads, parking and other infrastructure, restoration and dedication of the creekline corridor and subdivision of the land. The Modification includes revision of subdivision plan to allow for staging, provision of additional parking and minor internal modifications to some townhouses was approved on 19 March 2012 by the former Joint Regional Planning Panel.

- N0085/11/S96/2 for Construction of an Infill Affordable Housing development comprising of 46 residential terraces/townhouses (23 maintained as affordable rental housing for a period of 10 years), Focal Neighbourhood Centre (510m² of retail floor area), provision of roads, parking and other infrastructure, restoration and dedication of the creekline corridor and subdivision of the land. Modification involves relocation of 6 affordable dwellings from lots 47-52 to lots 26-31 and amendments to consent conditions B12 & B13 to reflect this change was approved on 09 September 2013 under staff delegation.
- N0085/11/S96/3 for Construction of an Infill Affordable Housing development comprising of 46 residential terraces/townhouses (23 maintained as affordable rental housing for a period of 10 years), Focal Neighbourhood Centre (510m² of retail floor area), provision of roads, parking and other infrastructure, restoration and dedication of the creekline corridor and subdivision of the land. Modification involves changes to S94 contributions related to Material Public Benefit (MPB) was approved on 09 January 2014 under staff delegation.
- N0085/11/S96/4 for Construction of an Infill Affordable Housing development comprising of 46 residential terraces/townhouses (23 maintained as affordable rental housing for a period of 10 years), Focal Neighbourhood Centre (510m² of retail floor area), provision of roads, parking and other infrastructure, restoration and dedication of the creek line corridor and subdivision of the land. Modification proposes amendments including amended position and width of substation, introduction of additional parking spaces, internal footpath and improved cul-de-sac, and amendments to the subdivision plan was approved on 29 October 2014 under staff delegation.
- N0085/11/S96/5 for Construction of an Infill Affordable Housing development comprising of 46 residential terraces/townhouses (23 maintained as affordable rental housing for a period of 10 years), Focal Neighbourhood Centre (510m² of retail floor area), provision of roads, parking and other infrastructure, restoration and dedication of the creekline corridor and subdivision of the land. Modification proposes changes to consent conditions B67 and F4 Introducing a sub stage 1A was approved on 23 March 2015 under staff delegation.
- CDC0092/15 for First use of area (fit-out not included) IGA Convenience Store including Liquor Outlet was approved on 23 July 2015 by a Private Certifier.
- CDC0093/15 for First use Cafe (fit-out not included) was approved on 23 July 2015 by a Private Certifier.
- CDC0094/15 for First use retail Management Office (fit-out not included) was approved on 23 July 2015 by a Private Certifier.
- N0182/16 for The construction of 13 attached and semi-detached dwellings, Community Title Subdivision and amendments to the existing Community Lot was approved on 15 December 2016 by the former Application Determination Panel.
- N0182/16/S96/1 for Modification of consent N0182/16 for the construction of 13 attached and semi-detached dwellings, Community Title Subdivision and amendments to the existing Community Lot was approved on 19 July 2017 under staff delegation.
- N0182/16/S96/2 for Modification to consent N0182/16 for the construction of 13 attached and semi-detached dwellings, Community Title Subdivision and amendments to the existing Community Lot was approved on 3 November 2017 under staff delegation.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent to modify Development Consent N0085/11 to allow for lot boundary adjustment:

- Adjustment between Lot 1 Community Property DP 270822 and Lot 7 DP 270822 (a development lot). An approved walkway that forms part of Lot 1 is proposed to be added to Lot 7.
- Adjustment of Lots 5, 6 and 7 DP 270822 to create a new temporary lot Lot 47 DP 270822.

- Conversion of Lot 47 into Lot 1.

Upon completion, the proposal does not result in any additional lots.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for N0085/11 and subsequent modifications, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
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	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The 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 N0085/2011.
(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 under section 72 that requires the notification or advertising of	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Pittwater Local Environment Plan 2011 and Pittwater 21 Development Control Plan.

Section 4.55(1A) - Other Modifications	Comments
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.	See discussion on “Notification & Submissions Received” in this report.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 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	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&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 50(1A)</u> of the EP&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&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No Additional information was requested.</p> <p><u>Clause 92</u> of the EP&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&A Regulation 2000 requires the consent authority to consider the upgrading</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>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&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&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> <p><u>Clause 143A</u> of the EP&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>(i) Environmental Impact 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>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact 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>The proposed modification was not notified, in accordance with Clause A5.1 of the P21 DCP.</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 site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application was not notified.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	No objections to the modification subject to conditions.
NECC (Riparian Lands and Creeks)	As the work is already complete, this application does not impact the water management facilities for the site, or the riparian area of Fern Creek and the creek itself.

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.

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. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. 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.

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

There are no relevant development standards under Part 4 of the Pittwater Local Environmental Plan 2014 to consider as part of this assessment.

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision - consent requirements	Yes
6.1 Warriewood Valley Release Area	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

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

Clause	Compliance with Requirements	Consistency Aims/Objectives
C4.4 Subdivision - Public Roads, Footpath and Streetscape	Yes	Yes

Detailed Assessment

A5.1 Exhibition, Advertisement and Notification of Applications

The modification application was not notified, as it will not result in any additional impacts beyond the approved development.

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. Mod2018/0581 for Modification of Development Consent N0085/11 granted for Construction of an Infill Affordable Housing development, Focal Neighbourhood Centre, provision of infrastructure, creekline corridor works and subdivision on land at Lot 6 DP 270822,32 - 38 Hakea Drive, WARRIEWOOD, Lot 7 DP 270822,39 - 46 Hakea Drive, WARRIEWOOD, Lot 1 DP 270822 is neighbourhood property,0 Hakea Drive, WARRIEWOOD, Lot 5 DP 270822,26 - 31 Hakea Drive, WARRIEWOOD, subject to the conditions printed below:

A. Add Condition No.1A - 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 following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Plan of Boundary Adjustment Between Lots 1 and 7 in DP 270822 Sheet 1 of 2	30 August 2018	Andrew P Mason
Plan of Boundary Adjustment Between Lots 1 and 7 in DP 270822 Sheet 2 of 2	30 August 2018	Andrew P Mason
Plan of Subdivision of Lots 5, 6 and 7 DP 270822 Sheet 1 of 3	30 August 2018	Andrew P Mason
Plan of Subdivision of Lots 5, 6 and 7 DP 270822 Sheet 2 of 3	30 August 2018	Andrew P Mason
Plan of Subdivision of Lots 5, 6 and 7 DP 270822 Sheet 3 of 3	30 August 2018	Andrew P Mason
Plan of Lot 1 Following Conversion of Lot 47 to Association Property Sheet 1 of 1	30 August 2018	Andrew P Mason

b) 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.

B. Add Condition F12 Provision of Services for Subdivision to read as follows:

The applicant is to ensure all services including stormwater, water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan. All services are to be detailed in red on the final plan within their relevant easements. 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.


C. Add Condition F13 Subdivision Certificate Application to read as follows:

Prior to the issue of the Subdivision Certificate, a completed Subdivision Certificate form, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919 are to be submitted to Council. Nine copies of the final plan of subdivision are to be submitted. 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.

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

Signed



Claire Ryan, Planner

The application is determined on 15/12/2018, under the delegated authority of:



Rodney Piggott, Manager Development Assessments