

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0149
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Responsible Officer:	Tyson Ek-Moller
Land to be developed (Address):	Lot 21 DP 1080979, 7 Macpherson Street WARRIEWOOD NSW 2102 Lot 1 DP 314508, 5 Macpherson Street WARRIEWOOD NSW 2102
Proposed Development:	Modification of consent N0248/16 for the consolidation of two allotments demolition of existing structures and construction of multi dwelling housing comprising nine dwellings associated car parking and landscaping
Zoning:	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:	Francesco Lucia Simon Khoury Liby Property Warriwood Pty Ltd
Applicant:	Dickson Rothschild Pty Ltd

Application lodged:	23/03/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	07/04/2018 to 07/05/2018
Advertised:	Not Advertised
Submissions Received:	1
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

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 - D16.6 Front building lines
 Pittwater 21 Development Control Plan - D16.8 Spatial Separation

SITE DESCRIPTION

Property Description:	Lot 21 DP 1080979 , 7 Macpherson Street WARRIEWOOD NSW 2102 Lot 1 DP 314508 , 5 Macpherson Street WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The “subject site” is identified as 5 Macpherson Street (Lot 1, DP 314508) and 7 Macpherson Street (Lot 21, DP 1080979) Warriewood. The combined area of the two allotments is approximately 2975m². The front boundary is oriented to the north and adjoins the Macpherson Street road reserve, while all other boundaries adjoin a large residential flat building complex; the site is also relatively level with a maximum front-to-rear fall of approximately 3.5 metres.</p> <p>The site is located within an R3 Medium Density Residential zone, and all surrounding sites are located within R3 zones. There are a number of zone boundaries within the surrounding area that are as follows:</p> <ul style="list-style-type: none"> • An SP2 (Sewerage System) Infrastructure zone is located approximately 100m east of the subject site. • An E2 Environmental Conservation zone is located approximately 130m south of the subject site. • RE1 Public Recreation zones are located approximately 160m north and 220m west of the subject site. <p>The site is within the Warriewood Valley Urban Release Area, is bushfire prone and is affected by Class 4 Acid</p>

Sulphate Soils. Council records also indicate that the site is affected by Saltmarsh and Foreshore Veg other than Mangroves and is within 40 metres of a river/stream/foreshore, however the site is more than 40m from any local waterway and is subsequently not affected by foreshore vegetation (or any other form of marine vegetation).

5 Macpherson Street contains a dwelling house, while 7 Macpherson Street contains two dwellings; both allotments contain associated structures (i.e. sheds, etc.) and landscaped areas. The immediate surroundings contain a mixture of residential accommodation consisting predominantly of residential flat buildings and seniors housing, while the wider area also contains low-density residential dwellings, undeveloped allotments and undeveloped creekline areas.

Map:



SITE HISTORY

Site history:

- 16/04/2015 - Development Application No. N0019/15 refused. The application proposed an infill affordable housing development (submitted the Affordable Housing SEPP) for 39 units within two three-storey residential flat buildings, incorporating two levels of basement car parking. An appeal before the NSW Land and Environment Court was dismissed on 27 October 2015.
- 18 January 2017 - Development Application No. N0248/16 approved.. The application proposed the consolidation of two allotments, demolition of existing structures and construction of multi dwelling housing comprising nine dwellings, associated car parking and landscaping. The application was determined by the NSW Land and Environment Court following an appeal against the deemed refusal of the application.
- 1 July 2017 - Development Application No. N0068/17 approved. The application proposed the

strata subdivision of the the multi-dwelling development approved by Development Application No. N0248/16 .

- 23 March 2018 - Subject modification application lodged.

Application history:

- 23 March 2018 - Subject modification application lodged.
- 4 May 2018 - Site inspection undertaken.

PROPOSED DEVELOPMENT IN DETAIL

The subject modification application seeks changes to a multi-dwelling townhouse development approved by Development Consent No. N0248/16. The number of changes being proposed by the applicant are considerable, and have been outlined as follows:

Basement Level:

- The basement floor level has been modified to a uniform level of RL5.4.
- All visitor parking has been relocated to the centre of the basement level.
- Individual elevators and laundries for each level added.
- Fire stairs relocated.

Ground Level:

- Garbage and bicycle parking facilities are to be reoriented.
- Common spaces have been modified.
- Landscaping layout modified to reflect changes in site levels and access changes.
- External stairs reconfigured and access ramp added.
- Floor layouts of dwellings reconfigured, with the locations of some external windows changed.

First level:

- Floor layouts of dwellings reconfigured, with the locations of some external windows changed.
- Increases to southern wall articulation and stepping.
- Relocation and reconfiguration of internal stairways.

Second level:

- Changes to the external facades. The most significant changes propose to change the form and appearance of the balconies which would address the northern boundary.
- Floor layouts of dwellings reconfigured.
- Relocation and reconfiguration of internal stairways.
- Roof forms revised to reflect amended building layouts.

Despite the above changes, the total number of dwellings and onsite car parking spaces would remain unchanged.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

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 Development Application No. N0248/16 in full, with amendments detailed and assessed as follows:

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

Section 96AA - 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	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 Development Consent No. N0248/16.
(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	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Pittwater 21 Development Control Plan.
(c) it has notified, or made reasonable attempts to	Written notices of this application have been

Section 96AA - Other Modifications	Comments
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	sent to the last address known to Council of the objectors or other persons who made a submission in respect of Development Application No. M0248/16..
(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 79C Assessment

In accordance with Section 96(3) 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 as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C '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 documentation was submitted with the original 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>

Section 79C 'Matters for Consideration'	Comments
	<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 matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading 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 matter has been addressed via a condition in the original consent.</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>
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	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) The proposed development will have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 4.15 (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.

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 process council is in receipt of 1 submission/s from:

Name:	Address:
Bronwyn Clark	

The subject application was notified for a period of fourteen days from 23 April 2018 until 7 May 2018. Evidence was submitted by the applicant indicating that the notification sign was erected in accordance with relevant requirements, however it was noted during the site inspection that an undignified party had removed the the before the end of the notification process. Irrespective of the above, one (1) submission was received, which objected to the proposal;

Issues raised by the submission, and a response to each is as follows:

My main concern is a petition dated 2 March 2015.

The date of the petition predates the lodgement the subject application; it is unclear what petition the submission is referring to.

In regards to the vehicle access for this development, is to utilize the private driveway of the adjoining Meriton complex via the children's playground, carwash and private parking zones.

The location of the approved driveway access point from Macpherson Street is unchanged. No access is proposed to the site through the adjoining Meriton development.

The usage of Firetale Drive and Mallard Lane by heavy construction vehicles is of concern, as these roads are shared with the Oceanvale complex and have been constructed above the underground carpark of the complex. This car park already has some building defects. There is concern that usage by heavy vehicles will cause damage to both the road overpass and the underground car parks.

The applicant does not propose to utilise private roads within the adjoining Meriton development to obtain construction access or change future construction access.

My other concerns are for the safety of children playing at the playground, also the safety of residents. The traffic is already excessive due to the existing car park, not to mention the added noise factor.

It is unclear how this issue is related to the subject proposal, as the number of dwellings and car parking spaces are unchanged, as is the approved location of the carpark entrance off Macpherson Street. There is no access point to the subject site which would be situated near playground facilities (while they are not identified by the submission, it is assumed that the submission is referencing a playground within the Meriton development that adjoins the southeast side of the subject site).

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Environmental Compliance (Building Control)	No objections subject to conditions to ensure compliance with the Building Code of Australia.
Environmental Health (Acid Sulphate)	The supplied report indicates unlikely impact on acid sulfate soil. A condition will be added. Anthony Foy EHO
Environmental Health	Site can get access to Sydney Water Sewer (SEA Mapping)

Internal Referral Body	Comments
(unsewered lands)	
Landscape Officer	No landscape objections to the proposed modification, subject to completion of the landscaping in accordance with the revised landscape plans prepared by Greenland Design, drawing numbers 1823.GD.01, 1823.GD.02, and 1823.GD.03.
NECC (Bushland and Biodiversity)	<p>Council's Bushland and Biodiversity section raise no objection to the modification, subject to original conditions for DA N0248/16.</p> <p>Council's Bushland and Biodiversity section has assessed the development application against the following Pittwater 21 DCP 2014 Controls:</p> <p>B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land</p> <p>Outcomes: The long-term viability and enhancement of locally native flora and fauna and their habitats.</p> <p>The development application complies with this control.</p>
NECC (Development Engineering)	<p>Development Engineers have reviewed the proposed modification and further information submitted (trim no. 2018/305697). The proposed point of stormwater discharge into the adjacent downstream property is consistent with the location of the 1.5 metre wide drainage easement registered on Title of the adjacent downstream property.</p> <p>In this regard, no objections are raised to the proposed modification subject to the reference to the 'Site Water Cycle Management Report: 5-7 Macpherson St, Warriewood, NSW (Martens & Associates, 9/12/16)' is removed from condition 13 of the Development Consent and replaced with the 'Site Water Management Report (ING Consulting Engineers, 10/3/18)'.</p>
NECC (Riparian Lands and Creeks)	The conclusions of the Water Management Report (March 2018) and the Statement of Environmental Effects (March 2018) in regards to the increased depth of the basements and their impact on groundwater are accepted and there are no objections to this modification. There are no significant alterations to the quantity of impervious areas and therefore the approved stormwater management is adequate.
Strategic & Place Planning (Urban Design)	The proposed modifications to building height, bulk and scale are essentially similar to the approved Development Application. From an urban design point of view, there is no objection raised to the proposal.
Traffic Engineer	There are no traffic objections to approval of the modification subject to the following conditions
Waste Officer	

External Referral Body	Comments

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	No referral was made to Roads and Maritime Services (RMS), as the site does not adjoin a classified road and does not constitute traffic generating development. A referral was made to the energy supply authority. While a response was received outside of the 21 day response period, a condition has been recommended by the authority, and will be incorporated into the modified consent.
NSW Rural Fire Service – local branch (s79BA EPAA)	
NSW State Transit (Bus stops)	A referral was made on 3 April 2018; no response was received.

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

The provisions of SEPP 55 were considered as part of the assessment of the original application.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 893808M, dated 19 March 2018). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0002561830).

BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	50

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

The application was not referred to RMS for comment as it does not adjoin a classified road or constitute "Traffic Generating Development". It was however referred to the electricity supply authority on 3 April 2018; while it fell outside of the 21 day response period, comments were received from Ausgrid dated 9 June 2018 which included a condition relating to underground cables. The condition reads as follows:

Underground Cables

There are existing underground electricity network assets in Macpherson Street.

Special care should also be taken to ensure that driveways and any other construction activities within the footpath to any excavation in the area.

Safework Australia – Excavation Code of Practice, and Ausgrid’s Network Standard NS156 outlines the minimum requirements for working around Ausgrid’s underground cables.

While such comments fall outside of the 21 day period during which the authority must respond, it is recommended that the condition be incorporated into the development consent.

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:					N/A
Minimum subdivision lot size for community title schemes					N/A
Minimum lot sizes for dual occupancies					N/A
Rural Subdivision:					N/A
Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones					N/A
Height of Buildings:	4.3(2): 10.5m 4.3(2F):: 8.5m for the area within 12.5m of the front boundary	9.59m 8m	9.58m 8.42m	N/A	Yes
Floor Space Ratio					N/A

Warriewood Valley Release Area	Maximum 9 dwellings Minimum 7 dwellings	9 Dwellings	9 Dwellings		Yes
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Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line	To articulation zone: 5m To garage/carport: 6.5m To dwelling 6.5m	To articulation zone: 5.3m To garage/carport: N/A To dwelling 6.48m	To articulation zone: 6.077 To garage/carport: N/A To dwelling 6.482m	No
Rear building line	3m	4m	4.173m	Yes
Side building line	Minimum 3m	East side: 4m West side: Min. 3.593m	East side: Min. 3.991m West side: Min. 3.597m	Yes
Landscaped area	25%	Approx. 48.6%	Approx. 40%	Yes

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
B3.2 Bushfire Hazard	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	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
C6.7 Landscape Area (Sector, Buffer Area or Development Site)	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	No	Yes
D16.7 Side and rear building lines	Yes	Yes
D16.8 Spatial Separation	No	Yes
D16.9 Solar access	Yes	Yes
D16.10 Private and Communal Open Space Areas	Yes	Yes
D16.13 Building colours and materials	Yes	Yes

Detailed Assessment

D16.6 Front building lines

The amended design continues to propose a small (i.e. 80mm) noncompliance to the 6.5m front setback controls; the noncompliance is approximately 20mm larger than the approved front setback. The visual appearance of the noncompliance would be expected to be negligible, and the outcomes of the control would be satisfied. The noncompliance is considered to be satisfactory and supportable on merit.

D16.8 Spatial Separation

Most parts of the proposed modifications would satisfy the controls; there is however a separation distance between the two rear buildings (i.e. Blocks C and D) of approximately 3.6m (i.e. a 2.4m, or 40% variation to the 6m separation control). Despite the noncompliance, the proposed separation distances are the same as those which were approved by the original consent.

While the separation distances would not change, modifications to the configuration and layout of the rear dwellings would result in a number of new windows within two of the dwellings (Lots 6 and 7) being situated directly opposite each other on all three levels of those two dwellings. In order to maintain visual privacy and therefore satisfy the outcomes of the control, a condition is recommended that would require all affected windows within Lots 6 and 7 to be screened or obscured to prevent direct looking between the two apartments. If the condition is satisfied, the outcomes of the controls would be addressed and the noncompliance is considered to be satisfactory and supportable on merit.

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.

POLICY CONTROLS

Pittwater Section 94 Development Contributions Plan

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. Mod2018/0149 for Modification of consent N0248/16 for the consolidation of two allotments demolition of existing structures and construction of multi dwelling housing comprising nine dwellings associated car parking and landscaping on land at Lot 21 DP 1080979,7 Macpherson Street, WARRIEWOOD, Lot 1 DP 314508,5 Macpherson Street, WARRIEWOOD, subject to the conditions printed below:

Plans:

- Site analysis Plan, prepared by Dickson Rothschild, Rev. A, dated 16 March 2018
- Site Plan, prepared by Dickson Rothschild, Rev. D, dated 16 March 2018
- Demolition Plan, prepared by Dickson Rothschild, Rev. C, dated 16 March 2018
- Garage Level Plan, prepared by Dickson Rothschild, Rev. E, dated 16 March 2018
- Ground/Entry Level Plan, prepared by Dickson Rothschild, Rev. F, dated 16 March 2018
- First Floor Plan, prepared by Dickson Rothschild, Rev. F, dated 16 March 2018
- Second Floor Plan, prepared by Dickson Rothschild, Rev. F, dated 16 March 2018
- Roof Plan, prepared by Dickson Rothschild, Rev. E, dated 16 March 2018
- North Elevations, prepared by Dickson Rothschild, Rev. F, dated 16 March 2018
- South Elevations, prepared by Dickson Rothschild, Rev. D, dated 16 March 2018
- East & West Elevations, prepared by Dickson Rothschild, Rev. E, dated 16 March 2018
- Section AA & BB, prepared by Dickson Rothschild, Rev. F, dated 16 March 2018
- Section CC, DD & EE, prepared by Dickson Rothschild, Rev. F, dated 16 March 2018
- Section FF & GG, prepared by Dickson Rothschild, Rev. F, dated 16 March 2018

- External Material & Finishes Schedule, prepared by Dickson Rothschild, Rev. B, dated 16 March 2018
- Landscape Plan - Ground Floor, prepared by Greenland Design, Drawing No. 1823.GD.01, Rev. A, dated 12 March 2018
- Landscape Plan - Level 2, prepared by Greenland Design, Drawing No. 1823.GD.02, Rev. A, dated 12 March 2018
- Landscape Detail & Specification, prepared by Greenland Design, Drawing No. 1823.GD.03, Rev. A, dated 12 March 2018

- Pool Fence, prepared by Sammy Fedele, Sheet no. DA15, Rev. C, dated 10 March 2016;
- Basement Plan, Notes & Details, prepared by ING Consulting Engineers Pty Ltd, Drawing No. 07610-02/6, Issue A, dated 28 February 2018
- Erosion & Sediment Control Plan, prepared by ING Consulting Engineers Pty Ltd, Drawing No. 07610-01/5, Issue A, dated 28 February 2018
- Site Plan, prepared by ING Consulting Engineers Pty Ltd, Drawing No. 07610-04/6, Issue A, dated 28 February 2018
- Ground Floor Plan, prepared by ING Consulting Engineers Pty Ltd, Drawing No. 07610-03/6, Issue A, dated 28 February 2018
- Notes & Details, prepared by ING Consulting Engineers Pty Ltd, Drawing No. 07610-05/06, Issue A, dated 28 February 2018
- Notes & Details 2, prepared by ING Consulting Engineers Pty Ltd, Drawing No. 07610-06/6, Issue A, dated 28 February 2018

- Survey Plan, prepared by DP Surveying, Ref. No. 2672, dated 29 April 2016

Documents:

- BASIX Certificate No. 893808M, prepared by Eco Certificates Pty Ltd, dated 19 March 2016
- Site Water Cycle Management Report, prepared by Martens Consulting Engineers, Report Ref. P1605698JR01V03, Rev. 3, dated 9 December 2016;

- Site Water Management Report, prepared by ING Consulting Engineers Pty Ltd, Version 2, dated 10 March 2018
- Preliminary Site Investigation, prepared by Alliance Geotechnical, Report No. 1644/ER-1-1, dated 7 June 2016
- Geotechnical Investigation and Acid Sulphate Soil Assessment, prepared by STS GeoEnvironmental Pty Ltd, Report Ref. 17/2251A, dated March 2018
- Bushfire Risk Assessment, prepared by Ronald Coffey, Ref. No. 912-R, dated 27 February 2016
- Arborist Report, prepared by Malcolm Bruce, dated 3 December 2014
- Access Report, prepared by Ergon Consulting, Rev. B, dated 3 June 2016
- Preliminary BCA Assessment, prepared by APEX Engineers, dated April 2016
- Waste Management Plan, prepared by APEX Engineers, dated April 2016

Condition B15 is to be added as follows:

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

Condition B16 is to be added as follows:

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the issue of subdivision certificate and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Condition B17 is to be added as follows:

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

1. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Condition B18 is to be added as follows:

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

1. New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

Condition B19 is to be added as follows:

Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Condition B20 is to be added as follows:

The windows adjacent to the stairway on:

- The eastern elevation of Lot 6 (i.e. the eastern elevation of Block C); and
- The western elevation of Lot 7 (i.e. the western elevation of Block D),

shall be fitted with screens and/or obscured glass to prevent direct views into Lots 6 and 7. Any screens shall be constructed from colours and materials that are consistent with the approved external colours and materials.

Condition C18 is to be added as follows:

The dimensions of all car parking bays and aisle widths in the carpark are to comply with the requirements of AS/NZS 2890.1-2004 - off-street carparking.

Reason: To ensure compliance with standards relating to manoeuvring, access and parking (DACTRCPC1)

Condition D28 is to be added as follows:

Any new information which comes to light during remediation, excavation or construction works which has the potential to alter previous conclusions about the uncovering of Acid Sulfate Soil must be notified to the Certifier as soon as reasonably practicable. This will also require an Acid Sulfate Soil Management Plan, including disposal of affected soil to an approved facility, to be submitted to the certifier, before work continues.

Reason: To ensure potential Acid Sulfate Soil is appropriately managed

Condition D29 is to be added as follows:

Should a Works Zone be required an application shall be submitted using Council's Works Zone application form no less than 2 weeks in advance of the date the Works Zone is required.

Reason: To allow for processing, assessment and installation of signage (DACTRDPC1)

Condition D30 is to be added as follows:

There are existing underground electricity network assets in Macpherson Street.

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia–Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

Condition E11 is to be added as follows:

The following planting amendments shall be completed:

- i. all trees shall be planted at 75 litre pot size,
- ii. an additional 7 trees, selected from the scheduled trees, shall be planted along southern bo
- iii. *Pittosporum* 'miss muffett' shall be substituted for a similar sized shrub as the species has a
- iv. *Rhaphiolepis indica* shall be substituted for a similar sized shrub as the species is exempt an

Reason: to satisfy the requirements of Control C1.1.

Condition E12 is to be added as follows:

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACBCFPOC1)

Condition E13 is to be added as follows:

A parking signal system shall be installed that indicates when the visitor parking bays are occupied by vehicles.

Reason: To ensure efficient use of available offstreet parking (DACTRFPOC1)

Condition E14 is to be added as follows:

All visitor parking spaces be marked on site as "VISITOR" parking.

Reason: To ensure visitor spaces remain available for visitor use. (DACTRFPOC2)

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

Signed




Tyson Ek-Moller, Planner

The application is determined under the delegated authority of:



Rebecca Englund, Acting Development Assessment Manager


























ATTACHMENT A

Notification Plan	Title	Date
 2018/203302	Plans - Notification	21/03/2018

ATTACHMENT B

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2018/203309	Plan - Survey	13/10/2017
 2018/203322	Report - Geotechnical and Acid Sulphate Soils	08/03/2018
 2018/203316	Report - Water Management	13/03/2018
 2018/203305	Plans - Landscape	13/03/2018
 2018/203319	Report - Shadow Diagram Certification	16/03/2018
 2018/203323	Report - Basix Certificate	21/03/2018
 2018/203302	Plans - Notification	21/03/2018
 2018/203301	Plans - Stormwater	21/03/2018
 2018/203318	Report - Statement of Environmental Effects	22/03/2018
 2018/203308	Plans - Basix Stamped	22/03/2018
 MOD2018/0149	5 Macpherson Street WARRIEWOOD NSW 2102 - Section 96 Modifications - Section 96 (AA) Court Consent	23/03/2018
 2018/196592	DA Acknowledgement Letter - Dickson Rothschild Pty Ltd	23/03/2018
 2018/203940	Waste Referral Response	26/03/2018
 2018/203304	Plans - Master Set	27/03/2018
 2018/203307	Plans - External	27/03/2018
 2018/203313	Modification Application Form	27/03/2018
 2018/203314	Fee Form	27/03/2018
 2018/203315	Applicants Details	27/03/2018
 2018/205715	Environmental Health (Acid Sulphate) - Assessment Referral - Mod2018/0149 - 5 Macpherson Street WARRIEWOOD NSW 2102	27/03/2018
 2018/205719	Environmental Health (unsewered lands) - Assessment Referral - Mod2018/0149 - 5 Macpherson Street WARRIEWOOD NSW 2102	27/03/2018
 2018/207576	Environmental Compliance (Building Control) - Assessment Referral - Mod2018/0149 - 5 Macpherson Street WARRIEWOOD NSW 2102	27/03/2018
 2018/209938	Environmental Health Referral Response - acid sulfate soils	29/03/2018
 2018/211879	Environmental Health Referral Response - unsewered land	03/04/2018
 2018/211952	DA Acknowledgement Letter (not integrated) - Dickson Rothschild Pty Ltd	03/04/2018
 2018/211977	Development Application Advertising Document - Dickson Rothschild Pty Ltd	03/04/2018
 2018/212471	Notification map for Mod2018.0149	03/04/2018

	2018/212312	Notification Letter - DA	03/04/2018
	2018/212402	NOTICE OF PROPOSED DEVELOPMENT NO. Mod2018/0149 to Gina Hay - Property	03/04/2018
	2018/213066	Notification email to Matthew Lennartz - Meriton Group	03/04/2018
	2018/213060	Notification Email to Walter Gordon - Meriton Group	03/04/2018
	2018/215456	RFS - Acknowledgement of referral	04/04/2018
	2018/236736	Online Submission - Clark	15/04/2018
	2018/272253	Update to the applicant (including acknowledgement response)	01/05/2018
	2018/272867	Natural Environment Referral Response - Biodiversity	03/05/2018
	2018/274231	Landscape Referral Response	03/05/2018
	2018/276395	Correspondence to applicant regarding notification	04/05/2018
	2018/287601	Correspondence with applicant regarding missing notification sign (evidence provided that it was put up, but missing at the time of the site inspection)	07/05/2018
	2018/284793	Urban Design Referral Response	09/05/2018
	2018/292320	Site inspection photos	14/05/2018
	2018/302900	Natural Environment Referral Response - Riparian - 5 Macpherson Street	18/05/2018
	2018/304916	Response - Mod2018/0149 5 & 7 Macpherson Street Warriewood - NSW Rural Fire Service	18/05/2018
	2018/305697	Additional stormwater information	21/05/2018
	2018/309798	Engineering Referral Response	22/05/2018
	2018/313457	Reallocation letter Mod2018-0149 - 5-7 Macpherson Street Warriewood	24/05/2018
	2018/352801	Referral - Ausgrid - 5 Macpherson Street Warriewood	09/06/2018
	2018/409175	Correspondence with applicant regarding plans and documents for	27/06/2018
	2018/409183	Update to the applicant regarding progress of assessment	04/07/2018
	2018/416520	Stamped Plans	06/07/2018
	2018/416513	Stamped Stormwater Plan	06/07/2018
	2018/416526	Stamped Stormwater Notes & Details 2	06/07/2018
	2018/416529	Stamped Stormwater Notes & Details	06/07/2018
	2018/416502	Stamped Stormwater Plan (Ground Floor)	06/07/2018
	2018/416517	Stamped ESCP	06/07/2018
	2018/416532	Stamped Stormwater Plan (Basement)	06/07/2018
	2018/417325	Notice of Determination	06/07/2018