

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2022/0733
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Responsible Officer:	Jordan Davies
Land to be developed (Address):	Lot 7 DP 1251955, 121 Dove Lane WARRIEWOOD NSW 2102 Lot 1 DP 1266557, 111 Dove Lane WARRIEWOOD NSW 2102 Lot 4 DP 1251955, 101 Dove Lane WARRIEWOOD NSW 2102
Proposed Development:	Modification of Development Consent DA2021/0053 granted for Subdivision of land and construction of dwelling houses semi-detached dwellings and attached dwellings
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Morehuman Warriewood Pty Ltd
Applicant:	The Trustee For Morehuman Warriewood Unit Trust

Application Lodged:	03/01/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	10/01/2023 to 25/01/2023
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The application seeks to modify development consent DA2021/0053 which was granted for "

- "Subdivision of land and construction of dwelling houses, semi-detached dwellings and attached dwellings".

The proposed modifications consist of:

- Minor boundary adjustments are required to facilitate setbacks that allow compliance with the deemed to satisfy provisions of the Building Code of Australia. The Plan of Proposed Subdivision has been amended to illustrate the updated boundary alignments.
- Minor changes in levels to ensure compliance with Council's driveway gradient requirements and to simplify construction.
- The removal of lifts from all dwellings (except for Villa 1) and associated minor alterations to internal layouts to improve functionality. This changes do not alter the external form of the dwellings.
- The removal of Tree 44 to enable the development of the approved dwelling within Lot 7 DP 1251955 in accordance with DA2022/0550. The Arboricultural Impact Appraisal and Method Statement has updated to assesses the removal.
- The removal of a substation and the consolidation of the land it previously occupied into the lot for Town House 12. The area will be landscaped which results in an increase in private open space for this dwelling.
- Amendments to the external finishes to suit the design intent.

Council's Comments

The changes are overall minor, with level changes being less than 100mm (and generally only 20mm-50mm) to allow driveway gradients to be achieved. The setbacks of the buildings are unchanged, with the amendment to the subdivision plan relating to the arrangement of the laneway accessed garages. It is noted that this subdivision layout was shown on the architectural plans, however was not replicated in the approved subdivision plans. The updated subdivision plans address this discrepancy between the approved architectural plans and subdivision plan.

The removal of one tree is supported by Council's landscape team, with this tree being within the future building footprint of Lot 2 of Stage 1.

The colour palette changes remain consistent with the colour scheme requirements of the DCP for Warriewood Valley, consisting of predominantly dark and earthy tones and consistent with the original scheme which was supported by the DSAP.

Overall, the changes are considered to be minor and in keeping with the intent of the approved development.

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

There are no assessment issues.

SITE DESCRIPTION

Property Description:	<p>Lot 7 DP 1251955 , 121 Dove Lane WARRIEWOOD NSW 2102</p> <p>Lot 1 DP 1266557 , 111 Dove Lane WARRIEWOOD NSW 2102</p> <p>Lot 4 DP 1251955 , 101 Dove Lane WARRIEWOOD NSW 2102</p>
Detailed Site Description:	<p>The subject site consists of three (3) allotment located to the north of the existing section of Fern Creek Road and to the south of Fern Creek. The site will be accessed by the Fern Creek Road Extension to be built as approved under DA2018/1044 (currently an unformed road reserve). The site consists of three allotments being 101, 111 and 121 Dove Lane.</p> <p>The site is irregular in shape with a width from east to west of 240m and a depth of 54m, with the Fern Creek Road extension separating the two sites 101 and 111 Dove Lane. The site has a combined total area of 9,309.2m².</p> <p>The site is located within the R3 Medium Density Residential zone and is a vacant site, with no buildings upon it.</p> <p>The site has a moderate slope from the south to the north, with the steepest part of the site along the south-western boundary sloping up to the south. The site has a row of vegetation along the south-western boundary with a mixture of medium and tall trees. The central part of the site is void of significant canopy trees with low lying shrubs.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by Fern Creek to the north, surrounding vacant land identified for future residential development, and new residential dwelling development to the south along the existing section of Fern Creek road. Adjoining the southern boundary is the driveway/access handle for an existing residential property to the south. To the east is vacant residential land identified for future development.</p>

Map:



SITE HISTORY

The land has been subject to a number of recent development applications to create residential development in the Warriewood Valley release area. A search of Council's records has revealed the following relevant history:

- **DA2018/1044** 'Subdivision to create Road Reserve and three development lots, extension of Fern Creek Road in an easterly and westerly extension and remediation of contaminated land' was approved by Northern Beaches Council on 15 May 2019.
- **PLM2020/0251** - Prelodgement meeting was held for subdivision of the land into 33 Residential lots (and integrated housing) on 3 November 2020.
- **DA2020/1727** - Subdivision of 121 Dove Lane to create three lots (being 2 residential lots and 1 residue lot) forming the first stage of the development of this sector within Warriewood Valley, approved by Northern Beaches Council on 20 August 2021.
- **DA2021/0053** - Subdivision of land and construction of dwelling houses, semi-detached dwellings and attached dwellings approved by Northern Beaches Council on 7 September 2021.

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 DA2021/0053, 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	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> • The changes to the facade and levels are very minor (within 100mm) in order to achieve driveway gradients, the buildings remain within the height limit. • The use remains the same and layout of the development. The removal of the lifts do not change the external appearance of the buildings. • The removal of one tree which is within the intended building footprint of a future dwelling, this matter should have been addressed as part of the previous application. • The amended finishes retain the overall architectural intent of the proposal.
(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	<p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2021/0053 for the following reasons:</p> <ul style="list-style-type: none"> • The amended finishes retain the overall architectural intent of the proposal. • The overall changes to levels do not result in a height that exceeding the building height limit, with minor changes to levels within 100mm. • The overall setbacks and layout of the development remain unchanged.
(c) it has notified the application in accordance with:	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning

Section 4.55(1A) - Other Modifications	Comments
(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	and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.
(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.	No submissions were received in relation to this application.

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	There are no current draft environmental planning instruments.
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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62</u> and/or 64 of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</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 / 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 / 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>See discussion on “Notification & Submissions Received” in this report.</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 classified as bush fire prone land and the proposed development is for a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes. As such, the original development application was integrated development. A bush fire safety authority from the NSW Rural Fire Service was granted for the original DA.

In accordance with the EP&A Regulations 2021, the modification application was referred back to the RFS for comment. No comment were received for the modification application, and given the 21 day period has passed, this is taken to be no comment from the RFS and the application may be determined.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 10/01/2023 to 25/01/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Environmental Health (Contaminated Lands)	<p>General Comments</p> <p>Modification does not appear to need new conditions for contamination, existing contamination conditions remain .</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Environmental Health (unsewered lands)	<p>General Comments</p> <p>This modification does not appear to require any changes to the existing conditions regarding connecting each residence to the Sydney Water Main</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Landscape Officer	<p>The application is for modification to development consent DA2021/0053 , and specific to Landscape Referral the following modification works:</p>

Internal Referral Body	Comments
	<p>• removal of tree number 44 (<i>Glochidion ferdinandi</i>), previously recommended for retention under development consent DA2022/0550, to enable the development of the approved dwelling within Lot 7. The Arboricultural Impact Appraisal and Method Statement has updated to assess and advise of the requirement for removal.</p> <p>Condition 31 of development consent DA2021/0053 shall be amended to include removal of tree 44.</p>
NECC (Bushland and Biodiversity)	<p>The proposal seeks approval for modifications to consent given in DA2021/0053 under section 4.55.</p> <p>The comments on this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> • NSW Biodiversity Conservation Act 2016 • NSW Biodiversity Regulation 2017 • Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection • Pittwater 21 DCP - Clause B4.15 Saltmarsh Endangered Ecological Community <p>The proposal has been amended and has included the removal of Tree 44 (<i>Glochidion ferdinandi</i>) to be able to give place to the footprint of one of the new subdivisions. No objection is raised and conditions set out in the original Natural Environment Referral Response - Biodiversity (02/03/2021) still apply.</p>
NECC (Development Engineering)	<p>Comments 20/3/23</p> <p>The changes in levels of the garages is noted and has minimal impacts on street access. Additionally all sub stations will be located on private lots. No objections to the proposed modification , no conditions are required.</p> <p>Previous comments</p> <p>The proposed modifications (as seen below) to the garage FFLs and removal of the substation on lot 13 are unclear when reviewing the design plans . The change in level to the garage floors is to be quantified ie approved vrs proposed etc.</p> <ul style="list-style-type: none"> • Minor changes in levels to ensure compliance with Council's driveway gradient requirements and to simplify construction. • • The removal of a substation and the consolidation of the land it previously occupied into the lot for Town House 12. The area will landscaped which results in an increase in private open space for this dwelling. <p>Therefore the application is not supported.</p>

Internal Referral Body	Comments
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed modifications are not flood affected. There are no applicable flood related development controls.
NECC (Water Management)	Supported The proposed modifications are not impacting the water quality/quantity management previously approved.
Road Reserve	No changes are proposed that impact public road infrastructure.
Strategic and Place Planning (Urban Design)	<p>This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment.</p> <p>The application seeks consent to minor boundary adjustments (to achieve compliance with the deemed to satisfy provisions of the Building Code of Australia) and minor alterations to the dwellings including:</p> <ul style="list-style-type: none"> • Minor changes in levels to ensure compliance with Council's driveway gradient requirements and to simplify construction. • The removal of lifts from all dwellings (except for Villa 1) and associated minor alterations to internal layouts to improve functionality. This change does not alter the external form of the dwellings. • The removal of Tree 44 to enable the development of the approved dwelling within Lot 7 DP 1251955 in accordance with DA2022/0550. The Arboricultural Impact Appraisal and Method Statement has been updated to assesses the removal. • The removal of a substation and the consolidation of the land it previously occupied into the lot for Town House 12. The area will be landscaped which results in an increase in private open space for this dwelling. • Amendments to the external finishes to suit the design intent. <p>Urban Design raises no objection to the proposed modifications.</p> <p>Please note: Regarding any view impacts and any impacts on solar amenity and overshadowing these matters will be dealt with under the evaluation of Councils Planning Officer. Any impacts of non-compliances regarding heritage will be dealt with under the evaluation of Councils Heritage Officers, and any Landscape non-compliances will be dealt with under the evaluation of Councils Landscape Officers.</p>
Strategic and Place Planning (Development Contributions)	<p>To: Jordan Davies Date: 6 January 2023 Application Number: Mod2022/0733 Land to be developed (Address): 121 Dove Lane WARRIEWOOD NSW 2102 Record Number: 2023/009275</p> <p>INTRODUCTION</p> <p>The subject site is 101,111 and 121 Dove Lane, Warriewood (Lot 7 DP1251955, Lot 1 DP1266557 and Lot 4 DP1251955) and is zoned</p>

Internal Referral Body	Comments
	<p>R3 Medium Density Residential under the Pittwater LEP 2014.</p> <p>On 7 September 2021, Council issued a Notice of Determination on DA2021/0053 for Subdivision of land and construction of dwelling houses, semi-detached dwellings and attached dwellings. Condition 9 of this approval states:</p> <p>"9. Warriewood Valley Contributions Plan - No creekline corridor <i>The following development contributions are to paid in accordance with the Warriewood Valley Contributions Plan.</i> <i>The total development contribution of \$2,217,988.00 is payable for this development, based on 31 new residential lots in accordance with the Warriewood Valley Section 94 Contributions Plan Amendment 16 Revision 3. The contribution amount is to be paid in two stages and before issue of a Construction Certificate or Subdivision Certificate (if a Construction Certificate is not required) for each stage, being:</i></p> <ul style="list-style-type: none"> • Stage 1 - \$1,359,412.00 (Identified as DA02 in drawing 251-20-SK-0008) • Stage 2 - \$858,576.00 (Identified as DA03 in drawing 251-20-SK-0008) <p><i>The monetary contribution payable for each Stage will be adjusted at the time the payment is made, in accordance with the provisions of the Warriewood Valley Section 94 Contributions Plan Amendment 16 Revision 3.</i></p> <p><i>The Applicant may negotiate with Council for the direct provision of other facilities and services, and/or the dedication of land (other than land identified above) in lieu of the monetary contribution above (or any portion of that monetary contribution) or the deferral of payments through a Material Public Benefit Agreement between Council and the Applicant in accordance with the Warriewood Valley Development Contributions Plan (as amended).</i></p> <p><i>The agreement for Material Public Benefit between the Applicant and Council must be finalised, formally signed and in place prior to the payment of the monetary contribution.</i></p> <p><i>A copy of the development contributions plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions."</i></p> <p>On 3 January 2023, Strategic and Place Planning received a referral request for MOD2022/0733. This application seeks to amend DA2021/0053 to facilitate minor changes to the residential allotment boundaries and the dwellings. No change is proposed to the quantum of approved allotments/dwellings or the development staging.</p> <p>SUBJECT SITE</p> <p>The subject site comprises:</p> <ul style="list-style-type: none"> • 101 Dove Lane Warriewood (Lot 7 DP1251955) • 111 Dove Lane Warriewood (Lot 1 DP1266557) • 121 Dove Lane Warriewood (Lot 4 DP1251955) <p>These lots are located adjacent to the Council owned Lynne Czinner Park on Dove Lane. Lots 101 and 111 are regular in shape and are</p>

Internal Referral Body	Comments
	<p>separated by Fern Creek Road. Lot 121 borders Ingleside Chase Reserve and Lynne Czinner Park, and is accessed via Dove Lane.</p> <p>ASSESSMENT OF DA</p> <p>DA2021/0053 approves a 31-lot residential subdivision and construction of a dwelling on each allotment.</p> <p>The modification application proposes minor amendments to residential lot boundaries and minor architectural changes to the dwellings. The application does not seek any change to the proposed quantum of approved residential lots/dwellings.</p> <p>Condition 9 was calculated based on 31 residential lots/dwellings. No change to the contribution condition is required as part of this modification application.</p> <p>The land is subject to an executed Planning Agreement (VPA2018/0001) between Frasers Property and Council. The obligations with the Planning Agreement are currently being delivered by the parties to the agreement. The modification application will not impact the delivery of the obligations within the Planning Agreement.</p> <p>RECOMMENDATION</p> <p>The modification application is supported. No change to Condition 9 is required.</p>
Traffic Engineer	<p>The modification has been reviewed and has no impact on the traffic and transport conditions placed on the original approval. It should be noted that there is no updated electrical servicing plan and no mention of a referral to Ausgrid related to the deletion of the pad transformer kiosk from the Town house 12 lot and no reference to whether this is to be relocated to a different site within the subdivision.</p> <p>Note to Planner: ensure this is dealt with prior to approving the modification and that it does not impact on adjoining road reserve or community lands.</p>

External Referral Body	Comments
Integrated Development - Rural Fire Service - Rural Fires Act, s100B - Subdivisions and Special Fire Protection Purposes	<p>The original development application was integrated pursuant to Section 100B of the Rural Fires Act 1997. The original DA was referred to the NSW Rural fire service and they provided GTA's. The modification was referred to the NSW Rural Fire Service for comment in accordance with the EP&A Regulations 2021. No response has been provided to date which is taken to be no comment and the application may be determined as no response was received after the minimum 21 day prescribed period.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs 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 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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate was submitted with the original application and formed part of the consent conditions. The amendments to the plans do not introduce new windows or would change the BASIX requirements of the DA. The lifts have been removed and replaced with non-habitable space (i.e additional storage, linen press, increase to laundry or pantry).

Therefore, the original BASIX certificate can continue to apply to the development.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 who raised no objections.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. The matter of land contamination was satisfactorily dealt with under the original development application.

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

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Minimum subdivision lot size:	No minimum lot size	Approved lots between 169.9sqm and 383.3sqm	Proposed lots between 169.1sqm and 383.3sqm	N/A	N/A
Height of Buildings:	10.5m	10.4m	10.4m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.6 Subdivision - consent requirements	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.21 Flood planning	Yes
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	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
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.23 Eaves	Yes	Yes
C6.1 Integrated Water Cycle Management	Yes	Yes
C6.2 Natural Environment and Landscaping Principles	Yes	Yes
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
C6.5 Utilities, Services and Infrastructure Provision	Yes	Yes
C6.6 Interface to Warriewood Wetlands or non-residential and commercial/industrial development	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.5 Landscaped Area for Newly Created Individual Allotments	Yes	Yes
D16.6 Front building lines	Yes	Yes
D16.7 Side and rear building lines	Yes	Yes
D16.8 Spatial Separation	Yes	Yes
D16.9 Solar access	Yes	Yes
D16.10 Private and Communal Open Space Areas	Yes	Yes
D16.11 Form of construction including retaining walls, terracing and undercroft areas	Yes	Yes
D16.12 Fences	Yes	Yes
D16.13 Building colours and materials	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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 2021;
- 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. Mod2022/0733 for Modification of Development Consent DA2021/0053 granted for Subdivision of land and construction of dwelling houses semi-detached dwellings and attached dwellings on land at Lot 7 DP 1251955, 121 Dove Lane, WARRIEWOOD, Lot 1 DP 1266557, 111 Dove Lane, WARRIEWOOD, Lot 4 DP 1251955, 101 Dove Lane, 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
0574-S4.55_200 Rev 01	20/12/2022	PopovBass
0574-S4.55_201 Rev 01	20/12/2022	PopovBass
0574-S4.55_203 Rev 01	20/12/2022	PopovBass
0574-S4.55_204 Rev 01	20/12/2022	PopovBass
0574-S4.55_205 Rev 01	20/12/2022	PopovBass
0574-S4.55_206 Rev 01	20/12/2022	PopovBass
0574-S4.55_207 Rev 01	20/12/2022	PopovBass
0574-S4.55_208 Rev 01	20/12/2022	PopovBass
0574-S4.55_209 Rev 01	20/12/2022	PopovBass
0574-S4.55_210 Rev 01	20/12/2022	PopovBass
0574-S4.55_211 Rev 01	20/12/2022	PopovBass
0574-S4.55_212 Rev 01	20/12/2022	PopovBass
0574-S4.55_213 Rev 01	20/12/2022	PopovBass
0574-S4.55_214 Rev 01	20/12/2022	PopovBass
0574-S4.55_215 Rev 01	20/12/2022	PopovBass
0574-S4.55_216 Rev 01	20/12/2022	PopovBass
0574-S4.55_217 Rev 01	20/12/2022	PopovBass
0574-S4.55_218 Rev 01	20/12/2022	PopovBass
0574-S4.55_219 Rev 01	20/12/2022	PopovBass
0574-S4.55_300 Rev 01	20/12/2022	PopovBass
0574-S4.55_303 Rev 01	20/12/2022	PopovBass
0574-S4.55_304 Rev 01	20/12/2022	PopovBass
0574-S4.55_305 Rev 01	20/12/2022	PopovBass
0574-S4.55_306 Rev 01	20/12/2022	PopovBass
0574-S4.55_307 Rev 01	20/12/2022	PopovBass
0574-S4.55_308 Rev 01	20/12/2022	PopovBass
0574-S4.55_309 Rev 01	20/12/2022	PopovBass
0574-S4.55_310 Rev 01	20/12/2022	PopovBass
0574-S4.55_311 Rev 01	20/12/2022	PopovBass
0574-S4.55_312 Rev 01	20/12/2022	PopovBass
0574-S4.55_313 Rev 01	20/12/2022	PopovBass
251-20G L02 (02) - Stage 2	22/12/2022	Craig and Rhodes
251-20G L02 (02) - Stage 3	22/12/2022	Craig and Rhodes

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Aboricultural Impact Appraisal and Method Statement, Revision A	10 December 2022	Andrew Scales

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. Modify Condition 31 Tree Removal within property to read as follows:

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

- i) existing trees identified as tree number 6, 10, 11, 22 and 23, subject to tree replacement within the lots,
- ii) existing trees identified as tree numbers 4, 5, 24, 25, 26, 27, 28, 29, 30, 34, 43 and 44.

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact do not require Council consent for removal.

Reason: To enable authorised building works.

C. Add condition 34A Location of Electricity Switchboards/Substations

Any required electricity Switchboards or substations must not be located on public Land or the road reserve.

Details demonstrating the location of the switchboard/substations in accordance with the above are to be provided to the Principle Certifying Authority, prior to the issue of a construction certificate.

Reason: To minimise impact on public land and the road reserve.

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

Signed



Jordan Davies, Principal Planner

The application is determined on 04/04/2023, under the delegated authority of:



Steven Findlay, Manager Development Assessments