

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0004
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Responsible Officer:	Rebecca Englund
Land to be developed (Address):	Lot 2 DP 1248056, 25 - 27 Warriewood Road WARRIEWOOD NSW 2102
Proposed Development:	Modification of Development Consent DA2020/0579 granted for construction of a Residential Flat Building, semi-detached dwelling, dwelling house and Community Title Subdivision, including internal private road
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	J & G Knowles & Associates Pty Ltd
Applicant:	J & G Knowles & Associates Pty Ltd

Application Lodged:	18/01/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	01/02/2021 to 15/02/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.3 Height of buildings: 3%
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The application seeks to modify development consent DA2020/0579, which granted approval for the construction of a residential flat building, semi-detached dwellings, dwelling houses and community title subdivision, including internal private road. The development consent was issued by the Sydney North Planning Panel in November 2020. As the modification application is made pursuant to 4.55(1a) of the EP&A Act, the application does not referral to the Sydney North Planning Panel and may be determined by Council.

The modification seeks consent for the following amendments:

- The inclusion of pergolas to the rear terraces of the dwellings fronting Warriewood Road, with the approved privacy screens increased to the full height of the pergola structure.

- Correction of the nominated RL on the roof of the southern residential flat building (No change in height as scaled).
- An increase to the footprint of the mechanical plant roof platforms.
- Amendments to the bicycle and plant room in the basement to facilitate additional storage area.
- The replacement of the ramp from Lorikeet Grove to steps.
- Minor amendments to approved pathways to individual units.
- Inclusion of necessary utility services.
- Amendment to the staging of the development to remove the requirement for a Subdivision Works Certificate (amendments to Condition 3).
- Amendment to the staging of the development to allow for landscaping on the southern side of Lorikeet Grove to be undertaken in Stage 2, as opposed to Stage 1 (amendment to Condition 3).
- Deletion of Conditions 10 - 14, removing the requirements of a Subdivision Works Certificate.
- Deletion of Condition 18 which requires the basement to be tanked.

The physical changes proposed are demonstrated in amended plans, which are to be incorporated into any modified consent issued.

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 Local Environmental Plan 2014 - 4.3 Height of buildings

SITE DESCRIPTION

Property Description:	Lot 2 DP 1248056 , 25 - 27 Warriewood Road WARRIEWOOD NSW 2102
Detailed Site Description:	The site was formerly a rural residential land holding, containing a single storey dwelling house and horse paddocks. The works approved pursuant to development

application N0611/16 have commenced on site, and construction is ongoing.

The site is burdened by a 5m wide easement for Sydney Water sewer infrastructure and will ultimately be burdened by restrictive covenants requiring the on-going maintenance of water management facilities approved pursuant to development application N0611/16. Furthermore, a restrictive covenant is also to be imposed upon Lot 2 to require a minimum landscaped area calculation of 41% of the total site area to be maintained in perpetuity.

The site experiences a gentle slope from Warriewood Road towards the west (Narrabeen Creek), with a maximum gradient of approximately 10%. Upon completion of the construction works, Warriewood Road will be a two-lane collector street, with on-street parking, underground infrastructure, footpaths and street trees on both sides of the road. Lorikeet Grove will be a local street, accessed from Warriewood Road via a roundabout. Canopy trees will line both sides of Lorikeet Grove, with a shared pathway along the southern / western side of the street to connect with the wider creekline system.

The site is located within 40m of Narrabeen Creek (to the west). Although the site is currently mapped by P21 DCP as being subject to flooding, the site will not be flood prone following the completion of ground works approved pursuant to development application N0611/16.

The site is identified as Buffer Area 1L of the Warriewood Valley Release Area, as shown on the Warriewood Valley Release Area Map of PLEP 2014. Warriewood Valley is currently in transition from rural residential land holdings to medium density residential development.

The eastern side of Warriewood Road is characterised by low-density one and two storey dwellings. A two-three storey seniors housing development is located to the south (on Lot 1 approved pursuant to development application N0611/16). Residential subdivisions have recently been completed to then north, including an internal private road along a portion of the common northern boundary.

Map:



SITE HISTORY

Development Application DA2020/0579 was approved by the Sydney North Planning Panel on 28 October 2020.

The subject modification application was lodged on 18 January 2021. As the modification application was lodged under the provisions of s4.55(1a) of the EP&A Act, the application is not required to be determined by the Sydney North Planning Panel.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15(1A) Assessment

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 proposed modifications to not attribute to any unreasonable impacts upon the natural environment, • The physical changes relate to

Section 4.55(1A) - Other Modifications	Comments
	<p>inconsequential aspects of the proposal, and no not attribute to any unreasonable impacts upon the amenity of the proposed residences or adjoining development, and</p> <ul style="list-style-type: none"> The changes to conditions of consent do not alter the resultant development, just the timing of when works are to occur and the mechanism relied upon for certification.
<p>(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>	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2020/0579 for the following reasons:</p> <ul style="list-style-type: none"> The proposed modifications do not result in a radical change compared to that which was originally approved, The description of the development remains unchanged, with only nominal changes to minor aspects of the approved development, The proposed modifications will result in a development that is essentially and materially the same as that which was originally approved, and The proposed modifications do not alter/impact upon the circumstances relating to the original approval.
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979 and Council's Community Participation Plan.</p>
<p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p>	<p>No submissions were received in relation to this application.</p>

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The risk of contamination and the resultant suitability of the site was addressed by means of a deferred commencement condition in the original consent. No changes are proposed in this regard.
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 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 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>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>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) 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>
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	No submissions were received in relation to this application.

Section 4.15 'Matters for Consideration'	Comments
submissions made in accordance with the EPA Act or EPA Regs	
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.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 01/02/2021 to 15/02/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>Amended Plans have been provided following the initial Landscape Referral comments, and concerns regarding the request to replace lawn areas with paving to the frontages of the Warriewood Road townhomes, refused in commentary, reverts to the approved lawn areas.</p> <p>The application to modify deferred commencement consent DA2020/0579, as assessed by Landscape Referral includes minor amendments to the landscape treatment around the residential flat building, and are detailed as follows:</p> <ul style="list-style-type: none"> • the replacement of the ramp from Lorikeet Grove with steps. • minor amendments to the paths leading to the access point to the ground floor apartments. A straight path has been replaced with a meandering path. • amendment of the stair access to the courtyards of Apartment G.04, G.05, G.06 (northern building) and G.07 and G.08 (southern building) to relocate the access point into the courtyards. • incorporating utility services (gas meters and water/fire booster) into the site planning <p>Landscape Referral raise no objections to the modification application as documented in the Landscape Plan TP01 issue G.</p> <p>Relevant landscape conditions remain as follows: 25. Detailed Landscape Plans, 45. Protection of existing street trees, 48. Landscape completion, and 66. Landscape maintenance.</p>

Internal Referral Body	Comments
	<p>... end of assessment ...</p> <p><i>Previous Referral comments:</i></p> <p><i>The application to modify deferred commencement consent DA2020/0579, as assessed by Landscape Referral includes minor amendments to the landscape treatment around the residential flat building and landscape treatment to the dwellings fronting Warriewood Road, and are detailed as follows:</i></p> <ul style="list-style-type: none"> <i>• the replacement of the ramp from Lorikeet Grove with steps.</i> <i>• minor amendments to the paths leading to the access point to the ground floor apartments. A straight path has been replaced with a meandering path.</i> <i>• amendment of the stair access to the courtyards of Apartment G.04, G.05, G.06 (northern building) and G.07 and G.08 (southern building) to relocate the access point into the courtyards.</i> <i>• amending the landscape treatment to the front courtyards of the dwellings fronting Warriewood Road. This involves replacing the small lawns (which would have been impractical to maintain) with permeable paving.</i> <i>• incorporating utility services (gas meters and water/fire booster) into the site planning and provide compensatory permeable paving to ensure total impermeable areas do not increase from the approved plans.</i> <p><i>In terms of the proposal to replace small lawns with permeable paving, this is unacceptable as the Landscaped Area calculation is impacted as the permeable paved area is not able to support planting under the definition of Landscaped Area which is defined in the Pittwater Local Environmental Plan 2014 as "part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area".</i></p> <p><i>To support the application the proposed lawn areas may be replaced with garden area and planted with vegetation.</i></p>
NECC (Development Engineering)	<p>UPDATED COMMENTS 18/5/2021</p> <p>The proposed amended conditions as detailed by Councils Principal Planner are accepted. No objections to the proposed modification subject to an additional condition.</p> <p>PREVIOUS CONDITIONS</p> <p>The proposed modification has been reviewed and cannot be supported for the following reasons:</p> <p>1) The approved subdivision plan prepared by Survey Plus (ref no</p>

Internal Referral Body	Comments
	<p>18442 Sub 1B) details the proposed creation of 3 Lots (Stage 2B) . The private internal access road is located on Lot 1 (The community Lot) and as such its construction to be facilitated by a subdivision works certificate as required by clause 6.13 of the EP and A act - Requirement for subdivision works certificate. Section 6.1 of the EP&A Act defines “subdivision work” as any physical activity authorised to be carried out in connection with a subdivision under the conditions of a development consent for the subdivision of land. Works include civil works such as sewerage works, roadworks and earthworks in connection with appropriate conditions of consent.</p> <p>2) The deletion of Condition 18 – Tanking of Basement Level is however supported.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>This property is outside of the Flood Planning Area.</p> <p>For comments on Condition 18 for tanking of basement level, refer to Development Engineering comments.</p> <p>The proposed modifications are not considered to increase the flood risk, and there are no flood-related objections.</p>
NECC (Water Management)	<p>No objections to the removal of tanking of the basement.</p>
Traffic Engineer	<p>DETAILS</p> <p>Modification of Development Consent DA2020/0579 granted for the construction of a Residential Flat Building, semi-detached dwelling, dwelling house, and Community Title Subdivision, including internal private road.</p> <p>Modifications that related to traffic are:</p> <ul style="list-style-type: none"> Approved ramp design was undertaken using levels at the mid-point of the proposed driveway, rather than considering the change in grade across the property frontage. This has necessitated modifications to the ramp design by considering the level differences along the boundary line to minimise impacts to the ground floor and basement design. <p>Access:</p> <ul style="list-style-type: none"> Ramp grades on the eastern side (exit lane) exceed those permitted in Clause 3.3a of the Australian / New Zealand Standard for Off-Street Parking AS/NZS 2890.1:2004 that requires 6 metres at 1:20 on approach to the property boundary. This requirement is to ensure that suitable sightlines are provided between drivers exiting the site and pedestrians and/or motor vehicles travelling along the frontage.

Internal Referral Body	Comments
	<p>To improve the visibility to pedestrians, the developer proposes to offset the footpath from the boundary which maximises sight lines to pedestrians.</p> <p>However, to ensure pedestrian safety, Council requires:</p> <ul style="list-style-type: none"> pedestrian sight line triangles to be introduced and maintained on the eastern side of the driveway to improve visibility. 'Watch for Pedestrians' sign to be installed inside the southern boundary alignment before the drivers exit to alert motorists. <p>Conclusion</p> <p>In view of the above, there is no traffic objections to the proposed modifications subject to the conditions below.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the modified proposal is acceptable.

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

Potential land contamination was addressed as part of the development consent, with a deferred commencement condition imposed requiring additional investigation. The modifications proposed in the subject application do not seek to alter this condition, and the additional works do not alter the conclusions of the initial assessment in this regard.

SEPP 65 - Design Quality of Residential Apartment Development

The assessment of DA2020/0579 found that the proposal was consistent with the design principles of SEPP 65 and the objectives of the ADG. Nothing in the subject modification changes the findings of this original assessment with respect to SEPP 65 or the ADG.

SEPP (Building Sustainability Index: BASIX) 2004

An amended BASIX Certificate has been submitted with the modification application. Should the application be approved, a condition can be included to reference the modified certificate.

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
Height of Buildings:	8.5m & 10.5m	8.17m & 10.35m	8.17m & 10.35m	-	Yes
Dwelling Density:	43 - 67 dwellings	43	43	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Detailed Assessment

4.3 Height of buildings

The modification application seeks consent to relocate and enlarge the roof top plant areas of the residential flat building. As a result of both the proposed enlargement and relocation, the screen along the western edge of the plant area now protrudes above the 10.5m building height plane by up to

300mm, to a maximum height of 10.8m.

The height non-compliance does not arise as a result to any change to the maximum RL or height of the screen, but rather due to the shift of the location of the screen in consideration of the pre-existing natural fall of the land. However, given the extent of site disturbance proposed, the pre-existing slope has little consequence upon the visual impact of the resultant development and ultimately, the screen will not appear higher than currently approved as seen from the public domain.

Despite non-compliance with the 10.5m height limit, the proposal maintains consistency with the objectives of the building height development standard, as follows:

- *to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*

Comment: The height non-compliance arises as a result in the downhill shift of the roof plant area as opposed to an increase to the height of the screen itself. The shift does not attribute to a distinctive change to the height or scale of the development, and will maintain the appearance of a 3 storey residential flat building, consistent with the desired character for the Warriewood Valley Locality.

- *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

Comment: The shift to the location of the plant area will not be readily discernible, and does not alter the resultant perceived height and scale of the development. This is particularly relevant noting that building height is calculated with regard to the natural fall of the land, which is to be considerably modified as a result of the approved development.

- *to minimise any overshadowing of neighbouring properties,*

Comment: The roof plant area is centrally located and will not attribute to any additional overshadowing of neighbouring properties.

- *to allow for the reasonable sharing of views,*

Comment: The shift to the location of the plant area and associated screens do not result in any unreasonable impacts upon views.

- *to encourage buildings that are designed to respond sensitively to the natural topography,*

Comment: The proposed shift does not alter the way in which the development as a whole responds to the topography of the land.

- *to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

Comment: The relocation of the plant area will not result in any adverse visual impacts, noting that the proposed modification will not be overly apparent as seen from the public domain.

The modification application is not subject to the provisions of clause 4.6 of PLEP 2014. Rather, Council must be satisfied that the proposed modifications will result in a development that is substantially the same as that which was originally approved. Whilst the approved development was

compliant with the building height development standard, the acceptability of location of the roof top plant area was not hinged upon compliance in this regard. The plant area remains a comparably minor aspect of the development as a whole, and the proposed enlargement and relocation of the plant area does not radically alter the outcome anticipated by the development consent. Amongst other things, DA2020/0579 approved a three storey residential flat building with roof top plant equipment integrated in the roof form, and this outcome is maintained in the subject modification.

Pittwater 21 Development Control Plan

Built Form Controls

The proposed modifications do not alter the built form of the resultant development, and the setbacks and landscape areas approved under DA2020/0579 remain unchanged.

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
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
B5.15 Stormwater	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
C6.5 Utilities, Services and Infrastructure Provision	Yes	Yes
D16.1 Character as viewed from a public place	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.

The modifications proposed are considered individually, as follows:

- The inclusion of pergolas to the rear terraces of the dwellings fronting Warriewood Road, with the approved privacy screens increased to the full height of the pergola structure.

Comment: The pergolas are proposed in relation to the second storey balconies of the dwelling and semi-detached dwellings that present to the internal laneway. The pergolas comprise

100mm louvres fixed at 35 degrees and the screens comprise horizontal battens. The inclusion of these structures does not compromise adherence with any built form controls, or the architectural merit of the development as a whole. The introduction of the light-weight screens and roof structures does not radically alter the approved development, or any circumstances associated with the granting of the original consent. With the exception of reference to the amended plans that demonstrate the pergolas and screens, no other conditions are required in relation to these structures.

- Correction of the nominated RL on the roof of the southern residential flat building (no change in height as scaled).

Comment: The correction of this error does not give rise to any new considerations or amendments to conditions of consent. The correction of an error is consistent with the intent of s4.55 modification applications.

- An increase to the footprint of the mechanical plant roof platforms.

Comment: Whilst the incorporation of roof plant is not preferred, the roof plant areas were approved in the development consent. Further detailing undertaken in the preparation of the obtainment of a construction certificate revealed that the plant area approved was too small. Despite the proposed increase and relocation of the roof plant, the development remains essentially and materially the same as that which was originally approved.

- Amendments to the bicycle and plant room in the basement to facilitate additional storage area.

Comment: The change to the layout of the storage area is inconsequential to any standards or controls.

- The replacement of the ramp from Lorikeet Grove to steps.

Comment: The application has been supported by an amended Access Report, which confirms that an accessible path of travel is maintained to the internal accessway. This is consistent with the location of the disabled visitor parking space, and is supported in this regard. Reference to the amended Access Report is to be incorporated into the modified consent.

- Minor amendments to approved pathways to individual units.

Comment: The changes to individual pathways do not alter the conclusion of the initial assessment report.

- Inclusion of necessary utility services.

Comment: Further detailing undertaken in the preparation of the obtainment of a construction certificate has led to the need for additional services to be detailed. There is no objection to the proposed siting of necessary services, as the location of such services is mandated by relevant standards and the BCA.

- Amendment to the staging of the development to remove the requirement for a Subdivision Works Certificate (amendments to Condition 3).

Comment: The original consent is inconsistent with regard to the staging of the development and whether a subdivision works certificate is required. The Applicant's position that a subdivision works certificate is not required is supported, and as such, modifications to

conditions of consent are required in this regard.

- Amendment to the staging of the development to allow for landscaping on the southern side of Lorikeet Grove to be undertaken in Stage 2, as opposed to Stage 1 (amendment to Condition 3).

Comment: No objection is raised in relation to the timing of landscaping works. Amendments to conditions of consent are recommended to allow these works to be undertaken as part of Stage 2.

- Deletion of Conditions 10 - 14, removing the requirements of a Subdivision Works Certificate.

Comment: A subdivision works certificate is not required in relation to the common property works (the internal accessway, landscaping and stormwater infrastructure) if the works are covered by the construction and occupation certificates for the residential flat building. As this was always the intention of the applicant, conditions 10-14 of the consent can be removed and replaced, where necessary, elsewhere in the consent.

- Deletion of Condition 18 requiring tanking of the basement.

Comment: At the time that the initial consent was granted, it was assumed that the basement would extend below the watertable, and as such, a condition was imposed to require the basement to be tanked. Further geotechnical investigations have been undertaken and the applicant has confirmed that the proposed basement will not extend below the watertable. As such, development engineering have no objection to the deletion of Condition 18.

Upon review by the assessing officer, it was apparent that the proposed modifications would trigger the need for further amendments to conditions, as follows:

- Amendment to Condition 16 'On-site Stormwater Detention Details' to make reference to the modified stormwater plans,
- Amendment to Condition 23 'Construction Certificate Drainage Details' to remove reference to a subdivision works certificate,
- Amendment to Condition 33 'External Finishes' to correctly reference Condition 3 (as opposed to Condition 1), and
- Deletion of Condition 60 'Registration of community title subdivision', as its requirements are inconsistent with the approved and modified staging of the development.

All proposed modifications to the consent were forwarded to the Applicant, who is in agreement with the modifications as referenced in this report.

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. Mod2021/0004 for Modification of Development Consent DA2020/0579 granted for construction of a Residential Flat Building, semi-detached dwelling, dwelling house and Community Title Subdivision, including internal private road on land at Lot 2 DP 1248056,25 - 27 Warriewood Road, WARRIEWOOD, subject to the conditions printed below:

A. Amend Part (e) of Condition No.3 'Approved Plans and Supporting Documentation and Staged Construction and Occupation' to read as follows:

(e) Staged Subdivision, Construction and Occupation

The following conditions refer to the staged subdivision, construction and occupation of the development as detailed in the approved plans, including:

Stage 1

- i. The consolidation of Pt.2 (393.9m²) of DP 1248056 (the small area of land on the southern side of Lorikeet Grove) to be part of Lot 1 of DP 1248056 (the residential care facility lot), to facilitate the creation of future Lot 11 and future Lot 12.

Stage 2

- ii. The construction of the residential flat building (on future Lot 2).
- iii. The construction of the laneway and common open space, associated landscaping and stormwater infrastructure (on future Lot 1).
- iv. The landscaping of the small area of land on the southern side of Lorikeet Grove, excised from Pt.2 (393.9m²) of DP 1248056 in Stage 1.

- v. The Community Title subdivision of Lot 12, to create three lots:
- Lot 1 - Community Association Property containing the laneway, common open space, associated landscaping and stormwater infrastructure.
 - Lot 2 - Containing the residential flat building (the subject of a future strata subdivision)
 - Lot 3 - To contain the dwelling and semi-detached dwellings fronting Warriewood Road.

The Community Title subdivision must not be issued until all physical works required in Stage 2 are complete and an occupation certification has been issued with respect to the construction of the residential flat building on future Lot 2 and the construction of the laneway and common open space, associated landscaping and stormwater infrastructure on Future Lot 1.

Note: The landscaping on the eastern side of the internal accessway is to be completed as part of Stage 3.

Stage 3

- vi. The construction of the dwelling and semi-detached dwellings fronting Warriewood Road.
- vii. All remaining landscaping, including the landscaping to the eastern side of the internal accessway, is to be completed.
- viii. The Community Title subdivision of future Lot 3 into 11 lots. The Community Title Subdivision must not be issued until all works required in Stage 3 are complete and an occupation certificate has been issued with respect to the construction of the dwelling and semi-detached dwellings fronting Warriewood Road.

For the avoidance of doubt, a subdivision works certificate is not required as part of this development consent.

Nothing in this consent prevents the commencement of Stage 3 works prior to the completion of Stage 2 works. However, an occupation certificate for Stage 3 must not be issued prior to the issue of an occupation certificate for Stage 2.

B. Delete Part (f) of Condition No.3 'Approved Plans and Supporting Documentation and Staged Construction and Occupation'.

C. Add Condition No.3A - 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 Approved Plans and Documents listed in Condition 3, as modified by the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-020, revision DA7, Proposed Site Plan	17.12.2020	VIA Architects
DA-021, revision DA7, Site Plan - Northern Boundary	17.12.2020	VIA Architects
DA-052, revision DA6, Site Diagram - Landscape Area	17.12.2020	VIA Architects
DA-052, revision DA6, Site Diagram - Landscape Area	11.12.2020	VIA Architects
DA-100, revision DA12, Proposed Apartment Ground Floor Plan / Dwelling Lower Level Floor Plan	23.04.2021	VIA Architects

DA-101, revision DA9, Proposed Apartment First Floor Plan / Dwelling Mid Level Floor Plan	17.12.2020	VIA Architects
DA-102, revision DA8, Proposed Apartment Second Floor Plan / Dwelling Upper Level Floor Plan	17.12.2020	VIA Architects
DA-104, revision DA8, Proposed Overall Roof Plan	17.12.2020	VIA Architects
DA-105, revision DA11, Overall Floor Plan - Basement	23.04.2021	VIA Architects
DA-200, revision DA6, Proposed Elevations	17.12.2020	VIA Architects
DA-201, revision DA5, Proposed Elevations	17.12.2020	VIA Architects
DA-250, revision DA5, Proposed Sections	14.12.2020	VIA Architects
DA-251, revision DA7, Proposed Sections	28.01.2021	VIA Architects
DA-260, revision DA5, Section Details - Roof Plant & Bi-Fold Shutter	14.12.2020	VIA Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Plans SW200, SW201, SW202, SW300, SW301, SW400, and SW500, all revision E	03.05.2021	SGC Consulting Engineers

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape Plan - Composite Ground, First and Second Floor, revision G	29.04.2021	CDA Design Group Pty Ltd

Subdivision Plans		
Drawing No.	Dated	Prepared By
Proposed Subdivision Plan Sheet 1 of 6, revision D	03.05.2021	Survey Plus
Stage 1 - Facilitating Subdivision, sheet 2 of 6, revision D	03.05.2021	Survey Plus
Stage 1 - Facilitating Subdivision, sheet 3 of 6, revision D	03.05.2021	Survey Plus
Stage 2 - Community Title Subdivision, sheet 4 of 6, revision D	03.05.2021	Survey Plus
Stage 3 - Community Title Subdivision, sheet 5 of 6, revision D	03.05.2021	Survey Plus
Detail Survey Plan, sheet 6 of 6, revision D	03.05.2021	Survey Plus

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate 964173M_03	22 December 2020	Partners Energy Management
Access Performance Solution Report	22 December 2020	3D Access Pty Ltd

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

D. Delete Condition 10 'Surrender of consent'.

E. New Condition 89 ' Surrender of Consent' to read as follows:

Evidence of the surrender of Development Consent DA2018/1826 is to be provided to the Principal Certifying Authority prior to the issuance of the subdivision certificate for Stage 1.

Reason: To ensure the orderly development of the land.

F. Delete Condition 11 'Subdivision Works Certificate'.

G. Delete Condition 12 'Utilities Services'.

H. Delete Condition 13 'Pre-Commencement Dilapidation Report'.

I. New Condition 36A 'Pre-Commencement Dilapidation Report' to read as follows:

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected properties.

The pre-construction/demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the issue of the construction certificate for Stage 2 and the commencement of any works including demolition.

Reason: Protection of public infrastructure.

H. Delete Condition 14 'Traffic Management and Control'.

I. Amend Condition 16 'On-site Stormwater Detention Details' to read as follows:

The Applicant is to submit stormwater drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Warriewood Valley Water Management Specification dated 2001, and generally in accordance with the concept drainage plans **referenced in Condition 3, as modified by Condition 3A**. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to National Professional Engineers Register (NER) or RPENG (Professionals Australia) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for Stage 2 and 3.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

J. Delete Condition 18 'Tanking of Basement Level'.

K. Amend Condition 23 'Construction Certificate Drainage Details' to read as follows:

The applicant is to provide drainage plans including specifications and details showing the site stormwater management to the Accredited Certifier for approval prior to the issue of the construction certificates for Stage 2 and 3. Such details are to be accompanied by a certificate from qualified practicing Civil Engineer with NER or RPENG accreditation, that the stormwater management system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage.

Reason: To ensure appropriate provision for disposal and maintenance stormwater management arising from the development.

L. Amend Condition 33 'External Finishes' to read as follows:

The external finishes of the development are to be consistent with the materials nominated on the approved 'Proposed Elevations' and as shown on the Approved Material Palette referenced in Condition 3 of this consent. For the avoidance of doubt:

- a. "Render Finish – Mid Tone" shall be a grey tone equivalent to or darker than Colorbond "Windspray",
- b. "Render Finish – Dark Grey Tone" shall be a grey tone equivalent to or darker than Colorbond "Basalt",
- c. "Roof Sheeting – Colorbond – Dark Grey" shall be a tone equivalent to Colorbond "Monument".
- d. The lift overruns are to be finished in the same colour as the roof sheeting.
- e. ***The screens surrounding the roof plant areas are to be finished in the same colour as the roof sheeting.***

Details demonstrating compliance with this condition are to be submitted to the Certifying Authority prior to the issue of the construction certificate for Stage 2 and 3.

Reason: To ensure that the visual impact is appropriately minimised.

M. New Condition 36B 'Driveway Detail' to read as follows:

As the driveway ramp to the basement car park does not comply with AS2890.1:2004, the following details are to be incorporated into the construction certificate plans and maintained for the life of the development:

- a. A 2m x 2.5m sight triangle is to be provided on the eastern side of the boundary wall, adjacent to the basement driveway, to improve visibility, and
- b. A 'Watch for Pedestrians' warning sign is to be installed to the western side of the basement driveway to alert motorists leaving the basement of pedestrians.

Evidence of compliance with this condition is to be provided to the Certifying Authority prior to the issue of the construction certificate for Stage 2.

Reason: To maximise pedestrian safety.

N. New Condition 36C 'Submission Roads Act Application for Civil Works in the Public Road' to read as follows:

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. These works include alterations to the existing road drainage network and relocation of the entry drive/vehicle crossing to the private internal laneway. Engineering plans for the new development

works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of drainage and driveway entrance works which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information: The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the any Construction Certificate for Stage 2.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

O. Delete Condition 60 'Registration of community title subdivision'.

P. New Condition 76A ' Stage 1 Completion' to read as follows:

Evidence of the completion of Stage 1 is to be provided to the Principal Certifying Authority prior to the issue of the occupation certificate for Stage 2.

Reason: To ensure that Stage 1 works are completed in an orderly time frame.

Q. New Condition 79A 'Sightlines' to read as follows:

The safe sight lines and signage required by this consent in relation to the basement driveway are to be maintained for the life of the development. The relevant Community Association or Owners Corporation is to ensure that landscaping is maintained to ensure clear sight lines when entering and exiting the basement.

Reason: To maximise pedestrian safety.

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

Signed



Rebecca Englund, Principal Planner

The application is determined on 20/05/2021, under the delegated authority of:



Anna Williams, Manager Development Assessments