

23 December 2020  
Our Ref: 20768B.4DK\_s.4.55\_1A\_Mod



planning consultants

Northern Beaches Council  
PO Box 82  
MANLY NSW 1655

Dear Sir,

**RE: SECTION 4.55(1A) APPLICATION TO MODIFY  
DEFERRED COMMENCEMENT CONSENT No. DA2020/0579  
25-27 WARRIEWOOD ROAD, WARRIEWOOD**

### 1.0 Introduction

DFP has been commissioned by J & G Knowles & Associates to prepare an application under section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify the deferred commencement consent No. DA 2020/0579 issued on 16 November 2020 for the construction of a residential flat building, semi-detached dwellings, dwelling house and community title subdivision and including internal private road.

The section 4.55(1A) application seeks to modify the following aspects of the consent:

- Conditions relating to a subdivision works certificate which is not applicable to the approved development and the replacement / rewording of conditions to require certain actions to be completed prior to issue of a construction certificate or commencement of works, as appropriate.
- To delete condition 18 in relation to tanking of the basement.
- Minor amendments to the buildings.
- Minor amendments to the landscape treatment around the residential flat building and dwellings fronting Warriewood Road.

This letter has been prepared in support of the section 4.55(1A) application and includes the information necessary for Council to assess and determine the application including:

- A background outlining the approved development;
- Details and reasons for the proposed modifications;
- An environmental assessment; and
- Our conclusion and recommendations.

We have concluded that the proposed modifications will not substantially alter the approved development and accordingly are considered to satisfy the requirements to enable these modifications to be approved by Council pursuant to section 4.55 of the EP&A Act.

The proposed modifications are unlikely to result in any adverse environmental impact and accordingly, we are of the view that the proposed modifications are acceptable.

## 2.0 Background

On 16 November 2020 the Sydney North Planning Panel (Panel) granted a deferred commencement consent to Development Application No. DA2020/0579 for the construction of a residential flat building, semi-detached dwellings, dwelling house and community title subdivision and including internal private road at 25-27 Warriewood Road, Warriewood.

Documentation in relation to the deferred commencement conditions has been provided to Council however at the time of preparing this application Council had not confirmed that the deferred commencement conditions had been satisfied.

This modification relates to the operational conditions of the deferred commencement consent.

## 3.0 Proposed Modifications

The proposed modifications are described below.

### 3.1 Subdivision Works Certification Conditions

There are a number of conditions of the consent that require a subdivision works certificate.

Section 6.4 of the EP&A Act defines a subdivision works certificate as follows:

*a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the regulations.*

Section 6.1 of the EP&A Act defines subdivision works as follows (emphasis added):

*subdivision work means any **physical activity authorised to be carried out in connection with a subdivision** under the conditions of a development consent for the subdivision of land. For the purposes of this definition, a development consent includes an approval for State significant infrastructure if the regulations under Part 5 apply this Part to subdivision work under such an approval.*

The Frequently Asked Questions (FAQ) document dated September 2019 prepared by NSW Department of Planning, Industry and Environment provides some examples of a subdivision works such as sewerage works, roadworks and earthworks that need to occur for a subdivision. In the case of the approved development these types of work are related to the building and are not necessary for the subdivision.

Stage 1 of the development is set out in Condition 1 of the consent and comprises the consolidation of the small area of land on the southern side of Lorikeet Grove with the residential care facility lot, including landscaping of the small area of land, and the creation of future lot 11 and future lot 12. The consolidation of the small area of land and the creation of Lot 11 and Lot 12 does not involve any 'physical activity' in connection with a subdivision. The Stage 1 subdivision is a paper subdivision with no roads or stormwater infrastructure needed for the subdivision. The only physical works to be undertaken is the landscaping which is not necessary to effect the Stage 1 subdivision.

The FAQ notes that a subdivision works certificate replaces a construction certificate for the subdivision works component of a consent. Some of the conditions could therefore be reframed so that the actions required are satisfied prior to the issue of a construction certificate instead of a subdivision works certificate. Other conditions might be more appropriately timed to occur prior to commencing works. The table below sets out the affected conditions and the proposed amended wording.

Subdivision Works Certificate Conditions	
Condition with Amended Wording	Commentary
<p><b>Conditions To Be Satisfied Prior To The Issue Of The Subdivision Works Certificate</b></p>	<p>This heading can be removed and conditions relocated elsewhere in the consent as proposed and explained in the following rows of this Table.</p>
<p><b>11 Subdivision Works Certificate</b>  A <del>Subdivision Works Certificate</del> <u>Construction Certificate</u> is to be approved by the Certifying Authority for the provision of engineering works.</p> <p>Engineering plans for the subdivision works within this development consent are to be submitted to the Certifying Authority for approval under Section 6.13 of the Environmental Planning and Assessment Act 1979.</p> <p>Civil Engineering plans for the subdivision works are to be designed in accordance with the Council's specification for engineering works – AUS-SPEC #1. The plans shall be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.</p> <p>The <del>Subdivision Works Certificate</del> <u>Construction Certificate</u> (Stage 2) must be supported by engineering plans, calculations, specification or any certification relied upon.</p> <p>Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specifications.</p>	<p>This condition requires a subdivision works certificate and is contained within the group of conditions to be satisfied before a subdivision works certificate is issued, which is not possible and therefore requires amendment.</p> <p>The stated reason for the condition is unrelated to timing.</p> <p>The intent of the condition relates to the engineering works being carried out in accordance with Council's specification. The works relate to stormwater infrastructure which will be constructed as part of the Stage 2 works (i.e. the residential flat building, common open space and accessway) and are not necessary for the Stage 1 subdivision.</p> <p>The condition is proposed to be relocated to prior to the issue of a construction certificate for Stage 2. This will still achieve the intent of the condition.</p>
<p><b>12 Utilities Services</b>  Prior to the issue of the <del>Subdivision Works Certificate</del>, a <u>Construction Certificate for Stage 2</u>, the Applicant is to obtain the following:</p> <p>a. A letter from the utility provider confirming that satisfactory arrangements have been made for the approved development <del>have been made</del>; and</p> <p>b. Evidence that notification has been received from a utility authority that, requirements for the development can be provided.</p> <p>Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the <del>Subdivision Works Certificate (Stage 1)</del> <u>Construction Certificate for Stage 2</u>.</p> <p>Reason: To ensure that services have been provided as required by this Consent.</p>	<p>There are no utilities required for Stage 1.</p> <p>As for Condition 11, this condition is proposed to be relocated to prior to the issue of a construction certificate for Stage 2 (which is the stage of the development relating to construction works over the Sydney Water easement). This will still achieve the intent of the condition.</p>
<p><b>13 Pre-Commencement Dilapidation Report</b>  The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.</p> <p>The pre-construction / demolition dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifying Authority prior to the <del>issue of the any Subdivision Works Certificate (Stage 2)</del> and the commencement of any works including demolition.</p> <p>Reason: Protection of Council's Infrastructure during construction.</p>	<p>As noted above there are no works to effect the Stage 1 subdivision and Stage 2 requires the residential flat building, internal accessway and central open space to be constructed before a plan of subdivision is registered.</p> <p>This condition is proposed to be relocated to prior to commencing works</p>

Subdivision Works Certificate Conditions	
Condition with Amended Wording	Commentary
<p><b>14 Traffic Management and Control</b> The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of <del>the Subdivision Works Certificate</del> <u>commencing works</u> for Stage 2. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.</p> <p>Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.</p>	<p>There are no works to effect the Stage 1 subdivision and Stage 2 requires the residential flat building, internal accessway and central open space to be constructed before a plan of subdivision is registered.</p> <p>This condition is proposed to be relocated to prior to commencing works for Stage 2.</p>
<p><b>23 Construction Certificate Drainage Details</b> The applicant is to provide drainage plans including specifications and details showing the site stormwater management to the Accredited Certifier for approval prior to the issue of <del>the Subdivision Works Certificate for Stage 2 and the Construction Certificates for Stages 2 and 3.</del></p> <p>Such details are to be accompanied by a certificate from qualified practicing Civil Engineer with NER or RPENG accreditation, that the stormwater management system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage.</p> <p>Reason: To ensure appropriate provision for disposal and maintenance stormwater management arising from the development.</p>	<p>The drainage details are required prior to a subdivision works certificate for Stage 2 and prior to a construction certificate for stage 2. The works will however be constructed at the same time as there are no 'subdivision works'.</p> <p>A subdivision works certificate is not required for Stage 2 as roads are drainage are part of the buildings (not the subdivision).</p> <p>The condition as currently worded requires the same documentation to be lodged twice when it could be submitted prior to the issue of a construction certificate for Stages 2 and 3, as appropriate. It is proposed to amend the condition to remove the reference to a subdivision works certificate such that the plans are required prior to issue of a construction certificate for Stages 2 and 3.</p>

### 3.2 Condition 18 – Tanking of Basement Level

Condition 18 of the consent reads as follows:

***“18 Tanking of Basement Level***

*The basement area is to be permanently tanked. The Applicant is to submit structural details of the tanking, prepared by a suitably qualified Engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Environment and Heritage. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Office of Water are to be complied with and a copy of the approval must be submitted to the Certifying Authority. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for Stage 2.*

*Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements.”*

The Geotechnical Investigation Report (13787/3-AH) dated 28 May 2020 and submitted with the DA provided the following commentary (at page 3 and 4) regarding groundwater conditions:

***“Groundwater Conditions***

*During borehole drilling, groundwater was encountered in all boreholes except BH4, BH5, BH208, and BH209. The depths to groundwater level encountered in boreholes are presented above in Table 1. It is noted that the depth to groundwater level across the site varies from about 3.0m to 11.7m from existing ground surface. These measurements indicate that the groundwater levels are about RL -4.9m AHD to 8.7m AHD.*

*Measurements during drilling indicated that the groundwater level in some portions of the proposed development site could be higher than the proposed basement level at RL2.90m AHD. However, borehole drilling was carried out during rainy periods which would have affected the groundwater level. Therefore, a test pit was excavated within the footprint of the proposed residential flat buildings on 28 February 2019. The test pit did not encounter groundwater even at RL-0.4m AHD. Therefore, it is our assessment that the depth to groundwater level across the proposed flat buildings is lower than the proposed basement level under normal climatic conditions. However, it should be noted that the fluctuations in the level of groundwater might occur due to variations in rainfall and/or other factors not evident during field works.”*

The boreholes indicated that the depth to groundwater varies from 3m to 11.7m from existing ground surface across the site and these levels were recorded during a rainy period. Because the proposed basement level is RL2.90m AHD, a targeted test pit was carried in the location of the basement and groundwater was not encountered at RL-0.4m ADH and Geotechnique concluded that the depth of groundwater is lower than the proposed basement in normal climatic conditions. It is for this reason that a tanked basement is not considered necessary and the condition can be deleted.

### 3.3 Minor Building Amendments

Minor amendments are proposed to the buildings (as shown clouded on the amended Architectural Plans submitted with this application) including the following:

- To include a pergola to the rear terraces of the dwellings fronting Warriewood Road. This amendment is to provide better shading from the western sun to the terrace and adjoining living room. The side privacy screens to the terraces are proposed to be increased by 1m to provide support for the pergola. DA-260 has been amended to include the pergola detail.
- To correct RLs on the roof of the southern residential flat building. The RLs of RL15.40 related to a lower roof of the balcony not the roof of the building. The table on DA-104 included the correct RL of RL15.60. There is no change in building height. This amendment is a correction to avoid issues at construction certificate stage.
- An increase in the footprint of the mechanical plant platform. The amendment does not increase the approved building height and the screening around the platform is retained at the approved height. (Refer to Roof Plan Drawing DA 104 and Roof Plant Section Drawing DA 260).
- Amend the bicycle store and plant room in the basement and incorporate an additional residential storeroom behind adaptable parking space A47 and a further storeroom under the ramp (refer Drawing DA 105).

### 3.4 Landscape Amendments

There are a range of amendments proposed to the landscape treatment around the apartment building and Warriewood Road dwellings. These amendments are documented on Architectural Plans and Landscape Plan TP01E and include:

- The replacement of the ramp from Lorikeet Grove with steps.
- Minor amendments to the paths leading to the access point to the ground floor apartments. A straight path has been replaced with a meandering path.
- Amendment of the stair access to the courtyards of Apartment G.04, G.05, G.06 (northern building) and G.07 and G.08 (southern building) to relocate the access point into the courtyards.

- Amending the landscape treatment to the front courtyards of the dwellings fronting Warriewood Road. This involves replacing the small lawns (which would have been impractical to maintain) with permeable paving.
- Incorporating utility services (gas meters and water/fire booster) into the site planning and provide compensatory permeable paving to ensure total impermeable areas do not increase from the approved plans.

#### 4.0 Statutory Provisions

Section 4.55 of the EP&A Act contains the provisions that must be considered by Council in determining an application to modify a Notice of Determination. In this regard, the relevant provision is section 4.55(1A) of the EP&A Act.

This application is lodged under section 4.55(1A) as the amendment proposed is considered to be minor in nature and will have only minimal environmental impact.

In addition to the EP&A Act, Clause 115 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) contains the information that must be submitted with an application to modify a consent. The requirements under the EP&A Act and EP&A Regulation are detailed below.

#### 4.1 Section 4.55(1A) of the Act

Section 4.55(1A) of the Act applies to modifications where a minimal environmental impact may occur. Specifically, section 4.55(1A) provides that a number of matters be addressed, as discussed below:

***“A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:***

- (a) It is satisfied that the proposed modification is of minimal environmental impact”***

The modifications to the subdivision works certificate conditions relate to the timing of provision of more detailed documentation (e.g. engineering details, dilapidation reports) and the change in timing is of minimal environmental impact.

The modification to condition 18 relating to tanking of the basement is of minimal environmental impact as Geotechnique has investigated the site and ascertained that the depth of groundwater is lower than the proposed basement level. The proposed modification to delete this condition is therefore of minimal environmental impact.

The amendments to the building (e.g. pergolas, stairs, roof plant, basement bin store and bike store) are minor and do not change the principal design outcomes such as building footprint, height, setbacks site cover or landscaped area. The main environmental consideration of these amendments is the introduction of stairs (replacing a ramp) which has been examined by 3D Access and found to be acceptable from a disabled access perspective. Further discussion is provided in **Section 5.2.1** of this planning report. For these reasons the building amendments are considered to be of minimal environmental impact.

The amendments to the landscaping are minor and the overall landscaped area, deep soil area and impermeable areas are retained. Importantly, the requirement for 41% landscaped area (which stems from an earlier consent – DA N0611/16 for the residential care facility) is still achieved and therefore the water quality targets of the approved development are maintained.



For these reasons the building amendments are considered to be of minimal environmental impact.

***“(b) It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”***

The proposed modifications to the conditions relate to the timing of providing documentation during the construction / certification process or the need for tanking of the basement. These matters do not change the nature or substance of the consent as originally granted.

The modifications to the building and landscaping do not change the development as originally approved. The modifications are minor detailed design matters and the development remains that of a residential flat building and dwellings. The form of the subdivision is similarly unchanged.

For these reasons the proposed modifications are considered to result in a development that is substantially the same as the development for which consent was originally granted.

***“(c) 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 that requires the notification or advertising of applications for modifications of a development consent,”***

Section A5.1 of Pittwater 21 Development Control Plan (DCP) provides Council staff with the discretion to not notify an application which is of a minor nature and impact. The application meets the requirements of this control of the DCP and Council may therefore decide not to notify the modification application.

Should Council form a different opinion, then the modification application will need to be notified in accordance with Section A5.1 of Pittwater 21 DCP.

***“(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”***

Should Council notify the subject application in accordance with section 4.55(1A)(c), it must consider any submissions made during a notification period.

Subsections (1) and (2) of section 4.55 do not apply to the proposed modification. Subsection (3) is addressed in Section 5.0 of this submission.

#### **4.2 Clause 115 of the EP&A Regulation 2000**

Subclause 115(1) of the Regulation details the information required to be submitted with an application to modify a Development Consent under section 4.55. These details are contained in this letter and the on-line application form.

Subclause 115(6) requires if the application for modification relates to development for which the development application was required to be or was accompanied by a BASIX certificate/s, the application for modification must also be accompanied by the appropriate BASIX certificate/s. The relevant BASIX certificates have been updated to account for the pergolas to the dwellings fronting Warriewood Road and are lodged with this application.

## 5.0 Environmental Planning Assessment

Section 4.55(3) of the EP&A Act requires that those matters referred to in section 4.15(1) which are of relevance to the proposed modification must be taken into consideration in determining the application for modification. Accordingly, the following subsections provide an assessment of any such relevant matters.

The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

The Sydney North Planning Panel provided the following reasons for the decision to approve the original DA.

*“The Panel determined to approve the application for the reasons outlined below and in the Council assessment report.*

*The site is zoned R3 Medium Density Residential under the provisions of Pittwater Local Environmental Plan 2014 (PLEP 2014), and the proposed development is permissible with consent. The Panel concurs with Council’s assessment that the proposed mixed residential development is well resolved, with well-articulated built form, generous landscaped areas and a variety of materials and textures that will blend with the proposed landscape solution.*

*The proposal would provide good amenity for future occupants of the proposed dwellings commensurate with that of surrounding properties and the proposal is considered to be an appropriate contextual fit for the site, within the Warriewood Valley Release Area.*

*Whilst the proposed residential flat buildings do not meet the minimum solar access requirements of the ADG and P21 DCP, the development is sited and designed to provide adequate sunlight, daylight and ventilation to habitable rooms during midwinter. As such the proposal is consistent with the outcomes of the solar access development control and the proposal is acceptable despite technical non-compliance in this regard.*

*Given Council’s merit assessment of the development, the Panel concurs the proposal is consistent with the objectives of the DCP, the zone objectives and aims of the LEP, the objectives of the relevant EPIs and with the objects of the Environmental Planning and Assessment Act 1979 and approval of the proposal would be in the public interest.”*

The Panel’s reasons for granting consent are unaffected by the proposed modifications.

Each condition contains a reason which have been considered in this Planning Report.

### 5.1 Section 4.15(1)(a) – Planning Controls

#### 5.1.1 Pittwater Local Environmental Plan 2014

The site is located in the R3 Medium density residential zone. The approved development remains permissible with consent in the R3 zone. The proposed modifications do not change the consistency of the approved development against the zone objectives of the R3 zone.

There are no provisions of the LEP that are directly relevant to the proposed modifications.

#### 5.1.2 State Environmental Planning Policies (SEPPs)

The following SEPPs were addressed as part of the assessment of the original DA.

- SEPP (Infrastructure) 2007. There are no provisions of the SEPP directly relevant to the proposed modifications.



- SEPP (Building Sustainability Index: BASIX) 2004. The BASIX certificates have been updated to satisfy the provisions of the EP&A Regulation 2000 largely in response to the addition of the pergolas to the dwellings fronting Warriewood Road.
- SEPP (Coastal Management) 2018. There are no provisions of the SEPP directly relevant to the proposed modifications.
- SEPP No. 65. Design Quality of Residential Flat Development. There are no amendments to the dwellings of the residential flat building.

### 5.1.3 Pittwater 21 Development Control Plan

The following discussion provides assessment or commentary (as applicable) against the relevant provisions of the DCP.

#### Section A – Shaping Development in Pittwater

The notification provisions of the DCP have been discussed in **Section 4.1** of this planning report. The built form of the development remains substantially unchanged from that originally approved and the built form controls are therefore not re-assessed.

#### Section B – General Controls

The controls relating to heritage, density, hazards, the natural environment, vehicular access and parking and site works management are all unaffected by the proposed modifications.

#### Section C – Development Type Controls

The approved development was assessed against Section C1 - Design Criteria for Residential Development.

The approved built form of the development is not proposed to be modified. These controls are therefore not applicable to the modification.

The approved development was also assessed under Section C6 – Design Criteria for the Warriewood Valley Release Area. Relevant provisions are discussed below.

- Section C1.25 – Plant, Equipment Boxes and Lift Over-Run. During design development, the size of the mechanical plant platform has been identified as needing to be larger. The platform is retained on the roof top with vertical screening (as approved) to minimise its visibility.
- Section C6.1 – Integrated Water Cycle Management. This section of the DCP contains provisions relating to groundwater and excavation and basements. As detailed in **Section 3.2** of this Report the depth of groundwater has been determined to be below the depth of the basement and on that basis tanking of the basement is not required.
- Section C6.7 – Landscaped Area (Sector, Buffer Area or Development Site). The assessment report for DA N0611/16 noted that Lot 2 (being the lot on which the subject development is located) is to be provided with a restriction on title requiring a minimum 41% of the site area to be provided as landscaped area. The proposed amendments to the landscape design do not reduce the total landscaped area and the 41% requirement is still achieved.

## Section D – Locality Specific Development Controls

Section D16 – Warriewood Valley Locality applies to the site. The following provision is of most relevance to the proposed modification:

- Section 16.5 – Landscaped Area for Newly Created Individual Lots. The approved development resulted in the landscaped area for the lots less than 9m wide fronting Warriewood Road being slightly less than the 25% landscaped area control of the DCP. The landscaped area in each front courtyard is proposed to be amended to replace the small, grassed area with permeable paving. As noted in the original SEE, Pittwater LEP 2014 defines landscaped as excluding hard paved areas. The DCP provides further guidance and landscaped areas are to be predominantly areas of deep soil to allow the infiltration of rain water. The use of permeable paving meets the intent of the control. The permeable paving will make the courtyard spaces more functional whilst still integrating with the remainder of the garden beds in the courtyards. The total landscaped area for each of the lots/dwellings fronting Warriewood Road is the same as the approved development.
- Section D16.9 – Solar Access. The DCP requires 70% of dwellings to receive a minimum of 2 hours of solar access to windows of the principal living areas and private open space between 9am and 3pm on June 21. The pergola to the rear terrace does not affect this outcome as each dwelling has a private open space and living room fronting Warriewood Road which has an eastern orientation and will provide the required 2 hours of solar access.

### 5.1.4 Planning Agreement or draft Planning Agreement

There is no planning agreement relating to the approved development.

## 5.2 Section 4.15(1)(b) – Natural and Built Environmental Impacts

### 5.2.1 Accessibility

3D Access has reviewed the amended design and prepared an Access Performance Solution Report, a copy of which is submitted with this application. The Report justifies a performance based solution for three aspects of the deemed to satisfy provisions of the BCA.

1. The amendment of the ramp from Lorikeet Grove to steps; and
2. Distance between entrances as the secondary entrance (from Laneway) is more than 50m from the principal entry (Lorikeet Grove)

These two provisions are related and 3D Access has examined how people will access the site by different modes to understand whether there is any disadvantage to people with a disability and they have made the following observations:

- Where visitors arrive at site via vehicle, they are likely to utilise the visitor parking (located adjacent the accessible entry) which will be more convenient. Residents arriving by car or foot will be familiar with the site and building and will park in the basement which has access to the building by the lifts. Residents arriving by foot will similarly be familiar with the location of the pedestrian access points.
- Where individuals travel to site via the bus, the accessible entry is closer than the non-accessible principal entry to both bus stops, thus it is likely occupants would choose to utilise this entry (especially if they have a mobility impairment); and
- Where an individual chooses to travel to the principal entry via the footpath from surrounding suburbs or bus stops (which includes a significant distance, over varying gradients) it is expected that travelling between the principal and secondary entry would not disadvantage them.

To assist in way finding, 3D Access has recommended that way finding signage be installed at the Lorikeet Grove frontage to direct people to the accessible entrance on the eastern side of the building. A suggested condition is provided below:

Way finding signage is to be installed at the base of the steps to Lorikeet Grove to clearly identify the pedestrian pathway around the building to the alternative entrance on the eastern side of the apartment building. The signage is to be installed prior to the issue of an occupation certificate for the residential flat building.

### 3. Stair design (nosings)

The steps from Lorikeet Grove have been designed with a vertical gap of 25mm at the bottom of the riser which is contrary to clause 11.1 of AS1428.1. 3D Access has examined this design with reference to research into how people with disabilities ascend stairs. They have also noted that the depth of each step (the 'going') of 355mm is greater than required. This analysis has led them to conclude the design of the steps is not considered to disadvantage individuals with accessibility requirements when considering:

- The stepping patterns of people with or without prosthetic legs; and
- The length of the 'going' is large enough to fully accommodate the size of an average adult foot

In all three cases, 3D Access has concluded that the performance solutions satisfy the Performance Requirements of the relevant provisions of the BCA.

### 5.2.2 Landscape Outcome

The proposed amendments are minor and relate to a change in design to the courtyards fronting Warriewood Road whilst still allowing for deep soil planting in the front setback zone. The amendments to the Lorikeet Grove frontage are similarly minor relating to accommodating services.

The overall landscaped area is not reduced which satisfies the requirement for a 41% landscaped area and the landscape outcome of the proposed development is not adversely affected by the proposed modifications.

### 5.3 Section 4.15(1)(b) – Social and Economic Impacts

There are not considered to be any relevant or adverse social or economic impacts arising as a consequence of the staged construction.

### 5.4 Section 4.15(1)(c) – Suitability of the Site for Development

The proposed modifications do not alter the suitability of the site for the development. The geotechnical assessment prepared by Geotechnique submitted with the original DA has considered the effects of groundwater in relation to the excavated basement. Geotechnique has concluded that the basement will not be affected by groundwater and the deletion of Condition 18 relating to tanking of the basement is therefore proposed.

### 5.5 Section 4.15(1)(d) – Submissions

Should Council notify the subject application in accordance with section 4.55(1A)(c), it must consider any submissions made during a notification period.



## 5.6 Section 4.15(1)(e) – Public Interest

The proposed modifications will still enable the development to achieve the objectives of the R3 zone which reflect the public interest. There are no other public interest matters that are considered to arise as a consequence of the proposed modification.

## 6.0 Conclusion and Recommendations

This submission accompanies an application under section 4.55(1A) of the EP&A Act to modify DA2020/0579. The proposal involves minor modifications to conditions relating to the subdivision works certificate, deleting condition 18 in relation to tanking of the basement and minor building and landscaping amendments.

The modifications will not substantially alter the approved development and accordingly, are considered to satisfy the requirements pursuant to section 4.55(1A) of the EP&A Act.

The proposed modifications are considered to have acceptable environmental impacts. The modification of the ramp from Lorikeet Grove to a small set of steps has been examined by 3D Access in terms of disability and equitable access and found to meet the performance requirements of the relevant provisions of the BCA.

Accordingly, we are of the view that the proposed modification is acceptable in this particular instance and can be approved under section 4.55(1A).

We would be pleased to discuss this application further with Council officers should that be required and if you have any queries, please do not hesitate to contact David Kettle from our office.

Yours faithfully

**DFP PLANNING PTY LTD**

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**DAVID KETTLE  
DIRECTOR**

dkettle@dfplanning.com.au

Reviewed: \_\_\_\_\_

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Documents submitted with the Application

1. Owners Consent
2. Amended Architectural Plans prepared by VIA Architects
3. Amended Landscape Plan prepared by CDA Design Group
4. Amended BASIX and NatHERS Certificates and stamped plans prepared by Partners Energy Management
5. Accessibility Performance Solution Report prepared by 3D Access