

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0019
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Responsible Officer:	Rebecca Englund
Land to be developed (Address):	Lot 1 DP 5055, 8 Forest Road WARRIEWOOD NSW 2102
Proposed Development:	Modification of Development Consent N0440/15 for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping.
Zoning:	R3 Medium Density Residential RU2 Rural Landscape
Development Permissible:	Yes - Zone RU2 Rural Landscape Yes - Zone R3 Medium Density Residential
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Warriewood Vale Pty Ltd
Applicant:	Boston Blyth Fleming Pty Ltd

Application lodged:	16/01/2018
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	03/02/2018 to 03/03/2018
Advertised:	Not Advertised
Submissions Received:	2
Recommendation:	Approval

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 1 DP 5055 , 8 Forest Road WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The Site is legally described as Lot 1 in Deposited Plan 5055, and is commonly referred to as 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.</p> <p>The Site is subject to split zoning; with 2.855 Hectares zoned R3 Medium Density (R3) and the remaining 2.823 Hectares zoned RU2 Rural Landscape (RU2), as shown on the Zoning Map of PLEP 2014. The division between the zones is irregular, dissecting the 324.48m long western side 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.</p> <p>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. The RU2 zoned portion of the site is heavily landscaped and free of development.</p> <p>Access is currently gained at 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</p>

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 side 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). 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

Background of Site:

19 October 2015

Development Application N0440/15 was lodged with Council, and subsequently referred to Council's Development Engineer and Land Release Team for comments and/or recommendations. The application was also referred to the NSW Office of Water and the NSW RFS in accordance with s.91 of the Act.

8 February 2016

Correspondence was forwarded to the application, requesting that the application be withdrawn.

9 February 2016

Class 1 Application was lodged with the NSW Land and Environment Court against the deemed refusal

of the Development Application.

23 May 2016

A s34 Conciliation Conference was held in relation to the Class 1 Application.

8 June 2016

Amended plans were presented as part of the s34 Conciliation Conference.

1 August 2016

Further amended plans and additional information was presented.

31 August 2016

The s34 Conciliation Conference was terminated upon agreement of the parties.

15 November 2016

Further amended plans and additional information was presented

27 February – 3 March 2017

The matter was heard by a Commissioner of the Land and Environment Court.

3 May 2017

The Land and Environment Court granted approval for the amended Development Application, subject to deferred commencement conditions.

28 September 2017

The deferred commencement conditions were satisfied.

22 November 2017

Modification Application N0440/15/S96/1 was lodged with Council.

5 April 2018

Modification Application N0440/15/S96/1 was approved by Council.

Background of Application:

16 January 2018

The subject modification application was lodged with Council.

5 March 2018

A meeting was held between the assessing officer, planning consultant and representatives of the developer, to discuss concerns regarding the staging, and lack of detail regarding the physical works proposed.

24 April 2018

The applicant provided additional and amended information to support the request to stage the construction of works and the release of the subdivision certificates.

16 May 2018

Further discussions were held between the assessing officer and the applicant regarding the staging of the development.

25 May 2018

The applicant confirmed that the revised staging approach recommended by the assessing was

satisfactory.

PROPOSED DEVELOPMENT IN DETAIL

The modification application seeks to amend the consent to provide for the staged construction of the approved development, and the release of the Torrens Title subdivision prior to the finalisation and Strata Subdivision of the individual dwellings. The application is supported by a staging plan, and a series of necessary and recommended changes to the existing format and wording of the consent.

It is noted that at the time of lodgement, the application also proposed additional building works, specifically the extension of the basement carpark. These works have been removed from the application and do not form part of the modifications sought.

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance; and
- 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.

Section 96(AA) Assessment:

Section 96AA - Other Modifications	Comments
(1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	Council can be satisfied that the development as modified will result in a development substantially the same as that already approved under N0440/15. The application simply seeks to change the timing of differing components of the development, and on completion of the works, the development will be exactly the same as that anticipated by N0440/15.
(b) it has notified the application in accordance with:	The application has been publicly exhibited in accordance with the Environmental Planning and

Section 96AA - Other Modifications	Comments
(i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Pittwater 21 Development Control Plan.
(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 modification by sending written notice to the last address known to the consent authority of the objector or other person, and	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.
(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 “Public Exhibition” in this report.

Consideration of Modifications:

Development Consent N0440/15 provides for the Torrens Title subdivision of the Site into 4 separate allotments, and the development of 80 new dwellings on one of the resultant allotments.

As currently drafted, the consent is formatted such that the Torrens Title subdivision is to occur after the release of the Occupation Certificate relating to the completion of works as a whole. There was no specific reasoning behind this requirement; it was simply a result of the absence of detail provided with the Development Application as to the staging of the works to be undertaken.

In the time since Development Consent N0440/15 was issued, the developer has identified a need to subdivide the land prior to the completion of all building works, and would like to undertake the construction of the development in stages. This is not an uncommon approach to the development of Warriewood Valley, with the majority of sites subject to an initial Development Application for subdivision works, shortly followed by a separate Development Application seeking consent for residential development on the newly created lots.

If you were to break down the subject application to allow the release of the Torrens Title subdivision prior to the completion of the residential building works, the following works would be required to be completed prior to the release of the subdivision certificate:

- Servicing of the resultant residential allotments, including stormwater management, electricity, sewer, water and access,
- The creation of necessary APZs
- The completion of works within the creekline corridor, including any water management infrastructure, rehabilitation works and landscaping.

Furthermore, the applicant would be required to demonstrate that:

- All applicable s94 contributions have been paid,
- The creekline is to be dedicated to Council,
- All necessary easements for services and access across the resultant allotments have been provided,
- The landscaping and rehabilitation works will be protected during works and for a minimum 12 month period following the issuance of the final Occupation Certificate.

Whilst there is no objection to this concept of staging the development or providing for the release of the Torrens Title subdivision prior to the completion of residential building works, the manner in which this is achieved is slightly complicated by the format of the existing Development Consent, which does not anticipate different stages of completion and has been setup so that all the works are signed off at once.

The applicant has provided a staging plan and recommended conditions to facilitate the release of the Torrens Title subdivision certificate; however concerns are raised with the Applicant's proposal, as follows:

- The internal driveway and fire-trail are proposed in Stage 1B, when they are required to provide ongoing access to the Torrens Title Lots to be created as part of Stage 1A,
- The application is silent on when the works associated with the existing dwelling to be retained is to occur,
- The APZs appear to form part of the Stage 1B works; however in accordance with the wording and intent of the relevant conditions, they should be provided as part of Stage 1A,
- The water management infrastructure should generally occur in one stage, with the internal pipework completed in conjunction with the detention basins and outlets, as confirmed by the Applicant's water management consultant. As proposed, the water management works are split, with the detention basins and outlets proposed in Stage 1A and the internal pipework proposed in Stage 1B.

It is noted that the roads and water management infrastructure should be completed as part of the same stage. Ordinarily this would be as part of the first stage as the roadways are required to provide access to the separate Torrens Title lots. However, given the design of the development, where the internal roads extend over the basement carpark area, this approach is somewhat impractical as the roads and water management infrastructure would then need to be demolished and rebuilt to enable the construction of the residential development. Whilst the firetrail is not affected by the basement carpark, its sealed surface would necessitate the provision of water management infrastructure, which should ideally be undertaken all at once.

Some form of access way is required to enable access to Lots 3 and 4 at Stage 1A so that the Torrens Title subdivision certificate can be issued. Noting that the access way is only required for 1 dwelling (that is unlikely to be habituated during construction), and given the lack of driveway currently provided on site, it is considered reasonable to only require a temporary, pervious access way in the footprint of the in the location of the 8m wide internal road and the perimeter fire access road. This would provide the necessary legal access to each of the resultant Torrens Title lots, without necessitating the construction of water management infrastructure. Furthermore, this access road will provide a necessary pathway and turning areas for construction vehicles entering the site.

These concerns have been discussed with the Applicant who is in agreement with the necessary

changes to the staging proposed, the draft modified consent and the amended staging plans.

The draft modified consent is annexed to the document, demonstrating that the consent can be modified to provide the applicant with their desired development outcome whilst still enabling the development outcome anticipated by Council and the Community.

Section 79C Assessment:

In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation was submitted with the original application, and no changes are being made in this regard.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter has been addressed via a</p>

Section 79C 'Matters for Consideration'	Comments
	condition in the original consent.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification and Submissions Received” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Ms Virginia Anne Thorncraft Mr Mark Gerald Pluck	4 Bert Close WARRIEWOOD NSW 2102
Mr Luke Daniel Jusic	15 Bert Close WARRIEWOOD NSW 2102

In addition to the two submissions outlined above, a further submission was received from:

- Evolution Planning, on behalf of the property owners of 4 Forest Road, Warriewood.

The matters raised within the 3 submissions are addressed as follows:

- **The provision of fire trails**

Comment:

A submission was received in objection to the proposed staging plan and the delayed provision of necessary firetrails. The submission suggests that the proposed staging could theoretically provide for the construction of residential development without the incorporation of necessary firetrails. The application has subsequently been amended such that the provision of firetrails

occurs in conjunction with the first stage of development, and thus the concerns raised have been satisfied.

- **Realignment of Bert Close within the creekline corridor**

Comment:

A submission was received in regards to the realignment of the primary entrance-way, which has been shifted slightly to the north, partly within the inner creekline corridor. Whilst the submission doesn't necessarily raise any concern in this regard, it questions the ownership of the road connection and the manner that the change came about (being a result of satisfactions of a deferred commencement condition). Whilst the alignment of the road way within the road reserve was approved under the deferred commencement process, the alignment of the internal roadway was part of a previous modification application (N0440/15/S96/1) which was advertised/notified and which has since been approved by Council. No change is proposed to the road alignment as part of the subject modification application.

- **Lack of information relating to proposed additional basement works**

Comment:

At the time of lodgement, the application sought consent for an extended basement, yet little information was provided in this regard. Submissions were received from adjoining and nearby residents that highlighted these deficiencies in the application. This issue was subsequently highlighted to the Applicant, and the basement works have since been removed from the subject modification application.

- **Stage 1 works and the ADG**

Comment:

A submission was received in objection to the proposed staging (as notified at the time of lodgement), which may result in short term inconsistency with certain aspects of the ADG. The staging has since been amended such that the majority of the building works and all of the landscaping works will occur as part of Stage 1B, ensuring consistency with the ADG from the first stage of residential construction work.

- **Modification to Condition C9**

Comment:

A submission has been received in objection to a proposed modification to Condition C9, which would facilitate the issuance of a Construction Certificate prior to the dedication of creekline corridor works. The submission suggests that "the dedication of the riparian land prior to construction certificate does not impede the objectives of the developer to Stage construction". However, as works are required to the creekline corridor prior to the dedication of land, which would be the subject of a construction certificate, the condition must be amended to enable the issuance of a construction certificate prior to the dedication of the creekline corridor.

Condition C9 has been reviewed by Council's s94 Officer and a draft revised condition is annexed to this report.

- **Modification to Condition C19**

Comment:

A submission was received in objection to the proposed changes to Condition C19, which requires further flood modelling prior to the issuance of the construction certificate. The submission appears to suggest that as a result of the staging of the subdivision works, the necessary flood modelling will also be broken into stages. The flood modelling is required prior to the commencement of the creekline corridor works, and is to be completed as part of the first stage.

- **Modification to Condition E9**

Comment:

A submission has been received in objection to the proposed deletion of Condition E9. The application does not propose to delete Condition E9, but rather ensure that the relevant landscaping is completed in conjunction to each stage of the development.

- **Modification to Condition E11**

Comment:

A submission has been received in objection to the proposed amendments to Condition E11, which requires the certification of necessary water management works. The modification proposed will provide for the water management infrastructure to be signed off at each stage of development, and the submission suggests that this is unacceptable as the works need to be completed as a whole. The majority of the water management works are to be completed as part of Stage 1B, with only minor elements (such as water tanks and the connections thereto) proposed as part of Stage 2. The application was supported by certification from a civil engineer to support the staging proposed and this approach is endorsed by Council's engineers.

- **Density**

Comment:

A submission has been received in objection to the density of the proposed development. The density of the development was approved by the NSW LEC pursuant to N0440/15 and remains unchanged as a result of the proposed modifications.

- **Safety of Bert Close**

Comment:

A resident in Bert Close has reiterated concerns regarding the safety of pedestrians and children in Bert Close. The submission expresses frustration regarding a lack of consideration of this matter as part of the original development application. The access arrangement for the site, which do not pass through/along the existing Bert Close properties, remains unchanged as approved by the NSW LEC.

- **Evacuation measures through Jubilee Avenue**

Comment:

Two submissions were received which reiterated concerns regarding egress from the site in the event of an emergency. The submissions highlight existing traffic issues in the locality, particularly in the afternoon when there is a backlog of traffic leaving Jubilee Avenue. Egress from the site was considered under the original development application, and reviewed in detail by the NSW RFS, and traffic engineers on behalf of both Council and the Applicant. The application was approved by the NSW LEC and access arrangements remain unchanged as a

result of the proposed modifications.

- **Temporary access arrangements**

Comment:

A submission has been received which questions the reference to 'Temporary driveway' and 'Future Connection to Forest Road' on the plans provided to support the application. As originally approved, the reference to 'Temporary driveway' and 'Future Connection to Forest Road' is made noting the intent for all residential traffic to be diverted to Forest Road, via 4 Forest Road. In the same manner as the subdivision approved at Bert Close, restrictions have been applied to the title of the land to restrict access to Jubilee Avenue when access via 4 Forest Road becomes available. Whilst preventing the through flow of residential traffic to Jubilee Avenue, access for emergency service vehicles will remain available. No changes to access arrangements are proposed as part of the subject modification.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i></p>
Landscape Officer	The modification proposal for a staged development raises no objection for the landscape outcomes relevant to condition E9.
NECC (Development Engineering)	
NECC (Riparian Lands and Creeks)	<p>Insufficient information has been provided about the depth of the expanded basement area.</p> <p>To ensure groundwater management is appropriate, a cross-section plan showing the depth of the new area of basement should be provided (or Drawing A-300 in Court Approved Plans amended) and/or the Statement of Environmental Effects should indicate the depth of the new area of basement. The Geotech report provided with the original DA should be adequate as it tested groundwater depth in this area.</p> <p>If the depth of the new area of basement is deeper than 4.8 metres below ground level (the level at which the presence of standing groundwater was confirmed), a construction groundwater</p>

Internal Referral Body	Comments
	management plan will need to be provided. There are no other objections to the application.
NECC (Stormwater & Floodplain Engineering – Flood risk)	The proposed modifications including additional vehicular circulation and bulk storage areas and minor changes to basement fire egress stair locations with the temporary access driveway alignment, are not considered to increase flood risk. No further flood related conditions apply.
Traffic Engineer	the proposal to introduce a staging plan for the completion of the approved development works and the built form modifications are not opposed on traffic grounds
Waste Officer	

External Referral Body	Comments
Integrated Development – NSW Rural Fire Service (Subdivisions and Special Fire Protection Purposes under Section 100B of Rural Fires Act)	

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

Nil

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

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision - consent requirements	Yes
6.1 Warriewood Valley Release Area	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan - 2014

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
C6.1 Integrated Water Cycle Management	Yes	Yes
C6.2 Natural Environment and Landscaping Principles	Yes	Yes
C6.5 Utilities, Services and Infrastructure Provision	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Pittwater Section 94 Development Contributions Plan

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2018/0019 for Modification of Development Consent N0440/15 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 printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

Staging Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Staged Plan No. S001A	[undated]	[unknown]
Staged Plan No. S001B	[undated]	[unknown]
Staged Plan No. S002	[undated]	[unknown]
Staged Plan No. S003	[undated]	[unknown]
Stage 1 Stormwater Drainage Plan, Revision 1	03/04/2018	Martens & Associates Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

B. New Condition B72, to read as follows:

The development is to be completed in three stages, in accordance with the Staging Plans (referenced in this consent) and as follows:

Stage 1A:

- (a) All works within the Jubilee Road public road reserve
- (b) All rehabilitation works, stormwater management infrastructure and landscaping within the inner creekline corridor to be dedicated to Council,
- (c) The temporary construction of the 8m wide driveway access and the Fire Access Road in a pervious material,
- (d) The establishment of all necessary APZs,
- (e) The provision of all services, including water, sewer, electricity, communications and stormwater, to Lots 2, 3 and 4,
- (f) The construction of the garage on Lot 3 or the construction of hardstand parking area in the location of the proposed garage,
- (g) Necessary fire protection upgrades to the existing dwelling on Lot 3, and
- (h) The erection of site protection fencing and sedimentation management measures around the perimeter of Lot 2.

Stage 1B:

- (a) The completion of all outstanding works with the exception of the works outlined to occur in Stage 2, below.
- (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
- (c) Partial Strata subdivision limited to the Stage 1B works.

Stage 2:

- (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,
- (b) The construction of the associated basement below Buildings C and D, as shown on the Approved Staging Plans,
- (c) "Stage 2" water management infrastructure, as nominated in the Stage 1 Stormwater Drainage Plan referenced in this consent.
- (d) The temporary bollard at the entrance (eastern end) of the 5.5m wide private access road is to be removed, and
- (e) Partial Strata Subdivision limited to the Stage 2 works.

All of the conditions of this consent, as relevant to each stage, are to be satisfied at each stage of the development.

C. New Condition B73, to read as follows:

The Torrens Title Subdivision of the Site into four lots may be undertaken following the completion of all Stage 1A works.

D. New Condition B74, to read as follows:

The Occupation Certificate issued in respect of the Stage 2 works must be a Final Occupation Certificate for the works across the site as a whole. An interim Occupation Certificate must not be issued in relation to Stage 2.

E. New Condition B75, to read as follows:

The Strata Subdivision of Stages 1B and 2 shall not occur until the works relevant to the respective stage have been completed and an Occupation Certificate for the respective stage has been issued.

F. Amend Condition C9, to read as follows:

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.

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 the issue of any 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 finalised, 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/>

G. Amend Condition E18, to read as follows:

Evidence is to be provided to confirm the engagement of a suitably qualified landscape architect who will be responsible for the implementation of the Landscape Maintenance Plan for a minimum period of 24 months. The landscape architect is to confirm that they will undertake to:

1. visit the site immediately following completion of the landscaping and hardscape works on site (those other than in the creekline corridor); and
2. visit the site on a three (3) monthly basis for a period of 24 months to ensure implementation of the Landscape Maintenance Plan.

The required 24 month maintenance period is to continue/extend for a minimum of 12 months from the date of issuance of the final Occupation Certificate for the site.

H. Amend Condition E19, to read as follows:

Evidence is to be provided to confirm the engagement of a suitably qualified ecologist who will be responsible for the implementation of the Vegetation Management Plan for a minimum period of 24 months. The ecologist is to confirm that they will undertake to:

1. visit the site immediately following completion of the landscaping and hardscape works on site;

- and
2. visit the site on a three (3) monthly basis for a period of 24 months to ensure implementation of the Landscape Maintenance Plan.

The required 24 month period is to continue/extend for a minimum of 12 months from the date of issuance of the final Occupation Certificate for the site.

I. Delete Condition F1.

J. Delete Condition F2.

K. Delete Condition F3.

L. New Condition F4, to read as follows:

The following documents and payments are to be submitted to Council in a single package to ensure the efficient release of the Torrens Title Subdivision Certificate:

- (a) A copy of any necessary Section 73 Compliance Certificate issued under the provisions of the S
- (b) Copies of the Subdivision Plans,
- (c) The Certifying Authority's Compliance Certificates in relation to Stage 1A. Each component of th with the relevant plans and documentation by suitably qualified professional persons as outlinec
 - (i) Certification to Council, by an experienced civil engineer who is listed on the National E drainage, roadworks and other civil engineering works have been carried out and comp under the Conditions of this Consent.
 - (ii) All appropriate infrastructure as outlined in the Conditions of Consent and approved Co proposed lots.
 - (iii) The construction of the water management system has been supervised and certified b Engineering/Environmental Science, Hydrology and Hydraulics, and must be listed on t
 - (iv) Works associated with the water management system have been completed in accorda deferred commencement conditions) and have been installed to the manufacturers' spe the Warriewood Valley Water Management Specification (February 2001);
- (d) Security deposit of a value to be determined by Council is to be made to ensure rectification of a
- (e) Creation of appropriate easements where service lines or drainage lines pass through private p
- (f) Certification of appropriate easements to provide legal access over the 8m wide internal road fo previously known 6 Forest Road (all dwellings in Bert Close, Valley Place and Hillview Crescent
- (g) Certification of the temporary construction of the 8m wide driveway access and the Fire Access
- (h) Evidence of the payment of s94 contributions.
- (i) The creation of a s88B instrument relating to relevant lots requiring the ongoing provision of the
- (j) The creation of a s88B instrument, that is to be carried onto the title of any future dwellings on th vehicular access to Forest Road becomes available.
- (k) The creation of a s88B instrument relating to the Flood Emergency Response Plan.
- (l) Notification to Council, certified by an appropriately qualified Water Engineer, of any properties i applicable flood categories as set out in the Flood Risk Management Policy for Development in
- (m) Works-As-Executed plans for all structures or facilities which will be dedicated to Council or whi require ongoing maintenance by Council. The plans are to be in paper and electronic format (dv
 - (i) Boundary layout;
 - (ii) Kerb and gutter, road pavement, footpaths, traffic devices, retaining walls;
 - (iii) Signage (including type and wording), line marking;

- (iv) Easements, survey numbers and marks, reduced levels and co-ordinates;
 - (v) Water quality devices, creek line corridors (where relevant);
 - (vi) Significant landscaping.
- (n) The creation of a s88B instrument detailing the maintenance requirements of the communal water Report referenced in this consent and amended via condition.
- (o) The creation of appropriate easements to ensure that Lots 2, 3 and 4 have legal access over all
- (p) Certification from a suitably qualified landscape architect and ecologist that the landscaping and demonstrated evidence that a suitably qualified Landscape Architect and Ecologist have been associated 24 month minimum maintenance periods.

M. New Condition F5, to read as follows:

The following documents and payments are to be submitted to the Certifying Authority in a single package to ensure the efficient release of the Strata Title Subdivision Certificate:

- (a) A copy of any necessary Section 73 Compliance Certificate issued under the provisions of the S
- (b) Copies of the Subdivision Plans,
- (c) The Certifying Authority's Compliance Certificates in relation to the relevant stage. Each component in accordance with the relevant plans and documentation by suitably qualified professional person
 - (i) Certification to Council, by an experienced civil engineer who is listed on the National Engineering Register, that drainage, roadworks and other civil engineering works have been carried out and completed under the Conditions of this Consent.
 - (ii) All appropriate infrastructure as outlined in the Conditions of Consent and approved Conditions of Proposed lots.
 - (iii) The construction of the water management system has been supervised and certified by a qualified Engineering/Environmental Science, Hydrology and Hydraulics, and must be listed on the
 - (iv) Works associated with the water management system have been completed in accordance with the deferred commencement conditions) and have been installed to the manufacturers' specifications with the Warriewood Valley Water Management Specification (February 2001);
- (d) Security deposit of a value to be determined by Council is to be made to ensure rectification of a
- (e) The creation of a s88B instrument to advise that vehicular access via Jubilee Avenue will be closed
- (f) The creation of a s88B instrument relating to the rainwater tanks within the apartment buildings and townhouse to the rainwater tanks for the purposes of cold water laundry and toilet flushing purposes
- (g) Works-As-Executed plans for all structures or facilities which will be dedicated to Council or which require ongoing maintenance by Council. The plans are to be in paper and electronic format (drawings)
 - (i) Boundary layout;
 - (ii) Kerb and gutter, road pavement, footpaths, traffic devices, retaining walls;
 - (iii) Signage (including type and wording), line marking;
 - (iv) Easements, survey numbers and marks, reduced levels and co-ordinates;
 - (v) Water quality devices, creek line corridors (where relevant);
 - (vi) Significant landscaping.
- (h) A Certificate by a qualified Engineer or Architect confirming that all driveways have been constructed
- (i) Certification from a suitably qualified Landscape Architect that the works shown on the approved VMP. A Landscape Architect has been engaged for the associated 24 month minimum maintenance period Occupation Certificate.
- (j) Certification from a suitably qualified ecologist that the works prescribed by the approved VMP have been completed

- 24 month minimum maintenance period, and for at least 12 months from the date of issuance of
- (k) An updated Water Management report shall be prepared in accordance with the requirements of the WMS (2001) and include a completed checklist from the WMS (2001) to be signed by an engineer that is listed on the Register of Professional Engineers. The updated report shall be submitted to the Principal Certifying Authority.
 - (l) Confirmation from Council that the inner creekline corridor has been reasonably maintained and that the resultant stages.

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

Signed




Rebecca Englund, Principal Planner

The application is determined under the delegated authority of:



Matthew Edmonds, Manager Development Assessments



























ATTACHMENT A

Notification Plan	Title	Date
 2018/069528	Plan - Notification	22/01/2018

ATTACHMENT B

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2018/065707	Lough - Enquiry re Commencement of Works on Site - Conditions of Consent - N0440/15 - 8 Forest Road Warriewood	15/01/2018
 2018/069534	Report - Statement of Environmental Effects	16/01/2018
 2018/069527	Owner's Consent	16/01/2018
 MOD2018/0019	8 Forest Road WARRIEWOOD NSW 2102 - Section 96 Modifications - Section 96 (AA) Court Consent	16/01/2018
 2018/062213	DA Acknowledgement Letter - Boston Blyth Fleming Pty Ltd	16/01/2018
 2018/065655	Fraser - Response re Interpreting the LEC Consent Conditions N0440/15 - 8 Forest Road Warriewood	18/01/2018
 2018/065735	Fraser - Concerns re Failure to Disclose & Schedule of Amendments - N0440/15 - 8 Forest Road Warriewood	18/01/2018
 2018/069533	Plans - Master Set	22/01/2018
 2018/069528	Plan - Notification	22/01/2018
 2018/069531	Plans - External	22/01/2018
 2018/069532	Plans - Internal	22/01/2018
 2018/069520	Applicant Details	22/01/2018
 2018/069521	Development Application Checklist	22/01/2018
 2018/069523	Development Application Form	22/01/2018
 2018/069525	Fee Form	22/01/2018
 2018/069526	File Note	22/01/2018
 2018/085118	Fraser - Failure to Disclose - N0440/15 - 8 Forest Road Warriewood	23/01/2018
 2018/072283	Report - Revised Statement of Environmental Effects	23/01/2018
 2018/076770	Building Assessment - Fire and Disability upgrades - Assessment Referral - Mod2018/0019 - 8 Forest Road WARRIEWOOD NSW 2102 - PR	23/01/2018
 2018/075020	DA Acknowledgement Letter (not integrated) - Boston Blyth Fleming Pty Ltd	23/01/2018
 2018/075729	DA Acknowledgement Letter (integrated) - Boston Blyth Fleming Pty Ltd	24/01/2018
 2018/075751	Development Application Advertising Document - Boston Blyth Fleming Pty Ltd	24/01/2018
 2018/085188	Nugent - Failure to Disclose - N0440/15 - 8 Forest Road Warriewood	24/01/2018
 2018/076339	Waste Referral Response	24/01/2018
 2018/077610	Building Assessment Referral Response	24/01/2018
 2018/084961	NSW Government - NSW Rural Fire Service -	29/01/2018

External Referral Comments - MOD2018/0019 - 8
Forest Road Warriewood

	2018/083860	Environmental Health and Protection Referral Response - unsewered land	30/01/2018
	2018/085501	Natural Environment Referral Response - Riparian	30/01/2018
	2018/101366	Northern Beaches Council - Notice of Proposed Development - MOD2018/0019 - 8 Forest Road Warriewood	02/02/2018
	2018/116803	Crime risk assessment and CPTED assessment - various properties	14/02/2018
	2018/118042	Submission - Evolution Planning	16/02/2018
	2018/120168	NSW Government - NSW Rural Fire Service - External Referral Comments - MOD2018/0019 - 8 Forest Road Warriewood	19/02/2018
	2018/154759	Submission - Pluck and Thorncraft	02/03/2018
	2018/156856	Online Submission - Jusic	03/03/2018
	2018/157376	Submission Acknowledgement Letter - Mark Gerald Pluck & Virginia Anne Thorncraft - SA2018/154759	06/03/2018
	2018/165267	Referral - Integrated Cheque Letter - WaterNSW - Department of Primary Industries (Permit for Temporary Construction Dewatering)	09/03/2018
	2018/165402	Assessment Report test	09/03/2018
	2018/173549	Traffic Engineer Referral Response	14/03/2018
	2018/178779	Department of Primary Industries Water - External Water Comments - MOD2018/0019 - 8 Forest Road, Warriewood	15/03/2018
	2018/195742	Landscape Referral Response	23/03/2018
	2018/217992	Natural Environment Referral Response - Flood	05/04/2018
	2018/273684	Additional Information - Martens S1 Drainage Plan & Letter (5_04)(2) - Mod2018/0019	03/05/2018
	2018/273693	Amended Staging Plans - S96 Staged Plans (20_04) - Mod2018/0019	03/05/2018
	2018/274771	Supplementary SOEE - S96(AA) Sector 5 - Staging - April 2018 - Final	04/05/2018
	2018/352414	Notice of Determination	10/06/2018