

## SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PAN-323210
<b>DA Number</b>	Mod2023/0201
<b>LGA</b>	Northern Beaches
<b>Proposed Development</b>	Modification of Development Consent N0440/15 granted for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping.
<b>Street Address</b>	Lot 1 DP 5055, 8 Forest Road WARRIEWOOD NSW 2102
<b>Applicant/Owner</b>	The Trustee for Forest Road Unit Trust Jubilee Developments Pty Ltd 8 Forest Road Pty Ltd
<b>Date of DA lodgement</b>	12/05/2023
<b>Number of Submissions</b>	1
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	Section 4.56 Modification Application to a Regionally Significant Development pursuant to Schedule 7 Clause 2
<b>List of all relevant s4.15(1) (a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979;</li> <li>• Environmental Planning and Assessment Regulations 2021;</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;</li> <li>• State Environmental Planning Policy 65 (Design Quality of Residential Apartment Development);</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021;</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021;</li> <li>• Pittwater Local Environmental Plan 2014;</li> <li>• Pittwater 21 Development Control Plan 2014;</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Architectural Plans</li> <li>• Landscape Plans</li> <li>• Thermal Comfort and BASIX Assessment (Issue. E)</li> </ul>
<b>Clause 4.6 requests</b>	Nil (See discussions below)
<b>Summary of key submissions</b>	<ul style="list-style-type: none"> <li>• Traffic</li> </ul>
<b>Report prepared by</b>	Maxwell Duncan, Principal Planner
<b>Responsible officer</b>	Maxwell Duncan, Principal Planner
<b>Report date</b>	23 August 2023

**Summary of s4.15 matters**

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **YES**

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**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **YES**

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**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **NO**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)? Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions **N/A**

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**Conditions**

Have draft conditions been provided to the applicant for comment? Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report **YES**

## EXECUTIVE SUMMARY

This Section 4.56 Modification Application is referred to the Sydney North Planning Panel ('SNPP') for determination as it is a modification to a regionally significant development pursuant to the Schedule 6 Clause 2 of the *State Environmental Planning Policy (Planning Systems) 2021*.

The application seeks to modify Development Consent No. N0440/15 granted by the Land and Environment Court for subdivision and the construction of 81 dwellings with associated landscaping and civil works.

The modifications proposed under this application generally relate to new decks in front setbacks, new fencing and minor internal and external alterations to the approved townhouses and residential flat buildings. There are no changes to the approved number of dwellings on the site.

The exhibition of the proposal attracted one (1) submission, which raised concerns with regards to traffic.

The modified development is substantially the same as the approved development and the modifications do not materially impact the amenity of surrounding properties, alter the approved design or impact on the natural environment.

On balance, the assessment of the application finds that the proposal is satisfactory, and it is recommended that the SNPP, as the consent authority, grant **approval** to the modification application, subject to conditions reducing the height of fencing to the residential flat building, scale of the proposed decking and general biodiversity conditions.

## PROPOSED DEVELOPMENT IN DETAIL

The modification application lodged pursuant to Section 4.56 of the EP&A Act seeks to modify the approval issued under development consent No. N0440/15.

The modifications proposed include:

- ♦ 1.8m fencing to the private open space for ground floor dwellings;
  - Amendment to the approved schedule of finishes and colours for the residential flat buildings and townhouses.
  - Addition of side sliding door to the ground floor of townhouse 6
  - Addition of backyard doors on townhouse 4,6,9 and 10
  - Internal alterations - Master bedroom flipper with wardrobe and ensuite on townhouse 2 - 13 Townhouses front yard altered from lawn to deck.

The fencing proposed in the modification application would require existing Condition No. 41 to be amended, to allow for fencing for all townhouses and ground floor dwellings of the residential flat buildings. The existing Condition reads as follows:

### **B41.**

*With the exception of 1.8m high timber fencing separating two immediately adjacent areas of private open space and between townhouses 5-6 and 9-10, fencing is not permitted on the site. Hedging plants may be used in lieu of fencing where visual privacy is required. In particular, the following areas*

*of fencing are to be removed from the plans:*

- a. Im high palisade fencing along the northern side of Townhouse 1: and*
- b. The 1.8m high lapped and capped timber fence separating ground floor areas of private open space and the fire access road.*

## **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 S4.15 Assessment  
Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings  
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks  
Pittwater 21 Development Control Plan - A4.14 Warriewood Locality  
Pittwater 21 Development Control Plan - C1.1 Landscaping  
Pittwater 21 Development Control Plan - D16.12 Fences

## **SITE DESCRIPTION**

<b>Property Description:</b>	Lot 1 DP 505, 8 Forest Road WARRIEWOOD NSW 2102
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**Detailed Site Description:**

The subject site is Lot 1 in Deposited Plan 5055, and is known as No. 8 Forest Road, Warriewood. Narrabeen Creek runs along the northern boundary of the site, creating a slightly irregular rectangular shaped allotment, with a total area of 5.678 hectares.

The site is subject to a split zoning; with 2.855 Hectares zoned R3 Medium Density (R3) and the remaining 2.823 Hectares zoned RU2 Rural Landscape (RU2) of Pittwater Local Environmental Plan 2014. The division between the zones is irregular, dissecting the 324.48m long western boundary at a distance of approximately 231m from the south-western corner of the site and the 275.20m long eastern boundary at a distance of approximately 70m from the south-eastern corner of the site.

The zone boundary is consistent with the boundary of the Warriewood Valley Release Area, and the R3 zoned portion of the site forms part of "Sector 501" of the Warriewood Valley Release Area, as shown on the Warriewood Valley Release Area Map of PLEP 2014. The portion of the site zoned RU2 is not within the Warriewood Valley Release Area.

The R3 zoned portion of the site previously contained multiple outbuildings and dilapidated glass houses, which have since been demolished under a separate CDC. An existing dwelling straddles the zone and Land Release boundary but is primarily situated on R3 zoned land. In the image below, the cleared portion of land to the north of the site is the developable area subject to this application.

The RU2 zoned portion of the site is heavily landscaped and free of development.

Access is currently gained from the north-eastern corner of the site, via a roadway that was constructed within the Jubilee Road public road reserve by the owners of the adjoining Community Title residential estate to the east (previously known as 6 Forest Road). With the exception of this one existing residential estate to the east and a portion of RU2 zoned land to the north, Jubilee Avenue is characterised by industrial and business park development, including warehouses, offices, wholesalers, and a number of childcare centres.

An unmade public road reserve (Boundary Street) adjoins the western property boundary, with large vegetated parcels of E2 Environmental Conservation (E2) zoned land to the

west and south-west. Mater Maria Catholic School is situated to the south, separated from the site by an unmade public road reserve (Forest Road). No. 4 Forest Road, an undeveloped R3 zoned allotment, adjoins the south-eastern portion of the Site, forming the remainder of Sector 501 of the Warriewood Valley Release Area, as shown on the Warriewood Valley Release Area Map of PLEP 2014. The remainder of properties along Forest Road comprise medium density residential development.

Map:



## SITE HISTORY

### HISTORY AND BACKGROUND OF APPLICATIONS

- **Development Application N0440/15** - for the subdivision of land into four (4) lots and construction of a residential development incorporating 81 dwellings and associated civil works and landscaping.

Approved by the Land and Environment Court of NSW on 03 May 2017. That application included the retention of the existing *Oaklands* dwelling and construction of 14 townhouses and 66 apartments across four (4) residential flat buildings, over basement car parking for 190 vehicles. The consent also requires the dedicated of half a hectare of creekline corridor to be dedicated to Council.

- **Modification Application N0440/15/S96/1** - to modify the approved development consent. Approved by Council on 09 April 2018.

**Modification Application MOD2018/0019** - to modify the approved development consent by way of providing a staged construction of the approved development, and the release of the Torrens Title subdivision prior to the finalisation and Strata Subdivision of individual dwellings. The application also included physical works; however they were removed during the course of the assessment and did not form part of the approval as modified.

The application was approved on 10 June 2018 and of note, as detailed later in this report, introduced Condition nos. 1A, B72, B73, B74, B75, C9, E18, E19, F4 and F5 to the overall consent, whilst deleting Condition nos. F1, F2 and F3.

- **Modification Application MOD2018/0566** - to modify the design of the 14 approved town houses by deleting the third-floor loft space from each dwelling and modifying the roof. Approved by Council on 13 December 2018.
- **Modification Application MOD2021/0816** - to reverse the staging elements approved under MOD2018/0019 and remove conditions under that consent. The application also sought to modify conditions to permit multiple Occupation Certificates to be issued, rather than a singular Occupation Certificate as required under the parent consent. Approved by the Sydney North Planning Panel on 24 February 2022.
- **Modification Application MOD2022/0070** - this application was approved by the Sydney North Planning Panel on 22 September 2022. The modifications approved include:
  - The re-introduction of a loft level, previously approved but subsequently deleted from the fourteen townhouses.
  - Internal reconfiguration of apartments and increasing seven apartments from one to two bedrooms, and six apartments from two to three bedrooms.
  - Changes and detailing to all building facades to facilitate internal changes, and to enhance balcony spaces.
  - Addition of air-conditioning units on the roof of the flat buildings.
  - Amendment to the basement layout including improved circulation.

An aerial photograph shows the commencement of development on the site, dated June 2023 and from *Nearmap*:



**Figure 1 - Aerial Image of Subject Site (outlined in bold orange)**

### **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 N0440/15, 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 4.56- 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	<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 N0440/15.</p> <ul style="list-style-type: none"> <li>• The modified development remains consistent with the original approval in terms of use and density of development.</li> <li>• The proposed development is maintained within the footprint of the original consent.</li> <li>• The bulk and scale of the development remain largely the same and the visually is not significantly altered from the original approval when viewed from the street and adjoining properties.</li> </ul>
(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	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.</p>
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed	<p>Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of N0440/15.</p>

Section 4.56- Other Modifications	Comments
modification by sending written notice to the last address known to the consent authority of the objector or other person, and	
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on “Notification & Submissions Received” in this report.

### Section 4.15 Assessment

In accordance with Section 4.56 of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(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>Part 4, Division 2 of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p>Clause 29 of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>Clauses 36 and 94 of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to BCA compliance.</p> <p>Clause 61 of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p>Clauses 62 and/or 64 of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p>Clause 69 of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
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) 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) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) 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 submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” 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.

## BUSHFIRE PRONE LAND

The subject site is mapped as being bushfire prone land. A letter was provided with the application by the applicant’s bushfire consultant which states that:

*"Amendments to the façade will continue to meet Construction Standards AS 3959-2018 following the proposed changes outlined in the Section 4.56 application. All materials will be non-combustible."*

The proposal was also referred to the NSW Rural Fire Service who raised no objections to the

proposed modifications.

Therefore, the recommendations of the bushfire reports and conditions contained in the parent consent remain valid and unchanged by this application.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 23/05/2023 to 20/06/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Anthony Rex Boulton	3 Catalina Crescent AVALON BEACH NSW 2107

The following issues were raised in the submissions and are addressed as follows:

- **Traffic**

The submissions raised concerns about existing traffic issues through Daydream Street and Forest Road.

Comment:

The proposed works under this modification application are minor and will not alter the traffic impacts of the approved development. Notwithstanding, it is noted that conditions were imposed on the original consent in relation to the management of construction related traffic.

## REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p><b>Supported, subject to conditions</b></p> <p>The proposal seeks approval for Modification of Development Consent N0440/15 grant subdivision of land and the construction of a residential development incorporating 81 d associated civil works and landscaping.</p> <p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> <li>• Planning for Bushfire Protection 2019</li> <li>• Biosecurity Act 2015</li> <li>• Pittwater LEP 2014 - Part 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP - Clause B4.18 Heathland/Woodland Vegetation</li> </ul> <p>The proposal has been submitted with amended landscape plans that will need to be a inclusion of declared weeds under the Biosecurity Act 2015. No other objections are raised.</p>
NECC (Development Engineering)	<p><b>Supported, without conditions</b></p> <p>The proposed modifications do not sufficiently impact on engineering matters to warrant amended development engineering conditions.</p>

NECC (Flooding)	<b>Supported, without conditions</b> No objections to approval.		
NECC (Riparian Lands and Creeks)	<b>Supported, without conditions</b> The modifications do not result in additional impacts on waterways and riparian lands. No objections are raised with no additional conditions required.		
Strategic and Place Planning (Heritage Officer)	<b>Supported, without conditions</b> HERITAGE COMMENTS		
	Discussion of reason for referral		
	The proposal has been referred to Heritage as the existing dwelling 'Oaklands' on the property was noted as being of potential heritage significance		
	Details of heritage items affected		
	The dwelling is a large single storey bungalow style building that is the former farmhouse for the property and is likely to have been constructed in the early 20th century. It is located at the western end of the property on a benched and elevated terrace. This terrace is constructed from sandstone quarried from the site which have then been placed above a natural rock outcrop.		
	Other relevant heritage listings		
	SEPP (Biodiversity and Conservation) 2021	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
Consideration of Application			
The proposal seeks consent to modify the townhouses, external facades and finishes and add a fence.			
The proposal retains Oaklands and the changes are considered to not impact upon the house of its significance.			
Therefore Heritage raises no objections and requires no conditions.			
Consider against the provisions of CL5.10 of PLEP.			
Is a Conservation Management Plan (CMP) Required? No			
Has a CMP been provided? No			
Is a Heritage Impact Statement required? No			
Has a Heritage Impact Statement been provided? No			

Internal Referral Body	Comments
Strategic and Place Planning (Urban Design)	<p><b>Supported, without conditions</b></p> <p>The application seeks consent to modify a Land &amp; Environment granted consent for a residential development comprising of 81 dwellings and associated civil works and landscaping on Lot 1, DP5055, No. 8 Forest Road, Warriewood.</p> <p>The application seeks consent for the following modifications:</p> <ul style="list-style-type: none"> <li>· Changes to the façade finishes and layout.</li> <li>· Addition of 1.8m palisade fences on sandstone clad plinths to the ground-floor private open space of dwellings.</li> <li>· The addition of a sliding door on the ground floor of Townhouse 6.</li> <li>· The addition of a back-yard door on Townhouse 4, 6, 9, and 10.</li> <li>· Flipping the plan of the Master Bedroom, with wardrobe &amp; en-suite, for Townhouse</li> <li>· The front-yard of all townhouses changed from lawn to decking material.</li> </ul> <p>Urban Design raise no objection to the proposed modifications.</p> <p><b>Please note:</b> Regarding any view impacts and any impacts on solar amenity and overs matters will be dealt with under the evaluation of Councils Planning Officer. Any impacts regarding heritage will be dealt with under the evaluation of Councils Heritage Officers, non-compliances will be dealt with under the evaluation of Councils Landscape Officers resulting from the modifications will be dealt with under the evaluation of Councils Engineers.</p>
Strategic and Place Planning (Development Contributions)	<p><b>Supported, without conditions</b></p> <p>On 12 May 2023, Strategic and Place Planning received a referral request for application (Mod2023/0201) seeking to modify Development Consent N0440/15 that was granted for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping.</p> <p><b>SUBJECT SITE:</b></p> <p>The subject site comprises 8 Forest Road Warriewood (Lot 1 DP 5055). The subject site is regular in shape and has a boundary on Forest Road, Boundary Street and the creek line corridor. The subject site is zoned R3 Medium Density Residential and RU2 Rural Landscape under the Pittwater LEP 201</p>

Internal Referral Body	Comments
	<p><b>Chronology:</b>  On 3 May 2017, Land and Environment Court issued a consent on N0440/15 for the co residential development, comprising 81 dwellings at 8 Forest Road, Warriewood. Condition 9 of the consent required a payment of monetary contribution of \$4,719,660.63 and dedication of 5,895mprior to the issue of any Construction Certificate or Subdivision Certificate. At the time of determination Warriewood Valley Section 94 Contributions Plan (Plan No 15) applied.</p> <p>On 9 April 2018 Council modified consent N0440/15 as the development is to be Completed in stages, namely:</p> <p>Stage 1A:</p> <ul style="list-style-type: none"> <li>(a) All works within the Jubilee Road public road reserve</li> <li>(b) All rehabilitation works, stormwater management infrastructure and landscaping with in the inner creekline corridor to be dedicated to Council,</li> </ul> <p>The temporary construction of the 8m wide driveway access and the Fire Access Road in a pervious material,</p> <ul style="list-style-type: none"> <li>(d) The establishment of all necessary APZs,</li> <li>(e) The provision of all services, including water, sewer, electricity, communications and stormwater, to Lots 2, 3 and 4,</li> </ul> <p>The construction of the garage on Lot 3 or the construction of hardstand parking area in the location of the proposed garage,</p> <ul style="list-style-type: none"> <li>(g) Necessary fire protection upgrades to the existing dwelling on Lot 3, and</li> <li>(h) The erection of site protection fencing and sedimentation management measures around the perimeter of Lot 2.</li> </ul> <p>Stage 1B:</p> <ul style="list-style-type: none"> <li>(a) The completion of all outstanding works with the exception of the works outlined to occur in Stage 2, below.</li> <li>(b) A temporary bollard is to be placed at the entrance (eastern end) of the 5.5m wide private access road to restrict vehicular access until Stage 2 is completed, and</li> <li>(c) Partial Strata subdivision limited to the Stage 1B works.</li> </ul> <p>Stage 2:</p> <ul style="list-style-type: none"> <li>(a) The construction of Buildings C and D, and the landscaping around the perimeter of Buildings C and D in the area marked on the Approved Staging Plans,</li> <li>(b) The construction of the associated basement below Buildings C and D, as shown on shown on the Approved Staging Plans,</li> <li>(c) "Stage 2" water management infrastructure, as nominated in the Stage 1 Stormwater Drainage Plan referenced in this consent.</li> <li>(d) The temporary bollard at the entrance (eastern end) of the 5.5m wide private access road is to be removed, and</li> <li>(e) Partial Strata Subdivision limited to the Stage 2 works.</li> </ul> <p>As a result of the development being staged, Condition 9 was changed to read as follows:</p> <p><i>A monetary contribution of \$4,724,933.82 (subject to (a) below) and dedication of 5,796 square metres of creek line land is to be made to Council for the provision of public infrastructure and services pursuant to Section 94 of the Environmental Planning and Assessment Act 1979.</i></p>



1. *The monetary contribution will be adjusted at the time of payment in accordance with the latest Consumer Price Index as published quarterly by the Australian Bureau of Statistics as outlined in Council's Warriewood Valley Section 94 Contributions Plan (Amendment 16 Revision 2). The monetary contribution is to be paid prior to issue of the first Construction Certificate.*

2. *The Applicant is required to dedicate to Northern Beaches Council a total of 5,796 Square metres of land for the provision of multi-functional creek line corridor facilities, identified as Lot 1 on the Plan of Subdivision titled 'Proposed Subdivision of Lot 1 DP 5055', Sheet No.1 of 1, reference 15/99, prepared by Pulver Cooper & Blackley, dated 21 March 2018 (by Council). The dedication is to take place by way of Torrens Title subdivision following the completion of Stage 1A works. Evidence that the Deposited Plan has been registered with NSW Land and Property Information shall be provided to Council prior to Occupation Certificate for the dwellings.*

3. *The Applicant may negotiate with Council for the direct provision of facilities and services in lieu of the monetary contribution above (or any portion of that contribution) through a Material Public Benefit offer to Council in accordance with the Warriewood Valley Section 94 Contributions Plan (Amendment 16 Revision 2). Any Material Public Benefit agreement between the Applicant and Council must be finalized, formally signed and in place prior to payment of the monetary contribution being made. The Warriewood Valley Section 94 Contributions Plan (Plan No. 15) may be inspected at Northern Beaches Council's Mona Vale Office, 1 Park Street Mona Vale or Council's website <http://www.northernbeaches.nsw.gov.au/>*

On 2 March 2022, Council modified the consent (Mod2021/0816) removing the staging of works. Condition 9 now reads as follows:

*The applicant must pay a total development contribution to Council equivalent to \$5,034,382.26 in accordance with the Warriewood Valley Contributions Plan (as amended). This contribution is comprised of:*

*a) A monetary contribution of \$4,724,933.82 and*

*b) Dedication of 5,796sqm of creekline corridor land, shown as Lot 1 on plan titled 'Proposed Subdivision of Lot 1 DP 5055', Sheet No.1 of 1, reference 15/99, prepared by Pulver Cooper & Blackle 2018 (by Council).*

*The monetary contribution must be paid prior to the issue of any Construction Certificate, whichever occurs first. The monetary contribution includes a \$309,448.44 discount for the dedication of creekline corridor land. The monetary contribution will be adjusted at the time the payment is made, in accordance with the provisions of the Warriewood Valley Contributions Plan (as amended).*

*The dedication of creekline corridor land is to occur by way of subdivision and must NOT occur until all approved works within this land have been completed. The dedication must occur prior to the release of any Occupation Certificate.*





Internal Referral Body	Comments
	<p><i>The Applicant may negotiate with Council for the direct provision of other facilities and services, and/or the dedication of land (other than land identified above) in lieu of the monetary contribution above (or any portion of that monetary contribution) or the deferral of payments through a Material Public Benefit Agreement between Council and the Applicant in accordance with the Warriewood Valley Development Contributions Plan (as amended). The agreement for Material Public Benefit between the Applicant and Council must be finalised, formally signed and in place prior to the payment of the monetary contribution.</i></p> <p><i>A copy of the development contributions plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website.</i></p> <p><i>On 14 April 2022, the development contribution was paid to and receipted by Council, for the adjusted amount of \$5,162,191.85.</i></p> <p><i>On 19 April 2022, Metropolitan building approvals issued a Construction Certificate for works under consent N0440/15 as modified and works commenced on site.</i></p> <p><i>There is a legal precedent (Ku-ring-gai Council v Buyozo Pty Ltd [2021] NSWCA177) that restricts Council changing the contribution condition when:</i></p> <ul style="list-style-type: none"><li>a) the development contribution has been paid to Council in full, and</li><li>b) construction has formally commenced on site.</li></ul> <p>Accordingly, the obligation to pay development contributions generated by the approved development on this site is complete.</p> <p><b>RECOMMENDATION</b></p> <p>A. This application to modify consent N0440/15 does not result in changes to Condition 9 in regard to the development contribution payable to Council.</p> <p>This modification application is supported without conditions.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<b>Supported, without conditions</b> The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Integrated Development - Rural Fire Service - Rural Fires Act, s100B - Subdivisions and Special Fire Protection Purposes	<b>Supported, without conditions</b> This response is to be deemed a Bush Fire Safety Authority as required under section 100B of the Rural Fires Act 1997. The NSW Rural Fire Service has reviewed the provided information and raises no objections to the proposed modifications, subject to compliance with the previous Bush Fire Safety Authority dated 21 January 2022.
Nominated Integrated Development - Department of Planning and Environment - Water - Water Management Act 2000, s91 - Controlled Activity Approval for works within 40m of watercourse	<b>Supported, without conditions</b> The Department of Planning and Environment—Water has reviewed documents for the above application to modify a DA Consent and considers that, for the purposes of the Water Management Act 2000 (WM Act), previously issued General Terms of Approval are adequate, remain current, and no further assessment by this agency is necessary.

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

### State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

#### SEPP 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed-use development with a residential accommodation component if:

(a) the development consists of any of the following:

- (i) the erection of a new building,
- (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
- (iii) the conversion of an existing building, and

- (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and
- (c) the building concerned contains at least 4 or more dwellings.

As previously outlined the proposed development is for the erection of four residential flat buildings and one block of terrace dwellings atop a level of basement car parking for the provisions of 81 self-contained dwellings.

As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

As previously outlined within this report Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a Design Verification Certificate from the building designer at lodgement of the development application. This documentation has been submitted.

Clause 28 of SEPP 65 requires:

(2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

- (a) the advice (if any) obtained from the design review panel, and
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the Apartment Design Guide.

## DESIGN REVIEW PANEL

Northern Beaches Council does not have an appointed Design Review Panel, rather a Design and Sustainability Advisory Panel. Given the minor nature of the modifications the application was not referred to the panel.

## DESIGN QUALITY PRINCIPLES

### Principle 1: Context and Neighbourhood Character

***Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.***

***Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.***

#### Comment:

The proposed modifications maintain consistency with the general character of the neighbourhood.

### Principle 2: Built Form and Scale

***Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.***

***Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.***

Comment:

The modifications do not materially change the scale, bulk and height of the development and the buildings therefore remain consistent with Principle 2.

**Principle 3: Density**

***Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.***

***Appropriate densities are consistent with the area's existing or projected population.***

***Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.***

Comment:

The modifications do not propose to change the approved density. Therefore Principle 3 is achieved.

**Principle 4: Sustainability**

***Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.***

Comment:

The proposed modifications do not materially change the sustainability credentials of the development.

**Principle 5: Landscape**

***Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.***

***Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.***

Comment:

The works remain consistent with Principle 5. A revised landscape plan has been provided to

accompany this application.

#### **Principle 6: Amenity**

***Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.***

***Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.***

#### Comment:

The modifications (fencing) will enhance both the internal and external amenity for residents and neighbours.

#### **Principle 7: Safety**

***Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.***

***A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.***

#### Comment:

The development maintains an appropriate degree of safety.

#### **Principle 8: Housing Diversity and Social Interaction**

***Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.***

***Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.***

#### Comment:

The modifications do not alter apartment sizes in the approved development.

#### **Principle 9: Aesthetics**

***Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.***

***The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.***

Comment:

The development as modified makes minor changes to the external façade of the residential flat building. The changes generally improve the aesthetic of the development.

**APARTMENT DESIGN GUIDE**

The following table is an assessment against the criteria of the 'Apartment Design Guide' as required by SEPP 65.

<b>Development Control</b>	<b>Criteria / Guideline</b>	<b>Comments</b>
<b>Part 3 Siting the Development</b>		
<b>Site Analysis</b>	Does the development relate well to its context and is it sited appropriately?	<b>Consistent</b>
<b>Orientation</b>	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	<b>No changes from approved development</b>
<b>Public Domain Interface</b>	Does the development transition well between the private and public domain without compromising safety and security?  Is the amenity of the public domain retained and enhanced?	<b>No changes from approved development</b>
<b>Communal and Public Open Space</b>	Appropriate communal open space is to be provided as follows:  1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter)	<b>No changes from approved development</b>

<p><b>Deep Soil Zones</b></p>	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="451 365 1072 954"> <thead> <tr> <th>Site area</th> <th>Minimum dimensions</th> <th>Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m<sup>2</sup></td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m<sup>2</sup> – 1,500m<sup>2</sup></td> <td>3m</td> </tr> <tr> <td>Greater than 1,500m<sup>2</sup></td> <td>6m</td> </tr> <tr> <td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m <sup>2</sup>	-	7%	650m <sup>2</sup> – 1,500m <sup>2</sup>	3m	Greater than 1,500m <sup>2</sup>	6m	Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	<p><b>No changes from approved development</b> The site retains a deep soil zone of approximately 60% of the site.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)												
Less than 650m <sup>2</sup>	-	7%												
650m <sup>2</sup> – 1,500m <sup>2</sup>	3m													
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<p><b>Visual Privacy</b></p>	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="443 1144 1086 1554"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Up to 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> <p><b>Note:</b> Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Up to 25m (9+ storeys)	12m	6m	<p><b>No changes from approved development</b></p>
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<p><b>Pedestrian Access and entries</b></p>	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p><b>No changes from approved development</b></p>
<p><b>Vehicle Access</b></p>	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p><b>No changes from approved development</b></p>
<p><b>Bicycle and Car Parking</b></p>	<p>For development in the following locations:</p> <ul style="list-style-type: none"> <li>• On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>• On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p><b>No changes from approved development</b></p>
<p><b>Part 4 Designing the Building</b></p>		
<p><b>Amenity</b></p>		
<p><b>Solar and Daylight Access</b></p>	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <p>Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.</p>	<p><b>No changes from approved development</b></p>



	<ul style="list-style-type: none"> <li>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.</li> </ul>	<b>No changes from approved development</b>													
<b>Natural Ventilation</b>	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"> <li>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</li> </ul>	<b>No changes from approved development</b>													
	<ul style="list-style-type: none"> <li>Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.</li> </ul>	<b>No changes from approved development</b>													
<b>Ceiling Heights</b>	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="443 1176 1066 1765"> <thead> <tr> <th colspan="2"><b>Minimum ceiling height</b></th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td rowspan="2">For 2 storey apartments</td> <td>2.7m for main living area floor</td> </tr> <tr> <td>2.4m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td>If located in mixed used areas</td> <td>3.3m for ground and first floor to promote future flexibility of use</td> </tr> </tbody> </table>	<b>Minimum ceiling height</b>		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor	2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	<p><b>No changes from approved development</b></p> <p>All apartments / townhouses achieve a satisfactory floor to ceiling height.</p>
	<b>Minimum ceiling height</b>														
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Non-habitable	2.4m														
For 2 storey apartments	2.7m for main living area floor														
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If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use														

<b>Apartment Size and Layout</b>	<p>Apartments are required to have the following minimum internal areas:</p> <table border="1" data-bbox="453 371 1074 640"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m<sup>2</sup></td> </tr> <tr> <td>1 bedroom</td> <td>50m<sup>2</sup></td> </tr> <tr> <td>2 bedroom</td> <td>70m<sup>2</sup></td> </tr> <tr> <td>3 bedroom</td> <td>90m<sup>2</sup></td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	<b>No changes from approved development</b>
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	3 bedroom	90m <sup>2</sup>										
	<p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	<b>No changes from approved development</b>										
	<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p>	<b>No changes from approved development</b>										
	<p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	<b>No changes from approved development</b>										
	<p>Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).</p>	<b>No changes from approved development</b>										
<p>Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.</p>	<b>No changes from approved development</b>											
<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul>	<b>No changes from approved development</b>											
<p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<b>No changes from approved development</b>											
<b>Private Open Space and Balconies</b>	<p>All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="453 2029 1074 2107"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Dwelling Type	Minimum Area	Minimum Depth				<b>No changes from approved development</b>				
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Studio apartments	4m <sup>2</sup>	-												
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3+ bedroom apartments	12m <sup>2</sup>	2.4m												
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.	<b>No changes from approved development</b>												
<b>Common Circulation and Spaces</b>	The maximum number of apartments off a circulation core on a single level is eight.	<b>No changes from approved development</b>												
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	<b>N/A</b>												
<b>Storage</b>	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	<b>No changes from approved development</b>												
	<table border="1"> <thead> <tr> <th>Dwelling Type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m<sup>2</sup></td> </tr> <tr> <td>1 bedroom apartments</td> <td>6m<sup>2</sup></td> </tr> <tr> <td>2 bedroom apartments</td> <td>8m<sup>2</sup></td> </tr> <tr> <td>3+ bedroom apartments</td> <td>10m<sup>2</sup></td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>		Dwelling Type	Storage size volume	Studio apartments	4m <sup>2</sup>	1 bedroom apartments	6m <sup>2</sup>	2 bedroom apartments	8m <sup>2</sup>	3+ bedroom apartments	10m <sup>2</sup>		
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2 bedroom apartments	8m <sup>2</sup>													
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<b>Acoustic Privacy</b>	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	<b>No changes from approved development</b>												
<b>Noise and Pollution</b>	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	<b>No changes from approved development</b>												
<b>Configuration</b>														
<b>Apartment Mix</b>	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	<b>No changes from approved development</b>												
<b>Ground Floor Apartments</b>	Do the ground floor apartments deliver amenity and safety for their residents?	<b>No changes from approved development</b>												

<b>Facades</b>	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	<b>Consistent</b>  The modifications to the external facade maintain the visual interest from the public realm.																																			
<b>Roof Design</b>	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	<b>No changes from approved development</b>																																			
<b>Landscape Design</b>	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	<b>Consistent</b>  The amended landscape plan responds to the existing site conditions and context of the site.																																			
<b>Planting on Structures</b>	<p>When planting on structures the following are recommended as minimum standards for a range of plant sizes:</p> <table border="1" data-bbox="432 1106 1098 2051"> <thead> <tr> <th>Plant type</th> <th>Definition</th> <th>Soil Volume</th> <th>Soil Depth</th> <th>Soil Area</th> </tr> </thead> <tbody> <tr> <td>Large Trees</td> <td>12-18m high, up to 16m crown spread at maturity</td> <td>150m<sup>3</sup></td> <td>1,200mm</td> <td>10m x 10m or equivalent</td> </tr> <tr> <td>Medium Trees</td> <td>8-12m high, up to 8m crown spread at maturity</td> <td>35m<sup>3</sup></td> <td>1,000mm</td> <td>6m x 6m or equivalent</td> </tr> <tr> <td>Small trees</td> <td>6-8m high, up to 4m crown spread at maturity</td> <td>9m<sup>3</sup></td> <td>800mm</td> <td>3.5m x 3.5m or equivalent</td> </tr> <tr> <td>Shrubs</td> <td></td> <td></td> <td>500-600mm</td> <td></td> </tr> <tr> <td>Ground Cover</td> <td></td> <td></td> <td>300-450mm</td> <td></td> </tr> <tr> <td>Turf</td> <td></td> <td></td> <td>200mm</td> <td></td> </tr> </tbody> </table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m <sup>3</sup>	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m <sup>3</sup>	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m <sup>3</sup>	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm		<b>No changes from approved development</b>
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Turf			200mm																																		

<b>Universal Design</b>	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features	<b>No changes from approved development</b>
<b>Adaptable Reuse</b>	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	<b>N/A</b>
<b>Mixed Use</b>	Can the development be accessed through public transport and does it positively contribute to the public domain?  Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.	<b>N/A</b>
<b>Awnings and Signage</b>	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.  Signage must respond to the existing streetscape character and context.	<b>N/A</b>
<b>Performance</b>		
<b>Energy Efficiency</b>	Have the requirements in the BASIX certificate been shown in the submitted plans?	<b>Consistent</b>
<b>Water Management and Conservation</b>	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	<b>No changes from approved development</b>
<b>Waste Management</b>	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	<b>No changes from approved development</b>
<b>Building Maintenance</b>	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	<b>No changes from approved development</b>

## STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT

Clause 30 of SEPP 65 Standards that cannot be used as grounds to refuse development consent or modification of development consent states that:

(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

- (a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,
- (b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,

(c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

**Note.** The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.

Comment:

The modification application is not recommended for refusal on any of these grounds.

(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:

- (a) the design quality principles, and
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.

(3) To remove doubt:

- (a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and
- (b) the design criteria specified in subclause (1) are standards to which clause 4.15 (2) of the Act applies.

**Note.** The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant or modify development consent.

Comment:

This assessment finds that the proposed modifications have given adequate regard to the design quality principles and the objectives of the ADG, and that neither of this form a basis for refusing the application.

**SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. 669006M\_06 dated 24 January 2023).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	35	36

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

## SEPP (Transport and Infrastructure) 2021

### Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).

immediately adjacent to an electricity substation.

within 5.0m of an overhead power line.

- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

### Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

### Transport for NSW (TfNSW)

No increase to density or proposed works to approved access to the site. Therefore, a referral to TfNSW was not required in this instance.

## SEPP (Resilience and Hazards) 2021

### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential and agricultural purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

## Pittwater Local Environmental Plan 2014

Is the development permissible?	Zone RU2: Yes Zone R3 : Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Zone RU2: Yes Zone R3 : Yes

### Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings	10.5m	10.7m	10.6m (Facade amendments)	0.9% (0.1m)	<b>No (see discussion below)</b>

### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

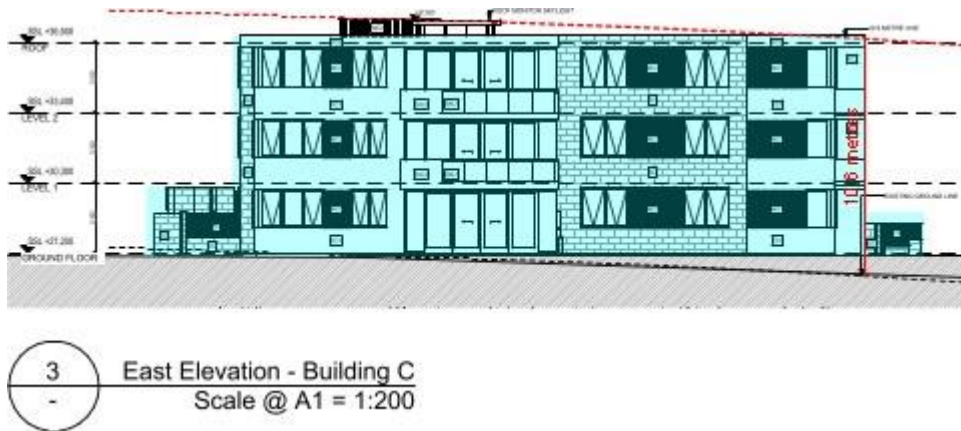
### Detailed Assessment

#### **4.3 Height of buildings**

#### **Description of Non-compliance**

Development standard:	Height of Buildings
Requirement:	10.5m
Approved	10.7m (measured to approved lift overrun)
Proposed:	10.6m (facade alterations)
Percentage variation to requirement:	0.9% (0.1m)





**Figure 2 - Building Height non-compliance**

**Assessment of Request to Vary a Development Standard**

It is noted that the Land and Environment Court approved a variation to the LEP height standard at the time of granting development consent. This application does not seek to alter the overall approved height of the approved development, but it is noted that there are changes proposed to the façade of the building which in itself are higher than the LEP standard.

Notwithstanding that Clause 4.6 does not apply to Section 4.56 modification applications, the merits of the variation have been assessed with regard to the objectives of the height of buildings development standard and the underlying objectives of the R3 Medium Density Residential zone. The assessment has also taken into consideration the relevant tests of the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

**Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case**

Comment:

The objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard (As detailed below). Demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

**There are sufficient environmental planning grounds to justify contravening the development standard**

Comment:

The development promotes good design and amenity of the built environment, noting that the facade alterations will not contribute to any unreasonable impact on amenity considerations (i.e. solar access, privacy and view loss) to neighbouring properties.

**The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.**

4.3 Height of Buildings

(1) The objectives of this clause are as follows—

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

Comment:

The height of building non-compliance under this application is in reference to the proposed external façade alterations to the approved building. The approved height of the existing flat building is not altered.

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

Comment:

The works will allow for an appropriate relationship and spatial separation with surrounding development. The visual bulk of the development as viewed from public open space is not adverse nor unreasonable.

*c) to minimise any overshadowing of neighbouring properties,*

Comment:

There is no change to shadowing proposed under this application as a result of the proposed works.

*d) to allow for the reasonable sharing of views,*

Comment:

The proposed development will not result in unreasonable view loss to and from private and public open spaces.

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

Comment:

The proposed design amendments are sympathetic to the natural topography of the site.

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

Comment:

The alterations do not materially change the bulk, scale or visual impact of the development when viewed from the surrounding environment.

Zone Objectives

The underlying objectives of the R3 Medium Density Residential zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*

Comment:

The proposed modifications will not affect the housing needs within the community.

- *To provide a variety of housing types within a medium density residential environment.*

Comment:

The proposal does not propose to alter the existing dwelling density.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

The proposal is for a residential use and not another use.

- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.*

Comment:

The proposal is for a residential use and not another use.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R3 Medium Density Residential zone.

**Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment**

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Comment:

The subject application is made under Section 4.56 of the EPA Act. As such, Clause 4.6 does not strictly apply and the concurrence of the Secretary is not required to be obtained.

**7.2 Earthworks**

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. No additional earthworks are proposed under this application.

**Pittwater 21 Development Control Plan**

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front Building Line (south, Forest Road)	Articulation zone - 3.0m Garage - 4.5m Building - 4.5m	Approx. 135.0m	No change	Yes
Rear Building Line	(north) 3.0m	Varies - average approx. 48.0m	No change	Yes
Side Building line	(east) 3.0m	min. 9.0m	No change min. 12.5m to reinstated loft level	Yes Yes
	(west) 3.0m	approx. 52.0m	No change	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.14 Warriewood Locality	N/A	N/A
A4.16 Warriewood Valley Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.18 Heathland/Woodland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	No	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C6.1 Integrated Water Cycle Management	Yes	Yes
C6.2 Natural Environment and Landscaping Principles	Yes	Yes
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
C6.5 Utilities, Services and Infrastructure Provision	Yes	Yes
C6.6 Interface to Warriewood Wetlands or non-residential and commercial/industrial development	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.6 Front building lines	Yes	Yes
D16.7 Side and rear building lines	Yes	Yes
D16.8 Spatial Separation	Yes	Yes
D16.9 Solar access	Yes	Yes
D16.10 Private and Communal Open Space Areas	Yes	Yes
D16.11 Form of construction including retaining walls, terracing and undercroft areas	Yes	Yes
D16.12 Fences	No	Yes
D16.13 Building colours and materials	Yes	Yes

## A4.14 Warriewood Locality

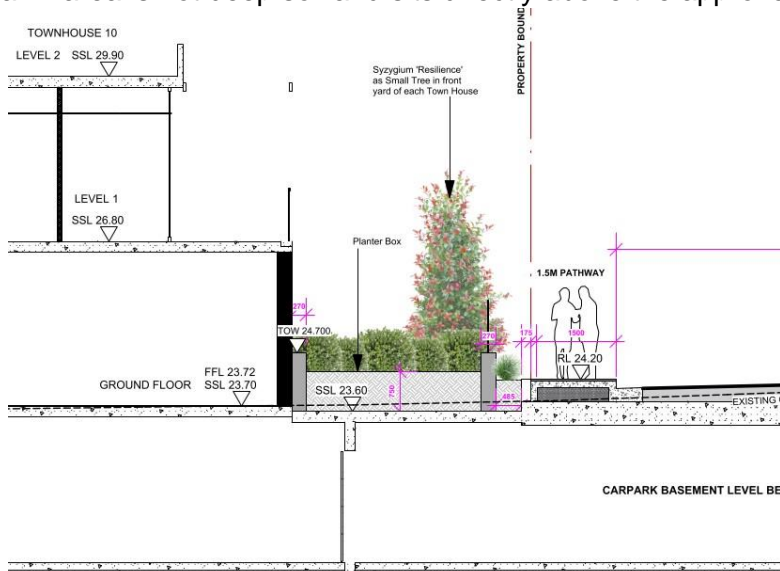
The subject site encompasses both the 'A4.14 Warriewood Locality' and the 'A4.16 Warriewood Valley Locality'.

No physical works associated with the development are proposed within the A4.14 area and therefore an assessment against those Localities controls is not relevant.

## C1.1 Landscaping

### Description of non-compliance

The application proposes to change the approved lawn area to the front of the townhouses to decking. The control, which requires at least 50% of the front setback area to be landscaped while not strictly applicable in this circumstance given that all dwellings are part of one lot, is intended to ensure adequate landscaping to the front of residential development to offset or soften built form. The existing lawn area is not deep soil and sits directly above the approved basement, as pictured below.



**Figure 3 - Section through townhouse 10**

### Merit Consideration

The outcomes of the control require:

- A built form softened and complemented by landscaping. (En)*
- Landscaping reflects the scale and form of development. (En)*
- Retention of canopy trees by encouraging the use of pier and beam footings. (En)*
- Development results in retention of existing native vegetation. (En)*
- Landscaping results in the long-term retention of Pittwater's locally native tree canopy. (En)*
- Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species (En)*
- Landscaping enhances habitat and amenity value. (En, S)*
- Landscaping results in reduced risk of landslip. (En, Ec)*
- Landscaping results in low watering requirement. (En)*

The decking for each townhouse will allow for an additional living area for occupants. This area will be screened by the planter boxes (minimum depth 1m) to the front and side of each townhouse. However, given the scale of the decks and limited size of the planter boxes, there is limited opportunity for

landscaping within the front setback, which fails to meet the first outcome above. The deck would remove opportunity for landscaping within the front setback area which would assist in visually reducing the built form of the two storey townhouses. The following condition of consent has been imposed to increase the level of landscaping to the front of the townhouses while still allowing for a reasonable sized deck to be utilised as a secondary living area.

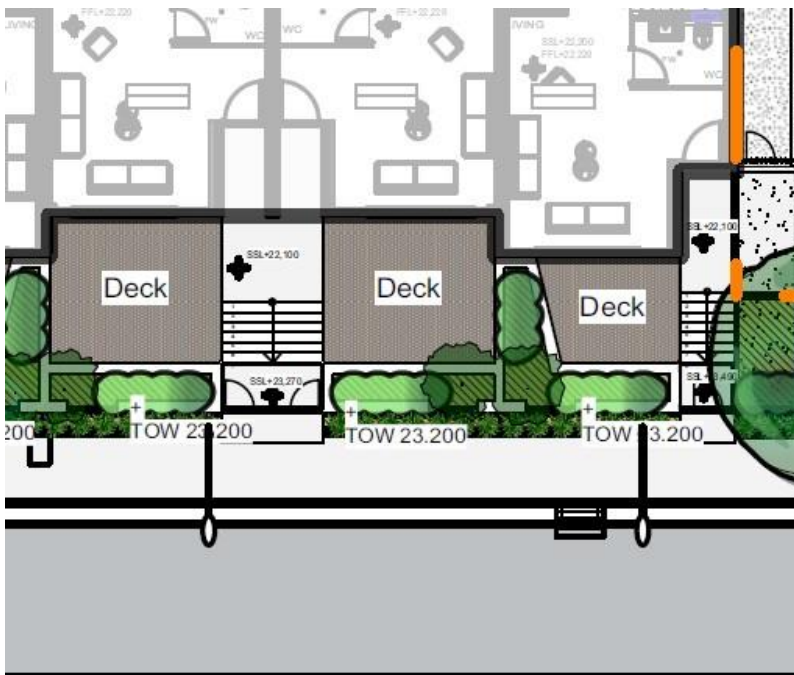
### ***Amendments to the approved plans***

*The following amendments are to be made to the approved plans:*

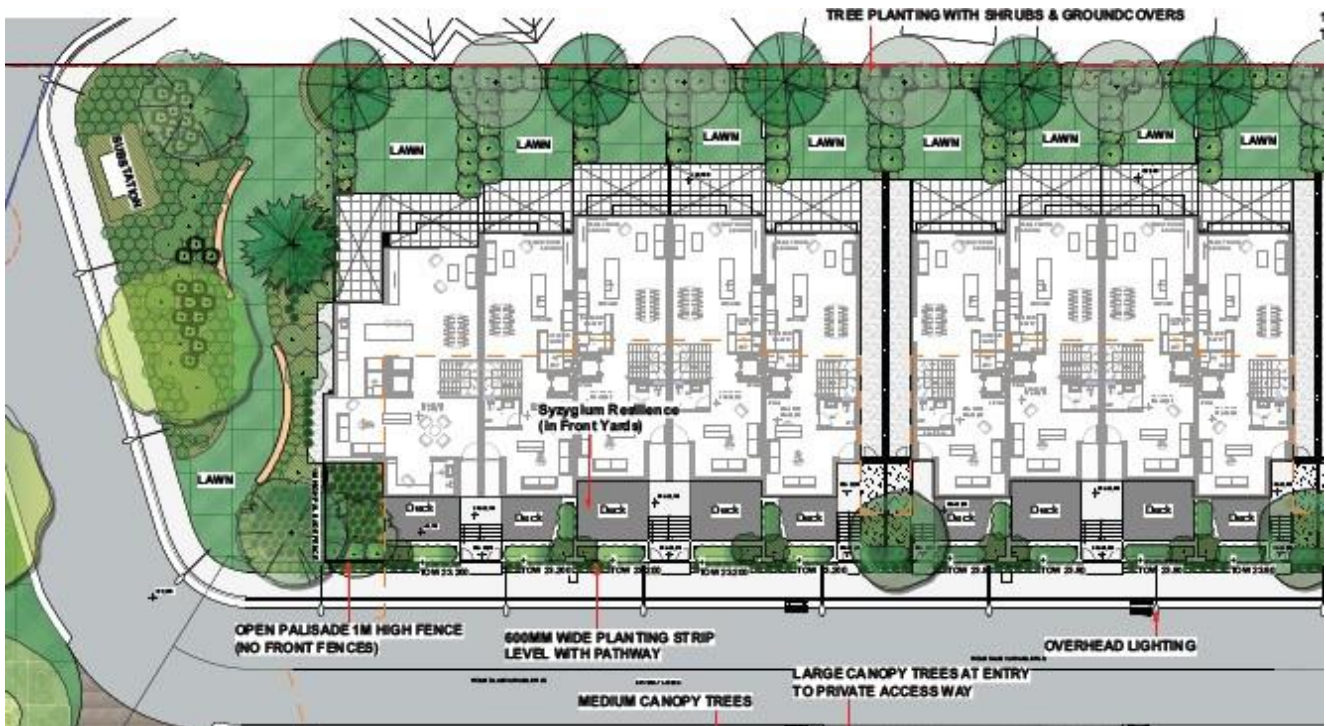
*a) Where decks are proposed in the front setback, the setback to the deck from the front boundary will be a minimum 2.5 metres with the landscaping planter boxes increased in size and planted out with native species.*

*Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.*

*Reason: To ensure development minimises unreasonable impacts upon surrounding land.*



**Figure 4 - Proposed decking to the front of the approved townhouses**



**Figure 5- Proposed decking and landscaping**

The application has been reviewed by Council's Landscape Officer who raised no objection subject to recommended conditions.


Based on the discussions above the non-compliance is supported, subject to conditions.

### D16.12 Fences

The modification application proposes 1.8m high fencing to all ground floor dwellings on the site, around the perimeter of each area of private open space as pictured below. The proposed fencing will allow for greater privacy for ground floor dwellings without compromising the amenity of the development.

Clause D16.12 requires that fencing forward of the building line is not permitted. The clause notes that boundaries between public and private land should be delineated by vegetation, such as low hedges, garden beds or the like and specifies that fencing is not permitted forwards of the building line. Therefore, a condition has been imposed to reduce the height of the proposed fencing for the dwellings of the residential flat buildings to a maximum 1.4m above ground level to mitigate the overall visual impact of the development.

The proposed fencing is generally compliant with the desired character of the Warriewood Valley Locality, subject to a condition requiring a reduction in the height of fencing forward of the building line.

TF	Fence - Palisade	Aluminium Slats - Monument Powder Coat	
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**Figure 6 - Fencing colour and material**





**Figure 7 - Example of fencing proposed to dwellings on site 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.

## **POLICY CONTROLS**

Northern Beaches Section 7.12 Contributions Plan 2022

Section 7.12 contributions were levied on the Development Application.

## **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
-

- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

## Planning Conclusion

This proposal, for modification of Development Consent Np. N0440/15 has been referred to the Sydney North Planning Panel as it is a s4.56 application to a court granted consent.

The assessment concludes that the works sought under the modification application are minor and the modified development is substantially the same development as the original development consent, and that the works sought will not materially result in any impacts to amenity of adjoining properties or the natural environment.

The modifications generally seek to enhance the amenity and livability of the apartments for future occupants without compromising the integrity or quality of the urban design outcome.

The variation to the planning controls in relation to the modified landscape treatment of the front setbacks is supported.

Additionally, a special condition has been imposed in relation to the height of the new fencing and scale of the new decking to reduce visual impact and maintain the landscape amenity.

On balance, this report concludes with the recommendation that the SNPP, as the consent authority, should **approve** the modification application.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Sydney North Planning Panel as the consent authority grant approval to Modification Application No. Mod2023/0201 for Modification of Development Consent N0440/15 granted for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping. on land at Lot 1 DP 5055,8 Forest Road, WARRIEWOOD, subject to the conditions outlined below.

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-323210 MOD2023/0201	The date of this notice of determination	<p>Modification of Development Consent N0440/15 granted for the construction of a residential development, comprising 81 dwellings</p> <p>Add Condition A1D - Modification of Consent 2 - Approved Plans and supporting Documentation            Add Condition A9-            Amend Condition B41            Add Condition C33- Amendment of Landscape Plan            Add Condition C34 - Adherence to Natural Environment Consent Conditions            Add Condition C35 - Fencing            Add Condition C36 - Amendments to the approved plans            Add Condition D22 - Wildlife Protection            Add Condition D23 - Protection of Habitat Features            Add Condition E24 - No Weeds Imported on to the Site            Add Condition E25 - Priority Weed Removal and Management</p>
PAN-194267 MOD2022/0070	20 September 2022	<p>Modification of Development Consent N0440/15 granted for the construction of a residential development, comprising 81 dwellings</p> <p>Add Condition 1C - Approved Plans and supporting Documentation            Amend Condition B21 - Visitor Parking            Amend Condition B28 - Rooftop Mechanical Systems            Add Condition B45.1 - Maintenance of Asset Protection Zones            Amend Condition B67 - Apartment Mix            Add Condition B73 - Parking Enclosure            Amend Condition C8 - Construction Traffic Management Plan            Add Condition D21 - Staff and Contractor Parking            Add Condition E22 - Acoustic Review            Add Condition E23 - Clearing Asset Protection Zones</p>



PAN-156910 MOD2021/0816	24 February 2022	<p>Modification of Development Consent N0440/15 granted for the construction of a residential development, comprising 81 dwellings</p> <p>Delete Condition A1 Add Condition A1C Delete Condition B72 Delete Condition B73 Delete Condition B74 Delete Condition B75 Amend Condition C4 Amend Condition C6 Amend Condition C7 Amend Condition C8 Amend Condition C9 Amend Condition C10 Amend Condition C15 Amend Condition C17 Amend Condition C18</p> <p>Amend Condition C19 Amend Condition C20 Amend Condition C22 Amend Condition E1 Amend Condition E2 Amend Condition E3 Amend Condition E4 Amend Condition E5 Amend Condition E6 Amend Condition E9 Amend Condition E13 Amend Condition F4 Add Condition F1 Add Condition F2 Add Condition F3</p>
MOD2018/0566	13 December 2018	<p>Modification of Development Consent N0440/15 granted for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping.</p> <p>Add Condition A1B - Modification of Consent -- Approved Plans and supporting Documentation</p>

MOD2018/0019	10 June 2018	<p>Modification of Development Consent N0440/15 granted for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping.</p> <p>Add Condition 1A - Modification of Consent -- Approved Plans and supporting Documentation  Add Condition B72  Add Condition B73  Add Condition B74  Add Condition B75  Amend Condition C9  Amend Condition E18  Amend Condition E19  Delete Condition F1  Delete Condition F2  Delete Condition F3  Add Condition F4  Add Condition F5</p>
N0440/15/S96/1	9 April 2018	<p>Modification of Development Consent N0440/15 granted for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping.</p> <p>Delete Condition A1  Amend Condition B1  Delete Condition B36  Amend Condition B43  Delete Condition B44  Amend Condition B45  Add Condition B69  Add Condition B70  Add Condition B71  Amend Condition C7  Amend Condition C9  Delete Condition C29  Delete Condition C30  Delete Condition E17  Amend Condition E21  Amend Condition F2</p>
N0440/15	3 May 2017	<p>Construction of a residential development, comprising 81 dwellings (including an existing dwelling) at 8 Forest Road, Warriewood (Lot 1 DP 5055) (the site).</p>

## **Modified conditions**

### **A. Add Condition No. A1D - Modification of Consent 2 - Approved Plans and supporting Documentation to read as follows:**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

#### a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A001 Rev. 09 - Preliminary Site Plan	13 March 2023	ADS Architects
A099.1 Rev. 08 - Floor Plans - Basement 1 - East	13 March 2023	ADS Architects
A099.2 Rev. 08 - Floor Plans - Basement 1 - West	13 March 2023	ADS Architects
A100.1 Rev. 09 - Floor Plans - Ground Floor Plan - East	15 June 2023	ADS Architects
A100.2 Rev. 09 - Floor Plans - Ground Floor Plan - West	15 June 2023	ADS Architects
A101.1 Rev. 08 - Floor Plans - Level 1 - East	15 June 2023	ADS Architects
A101.2 Rev. 08 - Floor Plans - Level 1 - West	15 June 2023	ADS Architects
A102.1 Rev. 08 - Floor Plans - Level 2 - East	15 June 2023	ADS Architects
A102.2 Rev. 08 - Floor Plans - Level 2 - West	15 June 2023	ADS Architects
A103.1 Rev. 07 - Floor Plans - Roof Level - East	15 June 2023	ADS Architects
A103.2 Rev. 07 - Floor Plans - Roof Level - West	15 June 2023	ADS Architects
A200 Rev. 08 - Sections	15 June 2023	ADS Architects
A300 Rev. 09 - Elevations Building A and B	15 June 2023	ADS Architects
A301 Rev. 09 - Elevations Building C and D	15 June 2023	ADS Architects
A302 Rev. 09 - Elevations Townhouses	15 June 2023	ADS Architects
A303 Rev. 01 - Elevations Fence Detail	13 March 2023	ADS Architects
FF&E Schedule Revision 3/ Pages 1 - 5	29 May 2023	ADS Architects

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Thermal Comfort and BASIX Assessment (Issue. E)	24 January 2023	Efficient Living
Response to NSW Rural Fire Service RFI for Integrated Development Application S100B – Subdivision	30 March 2023	AEP

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
L-01 Rev. M- Landscape Master Plan	9 January 2023	Site Design + Studios
L-02 Rev. M - Existing Trees Plan	9 January 2023	Site Design + Studios
L-03 Rev. M - Ground Floor East Landscape Plan	9 January 2023	Site Design + Studios
L-04 Rev. M - Ground Floor West Landscape Plan	9 January 2023	Site Design + Studios
L-05 Rev. M - Riparian Planting	9 January 2023	Site Design + Studios
L-06 Rev. M - Sections	9 January 2023	Site Design + Studios
L-07 Rev. M - Sections	9 January 2023	Site Design + Studios
L-08 Rev. M - Sections	9 January 2023	Site Design + Studios
L-09 Rev. M - Typical Details and Notes	9 January 2023	Site Design + Studios

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

**B. Add Condition A9 - to read as follows:**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

<b>Other Department, Authority or Service</b>	<b>EDMS Reference</b>	<b>Dated</b>
Ausgrid	Ausgrid Referral Response	N/A
Rural Fire Service	RFS Referral Response	6 June 2023
Department of Planning and Environment	Reference: IDAS1133220	21 June 2023

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

**C. Modify Condition B41 to read as follows:**

With the exception of fencing separating two immediately adjacent areas of private open space and between **townhouses and ground floor dwellings**, fencing is not permitted on the site. Hedging plants may be used in lieu of fencing where visual privacy is required. In particular, the following areas of fencing are to be removed from the plans:

- a. 1m high palisade fencing along the northern side of Townhouse 1; and
- b. The 1.8m high lapped and capped timber fence separating ground floor areas of private open space and the fire access road;

Reason: To ensure compliance with the terms of this consent.

**D. Add Condition C33 - Amendment of Landscape Plans - to read as follows:**

The submitted Landscape Plan is to be amended in accordance with the following:

- Compliance with Biosecurity Act 2015: Replace *Murraya paniculata* (General biosecurity duty in all of NSW) with native hedging.

The Landscape Plan is to be amended by a qualified landscape architect and provided to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To maintain and replace habitat on the site.

**E. Add Condition C34 - Adherence to Natural Environment Consent Conditions - to read as follows:**

All biodiversity-related conditions of consent under previous development applications are to be adhered to, including N0440/15, unless amended by these biodiversity-related conditions of consent.

Reason: To protect biodiversity values.

**F. Add Condition C35 - Fencing - to read as follows:**

The fencing proposed to the ground floor private open space of residential flat buildings is to be reduced to a maximum height of 1.4m.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

**G. Add Condition C36 - Amendments to the approved plans - to read as follows:**

The following amendments are to be made to the approved plans:

- a) Where decks are proposed in the front setback, the setback to the deck from the front boundary will be a minimum 2.5 metres with the landscaping planter boxes increased in size and planted out with native species.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

**H. Add Condition D22 - Wildlife Protection - to read as follows:**

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.



**I. Add Condition D23 - Protection of Habitat Features - to read as follows:**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

**J. Add Condition E24 - No Weeds Imported on to the Site - to read as follows:**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

**K. Add Condition E25 - Priority Weed Removal and Management - to read as follows:**

All Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed using an appropriate control method.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority weeds.

*Note: Condition amendments highlighted in bold*