

15 September 2020

The General Manager
Northern Beaches Council
Civic Drive
725 Pittwater Road
DEE WHY NSW 2099

Dear Sir / Madam

2 Macpherson Street, Warriewood: Section 4.55(1A) Application – Amend condition 6 of DA/2019/0887 to allow for a reduction in the monetary contribution applicable to the development

Overview

This letter comprises a formal request to the Northern Beaches Council under Section 4.55 of the *Environmental Planning and Assessment Act 1979* to modify condition 6 of DA/2019/0887 to allow for a reduction in the monetary contribution payable in respect of the proposed development.

Background

The subject site comprises 2 Macpherson Street, Warriewood and is legally described as Lot 25 Section C DP5464. It has an area of 2.3 hectares.

Figure 1: Site plan (Site outlined red)



The *Pittwater Local Environmental Plan 2014* identifies that the site is within the Warriewood Valley Urban Release Area. Pursuant to the LEP, the site is zoned R3 Medium Density Residential and is identified as Buffer 1M on the Warriewood Valley Release Area map.

Development on the site is subject to the requirements of the *Pittwater 21 Development Control Plan*. The DCP specifies that a 25 metre inner creek line zone is to be dedicated to Council (Riparian Creek Corridor).

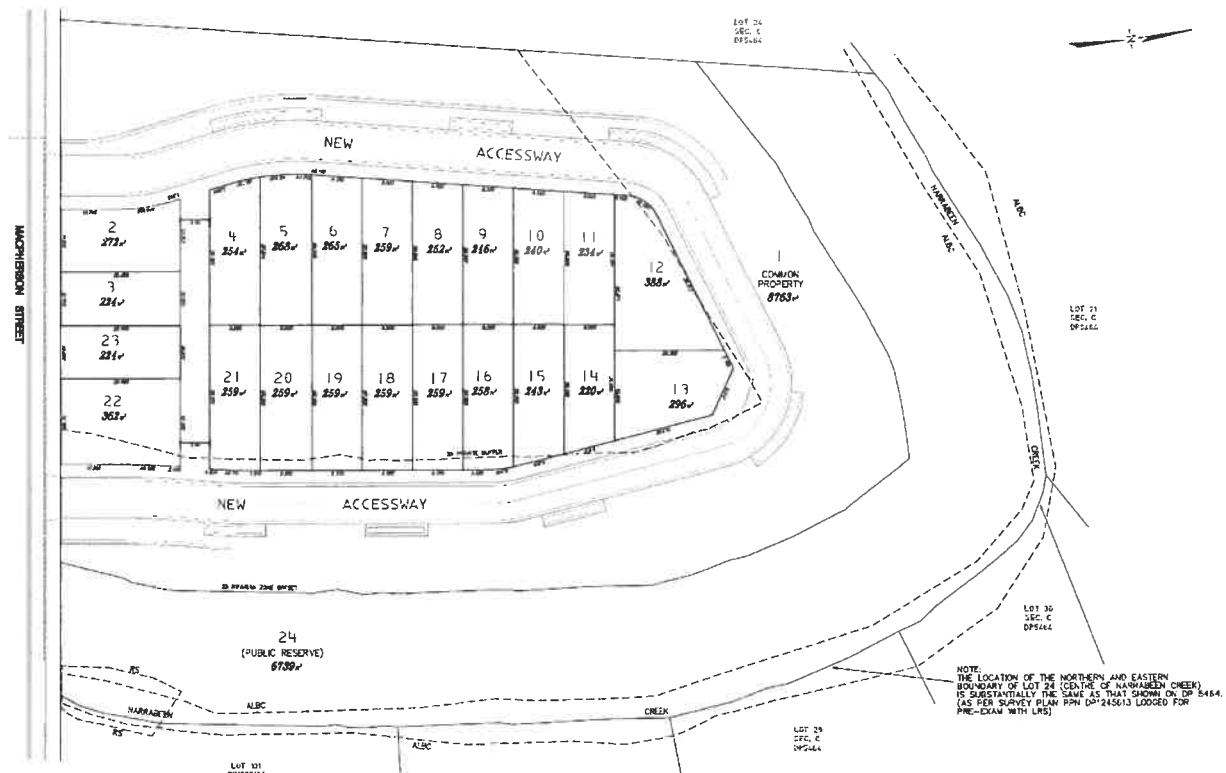
The applicable development contributions plan is the *Warriewood Valley Development Contributions Plan Amendment 16 Revision 3 (2018)*. Under the Contributions Plan, the site comprises land identified for a multi-functional creek line corridor.

We have two development consents for the site:

- N03981 for the construction of a road and earthworks was approved by the Land and Environment Court on 31 May 2019.
- DA2019/0887 for the subdivision of land into 24 community title lots comprising 22 residential lots and 2 residue lots was submitted to Northern Beaches Council on 16 August 2019 and approved subject to conditions on 28 July 2020.

The subdivision layout approved under DA/2019/0887 is shown in **Figure 2** below.

Figure 2: Approved subdivision layout DA/2019/0887



In connection with our subdivision DA, our surveyor verified the true area of the 25 metre creekline corridor (land dedication area) as 6,739sqm (this area calculation was accepted by Council in the assessment of DA/2019/0887). Section 5.2.2 of the contributions plan states that the value of land to be dedicated for the 25 metre creek corridor will be directly offset from the total monetary contribution payable. Lot 24 on the approved subdivision plan comprises an area of 6,739sqm and will be dedicated to Council as required by Condition 6 of DA2019/0887.

Based on a rate of \$29.27 per sqm the land value of the site is calculated to be \$197,250.53.

The Contributions Plan specifies that rehabilitation works to Buffer 1m are scheduled to commence 2020/21. Based on the adjusted land dedication area of 6,739sqm, the total value of the rehabilitation works for the site is \$1,118,269.66.

Section 2.5.1 of the contributions plan states that payments are required prior to the issue of any Construction Certificate for the carrying out of any subdivision works; or prior to the issue of the Subdivision Certificate where no Construction Certificate is required, including excavation. A condition to this effect was applied to the development consent (Condition 6). The monetary contribution required by Condition 6 has not yet been paid.

Development of the subject site involves substantial rehabilitation and reconstruction of the creek line. We have commenced these works and are seeking a credit towards the contributions rates applicable to the development to offset the value of the works.

Proposed Modification

Condition 6 of DA/2019/0887 specifies the development contributions payable in respect of the proposed development. The condition is sought to be amended as follows (**bold** denotes new text, deleted text shown in strikethrough):

"5. 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~~ **\$202,500.81** (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."

Assessment

The development will remain substantially the same as the original approval and can be considered under Section 96 of the *Environmental Planning and Assessment Act 1979*. The development is not altered in any physical way as a result of the proposal and no additional environmental impact over and above that considered in the original assessment would be generated by the proposed modification.

The proposal will reflect the value of the rehabilitation works being undertaken on the site at the Applicant's expense. The works are identified in the *Warriewood Valley Development Contributions Plan Amendment 16 Revision 3 (2018)* and will benefit the wider Warriewood community.

The proposed modification does not alter the permissibility of the proposal, nor does it impact on the compliance of the approved development with the relevant controls of the Warringah LEP or DCP.

We look forward to receiving a positive determination in due course.

Yours faithfully

KARIMBLA CONSTRUCTION SERVICES (NSW) PTY LTD



Walter Gordon
Head of Planning and Development

Encl.