

JRPP No:	2011SYE038
DA No:	N0085/11
PROPOSED DEVELOPMENT:	Construction of an Infill Affordable Housing development comprising of 46 residential terraces/townhouses (23 maintained as affordable rental housing for a period of 10 years), Focal Neighbourhood Centre (510m ² of retail floor area), provision of roads, parking and other infrastructure, restoration and dedication of the creekline corridor and subdivision of the land at 23B Macpherson St, Warriewood (Lot 11 DP 5464)
APPLICANT:	Warriewood Properties Pty Ltd
REPORT BY:	Amy Allen, Senior Planner, Pittwater Council

Assessment Report and Recommendation

REPORT PREPARED BY: Amy Allen
APPLICATION SUBMITTED ON: 24 March 2011
APPLICATION SUBMITTED BY: WARRIEWOOD PROPERTIES PTY LTD
4 PONDEROSA PARADE
WARRIEWOOD 2102

OWNER(S): WARRIEWOOD PROPERTIES PTY LTD

EXECUTIVE SUMMARY

This report assesses a development application for an Infill Affordable Housing development comprising of 46 residential terraces/townhouses, a Focal Neighbourhood Centre, associated infrastructure, creekline corridor works and subdivision of the land at 23B Macpherson St, Warriewood against the provisions of State and Local statutory and non-statutory policies and various strategic planning documents.

The consent authority for this proposed development is the Sydney East Joint Regional Planning Panel. Submissions made by the public with respect to the proposal have been considered in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*.

The application has been made under the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*. The report finds that, the development is inconsistent with maximum density standard for the site as expressed in dwelling numbers, minimum residential parking requirements and maximum site coverage permitted. Despite this, the development is consistent with the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009* and therefore cannot be refused for these reasons.

The development also proposes a Focal Neighbourhood Centre with a retail area less than minimum identified in *Pittwater 21 Development Control Plan*. This variation has been supported on its merits as the development can achieve the social and economic outcomes for this site, noting that there has been community support for the size proposed.

Overall the development is generally consistent with the strategic direction set out for the Warriewood Valley Land Release Area and specifically for this site. The development is appropriate for the site, achieves State and Local planning outcomes relating to affordable rental housing and provision of a mixture of residential buildings and is compatible with the natural and built form character of the area.

The Application is recommended for development consent.

1.0 DEVELOPMENT CONTROLS

The following planning and legislative framework applies to the proposed development:

- **State Legislation**
 - Environmental Planning and Assessment Act 1979 (“EP&A Act”);
 - Environmental Planning and Assessment Regulation 2000 (“EP&A Regs”);
 - Water Management Act 2000 (Integrated Development);
- **State Environmental Planning Policies and Guidelines**
 - State Environmental Planning Policy No. 55 (Remediation of Land) (“SEPP 55”);
 - State Environmental Planning Policy (Building Sustainability Index: BASIX) (“SEPP BASIX”);
 - State Environmental Planning Policy (Affordable Rental Housing) 2009 (“SEPP ARH”);
 - State Environmental Planning Policy Amendment (Affordable Rental Housing) 2011 (“amended SEPP ARH”);
 - Seniors Living Policy: Urban Design Guidelines For Infill Development 2004;
- **Local Environmental Plans and Policies**
 - Pittwater Local Environmental Plan 1993 (“PLEP”):
 - Clause 9 Zone 2(f) (Urban Purposes – Mixed Residential);
 - Clause 11 Subdivision in residential zones;
 - Division 7A Warriewood Valley Urban Land Release Clauses 30A, 30B and 30C;
 - Clause 44 and Schedule 10 Development for certain additional purposes (FNC);
 - Clause 46 Provision of adequate water and sewerage services;
 - Pittwater 21 Development Control Plan (Amendment 6) (“PDCP”);
 - Warriewood Valley Planning Framework 2010;
 - Flood Risk Management Policy for Development in Pittwater.

As the application has been made under the provisions of SEPP ARH it is important to identify that the SEPP ARH provisions override where an inconsistency may arise with the PLEP and PDCP.

Notwithstanding this, it is still considered appropriate to assess the development against the suite of locally developed planning controls to establish whether this development can achieve the local planning outcomes envisaged for this area in addition to the state planning outcomes.

2.0 NOTIFICATION/ADVERTISING

The application was notified as Advertised Development for a period of 31 days in accordance with the requirements of the EP&A Act, EP&A Regs and PDCP through an advertisement in the local newspaper, sign placed on the site and by letter to 199 residents and property owners. The notification included a statement indicating that the Joint Regional Planning Panel is the Consent Authority for the application.

In response to public notification, Council to date has received 19 submissions (13 objecting to the proposal and 6 in support of the proposal). The applicant held a community meeting on

the 13 April 2011 and Council was forwarded a copy of the minutes of this meeting on the 29 April 2011.

3.0 SITE DETAILS

23B Macpherson Street, Warriewood ("the site") is one parcel of land legally described as Lot 11, Section C in DP 5464. The site has an area of 1.434 hectares and is generally rectangular in shape. The site is a corner lot with two street frontages, the north eastern boundary addressing Macpherson St and the south eastern boundary addressing Garden St.

The south western boundary is irregular as it generally follows centreline of Fern Creek. The creek appears to have slightly changed course over time and is located partially on the subject site and partially on the site to the south west. The north western boundary is adjacent to residential streets known as Lomandra Way and Callistemon Way which service the medium density development to the north west.

The site is relatively flat with a fall of 2m from the higher western corner to the lower eastern corner.

The site is currently vacant however the land was previously developed by a dwelling, sheds and glasshouses which were demolished in 2004. The north eastern, north western and south eastern boundaries are currently delineated by a chain wire fence. A few insignificant trees are scattered across the site with some limited native canopy along the embankment of Fern Creek.

The site is in close proximity to mains water and sewer, communications and electricity. The road reserve along Garden St does not have formed kerb and guttering however both sides of the street incorporate a bitumen pedestrian pathway.

The site is surrounded by a mix of residential development and commercial development. To the north east and north west is predominately medium density residential development consisting of attached villa style and townhouse development. Directly to the east is a commercial development known as Flower Power which is a retail plant nursery with ancillary retail and cafe uses. To the south west is non urban zoned land (which is also in the Land Release Area) consists of large allotments containing a dwelling house and structures used for agricultural purposes. To the south east is low to medium density residential development noting that a stretch of detached style dwelling houses on standard sized lots exists directly opposite the site on the south eastern side of Garden St.

4.0 PROPOSAL IN DETAIL

The application is primarily for the construction of an Infill Affordable Housing development comprising of 46 residential terraces/townhouses, a Focal Neighbourhood Centre ("FNC"), associated infrastructure, creekline corridor works and subdivision of the land. Specifically, the applicant seeks consent for the following development to the site:

- Construction of an Infill Affordable Housing development comprising of:
 - o 46 attached dwellings (38 x 3 bedroom and 8 x 4 bedroom) of which:
 - 23 dwellings (Lots 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30) are proposed to be maintained as Affordable Rental Housing;
 - 9 dwellings (Lots 39, 40, 41, 42, 43, 44, 45, 46 and 47) are proposed to be Adaptable Housing;
 - 14 dwellings are proposed to be normal dwelling houses.
 - o 63 residential off street parking spaces (29 dwellings with single garages and 17 dwellings with a single garage and tandem car space);

- 6 residential off street visitor parking spaces (located to the south west of dwellings);
 - 8 public on street parking spaces (located within the road reserve on Macpherson St and Garden St.
- Construction of a one and two storey focal neighbourhood centre comprising of:
 - 510m² of retail floor space and external seating area (indicative use as a café/resturant and general store/newsagent/ATM);
 - 15 commercial off street parking spaces;
 - 2 accessible off street parking spaces;
 - 1 delivery van off street parking space;
 - Bicycle parking.
- Associated landscaping works to the site including tree removal;
- Earthworks including filling the site to new site level (maximum fill 1.8m high);
- Associated infrastructure comprising of:
 - Network of three internal roads (vehicular access provided off Garden Street) to be maintained as community title roads with public access rights;
 - Pedestrian pathways and cycle way;
 - Provision of services.
- Creation of a multi purpose creek line corridor comprising of:
 - Revegetation and regeneration of the riparian zone along Fern Creek;
 - Dedication of approximately 2776m² of land to council for public purposes.
- A 49 Lot subdivision of the land comprising of:
 - Single lot for infrastructure, roads and landscaping (Lot 1) under community title scheme;
 - 46 lots for each dwelling (Lots 2 – 47) under community title scheme;
 - Single lot for the focal neighbourhood centre (Lot 48) under community title scheme;
 - Single lot for the Multi purpose creek line corridor (Lot 49) to be dedicated to council.

5.0 BACKGROUND

5.1 Additional Information

On 12 May 2011, Council requested additional information from the applicant including clarification of some matters, further planning justification and amended plans. On 19 May 2011, the applicant lodged the additional information which included:

- Architectural Plans DA 02, 03, 05, 06, 07, 08, 09 Rev. B
- Architectural Finishes presentation sheet and colour swatches
- Landscape Plan Rev. L01 Rev. B
- Civil Design Plans 1736-DA-01(01) and 1736-DA-08(00)
- Subdivision Plan 1736-L03(01)
- Retail Report by Hill PDA
- Draft Agreement between Warriewood Properties and Link Housing
- Addendum report by Civil Certification addressing Water Management/Flooding

The submitted plans supersede the originally submitted plans, noting that the main changes are:

- Increase in fill across majority of the site of 200mm and subsequent modification to floor and roof levels of some dwellings.
- Lot 49 increased in area to 2776m² to accommodate cycle pathway within land dedicated to council.

There was no need to renotify the amended plans as the change to floor levels to some dwellings was considered minor amendment.

5.2 Previous Development Applications

N0603/09 – Refusal

Development application to construct a retail facility comprising a 2,315sqm supermarket, 147sqm of specialty shops, a cafe of 80sqm, a centre management office, associated amenities, ATM machines, parking for 97 vehicles, associated landscaping, drainage and creek line modification and rehabilitation works, subdivision of the land such that the creek line corridor is dedicated to Council was refused by council in June 2010. The application was appealed (deemed refusal) in April 2010 to the Land and Environment Court and was dismissed on a legal point in October 2010.

N0283/09 – Refusal

Development application to construct a retail facility comprising a 3,200sqm supermarket, 750sqm specialty shops and café, parking for 150 vehicles, a 2 bedroom caretakers unit, and associated landscaping and creekline rehabilitation works; Subdivision of the land such that the creekline corridor is dedicated to Council was refused by the Joint Regional Planning Panel in November 2009.

N0400/08 – Refusal

Development application to subdivide the site and erect 22 detached two storey dwellings was refused by council in February 2010. An appeal was lodged against the refusal in January 2011 which was withdrawn in March 2011.

N0352/04 – Consent

Development application to demolish the existing dwelling, sheds and glasshouses was approved by council in July 2004.

6.0 STRATEGIC CONTEXT

6.1 Masterplan for Sector 8

The following advice has been provided by Council's Principal Land Release Planner:

'This site forms the south-eastern most end of the area known as Sector 8 of Warriewood Valley Release Area, and is the last remaining parcel in Sector 8 to be developed.'

The Masterplan document for Sector 8 showed a portion of this site being set aside for a neighbourhood centre, whilst the majority of the site showed residential development.'

6.2 Warriewood Valley Strategic Review

The following advice has been provided by Council's Principal Land Release Planner:

The proposed Warriewood Valley Strategic Review was a recommendation by the Planning Assessment Commission (PAC), in its determination of a Major Project Application for a site in the Warriewood Valley Release Area, whereupon the comprehensive strategic study relates to all undeveloped sites in the Valley (including this site). The study will consider those matters expressly highlighted by the PAC, namely:

- The appropriateness of Council height and density standards across the valley,*
- The role of Warriewood Square, and the potential for higher density residential and employment generating developments adjacent to the centre, its role in the subregion and how it relates to the rest of the Valley in terms of development density, housing mix and traffic and transport,*
- The current transport network and necessary improvement works, and*
- The demand for physical and social infrastructure in the Valley and the surrounding area.*

Council and the Department of Planning & Infrastructure have jointly commenced a strategic review of all undeveloped areas in Warriewood Valley. Given that the outcomes of the review will not be known until November 2011, and a DA may be lodged at any time, where it proposes an increase above that specified in Clause 30C of the Pittwater LEP it will still need to be assessed accordingly. It is in this context that consideration must be made to the current application in determining whether the assessment (and any subsequent determination) should be deferred pending the outcomes of the Warriewood Valley Strategic Review or otherwise. In this regard, the following observations are offered:

- 1. This proposal has been lodged under Part 4 of the EP&A Act, and is not a Major Project Declaration. Accordingly, there are legislative requirements applicable to this application including an Appeal provision (in terms of a deemed refusal).*
- 2. This proposal is to be considered under a number of statutory planning instruments including State Environmental Planning Policy (Affordable Rental Housing) 2009 (the "SEPP"), Pittwater LEP 1993 as amended and Pittwater 21 DCP as amended.*
- 3. At its meeting of 21 February 2011, Council resolved as follows:*
 - "1. That Council acknowledge the need for affordable rental housing in Pittwater and within SHOROC region.*
 - 2. That Council endorse and submit a detailed response to the Affordable Rental Housing SEPP Discussion Paper.*
 - 3. That Council continue to assess applications on their merit, taking into account the local area character statements and relevant development control provisions.*
 - 4. That Council request a local variation to the Affordable Rental Housing SEPP to allow in-fill and residential flat buildings for affordable rental housing only in the current shop-top and multi-unit housing areas of Pittwater where there is an agreed community expectation for medium density development and it is in close proximity to commercial centres and transport.*
 - 5. That Council continue to monitor and evaluate the progress of the Affordable Rental Housing SEPP review.*

6. *That Council support that in any future strategic review of Warriewood Valley that results in higher densities, that Council will seek to require 10% of any additional housing density be provided as 'affordable rental housing', managed by an appropriate Community Housing Provider in perpetuity."*

This proposal is not inconsistent with Council's resolution provided that following such assessment, it meets the requirements under the SEPP as alluded to under 3 and 4 of Council's resolution.

4. *Clause 3 of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (the SEPP) lists the aims of the Policy, as follows:*

- '(a) to provide a consistent planning regime for the provision of affordable rental housing,*
- (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*
- (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,*
- (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,*
- (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,*
- (f) to support local business centres by providing affordable rental housing for workers close to places of work,*
- (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.'*

This proposal intends delivery of affordable housing stock through the SEPP albeit for a 10 year period rather than in perpetuity. The assessment will tease out whether the current DA meets the aims of the SEPP as required under Section 79C of the EP&A Act.'

6.3 Pittwater 21 DCP - A4.16 Warriewood Valley Land Release Area

This part of PDCP outlines the existing local context of the area and states the desired future character for Warriewood Valley. Understanding the strategic planning approach to the local area and envisaged development for the locality is fundamental in assessing whether the proposed development is consistent with local planning outcomes and the *Seniors Living Policy: Urban Design Guidelines for Infill Development* (required by SEPP ARH).

Relevant excerpts from A4.16 follow:

Context

Warriewood Valley is situated between Mona Vale and Warriewood. The area that makes up Warriewood Valley comprises the area from the base of the escarpment between the Warriewood Wetlands and Mona Vale Road, with an isolated area on the north side of Mona Vale Road (see map).

The area was previously used for agricultural purposes and has since been largely cleared with remnant areas of vegetation and regrowth along the watercourses and areas subject to flooding, particularly those areas adjacent to the Warriewood Wetlands.

It was in 1991 that the Minister for Planning included land at Warriewood and Ingleside in the State Government's Urban Development Program and appointed Pittwater Council as the authority responsible for the management of the land release. Pittwater Council initiated the planning process necessary to justify the release of land for urban development purposes and produced a draft development strategy in 1995.

Following the election in 1995, the Minister for Urban Affairs and Planning instructed the Ingleside/Warriewood land release to cease temporarily.

In 1997 the Minister agreed to a restricted land release of the land zoned non-urban in Warriewood Valley.

In 1998 Pittwater Council produced the planning strategy and framework to support the release of land within Warriewood Valley, as well as the Section 94 Contributions Plans required.

It was in 1999 that the first land was rezoned within Warriewood Valley.

Pittwater Council has embarked on the process of undertaking detailed investigation and planning to facilitate the orderly and environmentally sustainable release of land for urban development within Warriewood Valley.

The land identified for release within Warriewood Valley comprises approximately 110 hectares, inclusive of 27 hectares of industrial/commercial land as well as associated community facilities and infrastructure.

The remaining portion of Warriewood Valley, which will primarily comprise residential area, is expected to provide a total of 1886 new dwellings, an average household occupancy of 2.8 persons per household to facilitate an additional population of 5281 residents.

To ensure a responsible, sound and thorough approach to the Warriewood Valley land release, Pittwater Council adopted a "sector by sector" approach, whereby landowners have been actively encouraged to cooperatively participate in the detailed design process in order to achieve desired outcomes.

Consultation with members of the public, planning authorities and developers has been actively maintained throughout the investigation and planning process for Warriewood Valley.

Desired Character Statement

The Warriewood Valley Land Release Area will remain characterised by a mix of residential, retail, commercial, industrial, recreational, and educational land uses.

Warriewood Valley Land Release Area will be developed into a desirable urban community in accordance with the Warriewood Valley Land Release Planning Framework, and will include a mix of low to medium density housing with dwelling houses a maximum of two storeys in any one place, attached and detached dual occupancy dwellings, multi-unit housing, a neighbourhood focal centre, industrial/commercial development and open space and community services.

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.

Future development will maintain a height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be

integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like.

Building colours and materials will harmonise with the natural environment. Development will be designed to be safe from hazards.

The creeklines, roads and open space areas will form the backbone of the new community, complemented with innovative water management systems, the natural environment, pedestrian/cycle path network, public transport, and recreation facilities.

Development will incorporate native canopy trees and vegetation to minimise the bulk and scale of development and enhance the new community with a high quality landscape character.

Development will integrate with the landform and landscape.

A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land.

In this respect large tracts of land known as the Warriewood Escarpment have been acquired and reserved as environmental protection, as well as the Warriewood wetland area, no urban development will be permitted in these areas.

As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, and to enhance wildlife corridors.

Vehicular, pedestrian and cycle access within and through the area will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna and facilitate co-location of services and utilities.

Note: it should be said that the Planning and Assessment commission decided to approve (January 2011) a development for Meriton, is, in Council's opinion, is inconsistent with equitable orderly planning. This approval is currently being challenged by Council in the Land and Environment Court.

6.4 Warriewood Valley Planning Framework 2010

The Warriewood Valley Planning Framework 2010 consolidates the Draft Warriewood Valley Urban Land Release Planning Framework 1997 and the STP Buffer Sector Draft Planning Framework 2001 into a single document. The document aims to ensure planned orderly development of the Valley which continues responding to changing legislative and economic conditions by developing a planning strategy that facilitates completion of the Warriewood Valley Urban Land Release.

The planning framework contains a contextual overview of Warriewood Valley, objectives, action plans and specific site development outcomes. The objectives of this document translate into various PDCP controls and PLEP considerations addressed in greater detail elsewhere in this report.

23B Macpherson St is specifically nominated in Table 17 of the framework as being the dedicated site for a FNC and having a maximum dwelling yield of 19.

The density proposed (46 dwellings) is substantially greater and lots considerably smaller than anticipated within the framework. The development is for medium density residential housing (partly used for affordable housing) and a FNC which is consistent with the zone objectives. The density is made permissible under SEPP ARH.

7.0 COMPLIANCE TABLE – PITTWATER 21 DCP CONTROLS

T - Can the proposal satisfy the technical requirements of the control?

O - Can the proposal achieve the control outcomes?

F - Is the control free from objection?

Y = Yes

N = No

- = Not Applicable

CONTROL	STANDARD	PROPOSAL	T	O	F
DEVELOPMENT ENGINEER AND WARRIEWOOD VALLEY TEAM (Water Management, Landscape Architect, Traffic Management, Community Services, Natural Environment)					
B3.22 Flood Hazard - Flood Category 3 - All Development			-	-	-
B3.23 Climate Change (Sea Level Rise and Increased Rainfall Volume)	<p>The following climate change scenarios shall be considered:</p> <p>Scenario 1: Impacts of sea level rise only:</p> <p>Scenario 2: Impacts of sea level rise combined with increased rainfall volume:</p>	<p>Council's assessment of water management aspects of the proposal finds that they are satisfactory subject to consent conditions.</p> <p>See discussion in Section 8.3 later in this report.</p>	Y	Y	Y
B5.1 Water Management Plan	<p>An Integrated Water Management approach must be undertaken on all land subject to development for the effective water management of all water on the site</p>	<p>Council's assessment of water management aspects of the proposal finds that they are satisfactory subject to consent conditions.</p> <p>See discussion in Section 8.3 later in this report.</p>	Y	Y	Y
B5.4 Stormwater Harvesting	<p>A stormwater management plan describing the design for stormwater harvesting and reuse is required to be submitted setting out effective water management of all water on-site.</p>	<p>Council's assessment of water management aspects of the proposal finds that they are satisfactory subject to consent conditions.</p> <p>See discussion in Section 8.3 later in this report.</p>	Y	Y	Y
B5.11 Stormwater Discharge into Waterways and Coastal Areas			Y	Y	Y
B5.13 Development on Waterfront Land	<p>Development within waterfront land shall</p>	<p>Within waterfront land and requires controlled activity approval.</p>	Y	Y	Y

	incorporate appropriately sized riparian corridor zones into the design based on "Water Management Act 2000 - Guidelines for controlled activities - Riparian Corridors".	See 4.8 Integrated Development - Rivers, Streams and Foreshores later in this compliance table.			
B6.2 Access Driveways and Works on the Public Road Reserve- All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy		Council's Principal Engineer in Strategy Investigation & Design has advised that the application satisfactorily addresses this control. See discussion in Section 8.3 later in this report.	Y	Y	Y
B6.4 Internal Driveways - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy		Council's Principal Engineer in Strategy Investigation & Design has advised that the application satisfactorily addresses this control. See discussion in Section 8.3 later in this report.	Y	Y	Y
B6.6 Off-Street Vehicle Parking Requirements - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy		The development does not provide 2 car spaces per dwelling. SEPP ARH overrides this control. See discussion in Section 8.3 later in this report.	N	Y	N
B6.9 On-Street Parking Facilities - All Development other than Dwelling Houses, Secondary Dwellings and Dual Occupancy		Council's Principal Engineer in Strategy Investigation & Design has advised that the application satisfactorily addresses this control. See discussion in Section 8.3 later in this report.	Y	Y	Y
B6.10 Transport and Traffic Management - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy		Council's Principal Engineer in Strategy Investigation & Design has advised that the application satisfactorily addresses this control. See discussion in Section 8.3 later in this report.	Y	Y	N
B8.1 Construction and Demolition - Excavation and Landfill			-	-	-

B8.2 Construction and Demolition - Erosion and Sediment Management		Satisfactory subject to consent conditions.	Y	Y	Y
B8.3 Construction and Demolition - Waste Minimisation		Satisfactory subject to consent conditions.	Y	Y	Y
B8.4 Construction and Demolition - Site Fencing and Security		Satisfactory subject to consent conditions.	Y	Y	Y
B8.5 Construction and Demolition - Works in the Public Domain		Satisfactory subject to consent conditions.	Y	Y	Y
B8.6 Construction and Demolition - Traffic Management Plan		Satisfactory subject to consent conditions.	Y	Y	Y
C6.4 Flood - Warriewood Valley Land Release Area Residential Sectors		Council's assessment of water management aspects of the proposal finds that they are satisfactory subject to consent conditions. See discussion in Section 8.3 later in this report.	Y	Y	Y
C6.7 Water Management and Creekline Corridors - Warriewood Valley Land Release Area		Council's assessment of water management aspects of the proposal finds that they are satisfactory subject to consent conditions. See discussion in Section 8.3 later in this report.	Y	Y	Y
C6.8 The Road System - Warriewood Valley Land Release Area		Council's Principal Engineer in Strategy Investigation & Design has advised that the application satisfactorily addresses this control. See discussion in Section 8.3 later in this report	Y	Y	Y
C6.18 Utilities and services - Warriewood Valley Land Release Area		Satisfactory subject to consent conditions.	Y	Y	Y
C6.20 Water Management for Development in Warriewood Valley Land Release Area		Council's assessment of water management aspects of the proposal finds that they are satisfactory subject to consent conditions. See discussion in Section 8.3 later in	Y	Y	Y

		this report.			
C6.21 Provision of Infrastructure - Warriewood Valley Land Release Area		Satisfactory subject to consent conditions.	Y	Y	Y
C6.22 Landscaping on the Existing and Proposed Public Road Reserve Frontage to Subdivision Lots - Warriewood Valley Land Release Area		Council's Landscape Architect has advised that the application satisfactorily addresses this control subject to consent conditions. See discussion in Section 8.3 later in this report	Y	Y	Y
B3.5 Acid Sulphate Soils		Acid Sulphate Region 5.	Y	Y	Y
B4.15 Saltmarsh Endangered Ecological Community		Council's natural Resources Officer has advised that the application satisfactorily addresses this control subject to consent conditions. See discussion in Section 8.3 later in this report	Y	Y	Y
C6.2 Aboriginal Heritage - Warriewood Valley Land Release Area			Y	Y	Y
C6.6 Bushfire Protection - Warriewood Valley Land Release Area			Y	Y	Y
C6.11 Natural Environment - Warriewood Valley Land Release Area		Council's natural Resources Officer has advised that the application satisfactorily addresses this control subject to consent conditions. See discussion in Section 8.3 later in this report	Y	Y	Y
D16.12 Landscaping			Y	Y	Y
HEALTH					
B5.2 Wastewater Disposal		The site is capable of being connected to the sewer.	Y	Y	Y
B5.3 Greywater Reuse		None proposed.	Y	Y	Y
C2.9 Waste and Recycling Facilities		Council's Environmental Health Officer has assessed the development application and is satisfied adequate provision has been made for the storage of garbage containers subject to recommended conditions of consent.	Y	Y	Y
C5.19 Food	Ensure food businesses	No specific food premises are	Y	Y	Y

Premises Design Standards	have appropriate facilities and services in place for patrons.	proposed as part of this development application. The FNC only provides an indicative internal layout of a café and speciality shops. Any food premises within the FNC would be subject to a further development application.			
HERITAGE					
B1.3 Heritage Conservation - General			Y	Y	Y
B1.4 Aboriginal Heritage Significance			Y	Y	Y
C6.3 European Heritage - Warriewood Valley Land Release Area			Y	Y	Y
PLANNING					
EPA Act Section 147 Disclosure of political donations and gifts	Applications or public submissions to Council may require a Political donations and gifts disclosure statement to be completed under section 147(4) and (5) of the <i>Environmental Planning and Assessment Act 1979</i> .	No political donations or gifts have been reported in the application or public submissions.	Y	Y	Y
3.1 Submission of a Development Application and payment of appropriate fee	A completed development application form including formal owners consent to lodge the application together with the appropriate fees must be submitted with all development applications.	A completed development application form has been submitted which included formal owners consent from Warriewood Properties Pty Ltd. A quantity surveyors report was also submitted estimating the value of the development.	Y	Y	Y
3.2 Submission of a Statement of Environmental Effects	A Statement of Environmental Effects (SEE) must accompany all development applications.	A Statement of Environmental Effects and reports which address the relevant policies in PDCP and environmental impact have been submitted.	Y	Y	Y
3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings	Survey Plan, Site Plan, Development drawings and a Schedule of Finishes required to be submitted.	A range of supporting documentation has been submitted with the development application.	Y	Y	Y
3.4 Notification	Integrated Development Applications must be publicly notified for a minimum period of 30 days.	The development application was publicly notified for 31 days from the 2 April 2011 to 4 May 2011.	Y	Y	Y

3.5 Building Code of Australia	Proposed development must be designed, constructed and maintained so that they comply with the relevant provisions of the Building Code of Australia.	The proposed structures are constructed of conventional materials and design and able to be constructed in accordance with the BCA.	Y	Y	Y
3.6 State Environment Planning Policies (SEPPs) and Sydney Regional Environmental Policies (SREPs)	The following SEPPs apply to this development: - SEPP (Affordable Rental Housing) 2009 - SEPP BASIX - SEPP 55	The development is consistent with the provisions of the relevant SEPPs See discussion under section 8.1 later in report.	Y	Y	Y
4.5 Integrated Development: Aboriginal Objects and Places		The application is not classified as integrated development as it does not require development consent and an approval under the <i>National Parks and Wildlife Act 1974</i> .	-	-	-
4.6 Integrated Development - Protection of the Environment		The application is not classified as integrated development as it does not require development consent and an approval under the <i>Protection of the Environment Operations Act 1997</i> .	-	-	-
4.7 Integrated Development - Roads		The application is not classified as integrated development as it does not require development consent and an approval under the <i>Roads Act 1993</i> .	-	-	-
4.8 Integrated Development - Rivers, Streams and Foreshores	Identification of the environmental impacts of a proposal. <i>If the development is a controlled activity to be taken on water front land, compliance with the requirements of the Water Management Act 2000 is required.</i>	The application is classified as integrated development as it requires development consent and an approval under the <i>Water Management Act 2000</i> . The application was referred to the NSW Office of Water of the DECCW for consideration under the <i>Water Management Act 2000</i> . As outlined in correspondence dated 20 April 2011, NOW has issued General Terms of Approval (GTA) for 'works' requiring a Controlled Activity Approval.	Y	Y	Y
5.1 Referral to the Roads and Traffic Authority under SEPP (Infrastructure) 2007		The proposed development is not subject to assessment under the provisions of SEPP (Infrastructure) 2007.	-	-	-
5.3 Referral to NSW Department of Environment and Climate Change (DECC)		The proposed development is not on land that is, or is a part of, critical habitat, or the development is likely to significantly affect a threatened species, population, or ecological community, or its habitat.	-	-	-

6.6 Section 94 Contributions - Warriewood Valley	A contribution per dwelling or dwelling equivalent to be constructed on an allotment of land is payable to Council. Council may accept a dedication of land and/or other material public benefit (other than the payment of money) in part or full satisfaction of any condition of development consent imposed under Section 94 of the Act. A material public benefit may consist of any physical components, including but not limited to works in kind, which are of benefit to the general community.	This development will, if approved, generate additional services and infrastructure demand identified under the Warriewood Valley Section 94 Contributions Plan. See discussion under section 8.3 later in this report.	Y	Y	Y
A1.7 Considerations before consent is granted	Before granting development consent, Council must be satisfied that the development is consistent with: <ul style="list-style-type: none"> - <i>Pittwater LEP 1993</i>; and - the desired character of the Locality; and - the development controls applicable to the development. Council will also have regard to section 79C of the <i>Environmental Planning and Assessment Act 1979</i> .	While the development is inconsistent with both the PLEP and PDGP standards and controls the proposal is consistent with SEPP ARH and the existing and envisaged built form character for the locality. Detailed consideration of all relevant matters is addressed in section 8 later in this report.	N	Y	Y
B2.8 Dwelling Density - Warriewood Valley Land Release Area	Dwelling yields, development densities and developable areas for each sector are outlined in the draft Warriewood Valley Land Release Planning Framework. Sector 8 25 dwellings / ha - 159 (Medium Density) Sector 801 23B Macpherson St -	46 attached style dwellings are proposed Concern has been raised in the submissions regarding the density of the proposal being excessive. While the 46 dwellings exceed the maximum dwelling yield permitted on the site, density is a minimum standard in SEPP ARH and the development cannot be refused for this reason. See discussion in section 8.1 later in	N	N	N

	19 dwellings	this report.			
B3.6 Contaminated Land and Potentially Contaminated Land	Council shall not consent to the carrying out of any development on land unless it has considered SEPP No. 55 Remediation of Land.	See discussion under SEPP 55 in section 8.1 later in this report.	Y	Y	Y
C1.3 View Sharing	All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.	The proposal has been designed to achieve a reasonable view sharing scenario between the dwellings. Dwellings have been orientated to overlook private open space and/or streets and the vegetative corridor to the south east.	Y	Y	Y
C1.9 Adaptable Housing and Accessibility	20% of the dwellings (Sectors 5 and 8, Warriewood Valley Land Release) is to meet minimum Class B criteria of AS 4299-1995: Adaptable Housing.	Lots 39, 40, 41, 42, 43, 44, 45, 46 and 47 have been nominated as adaptable dwellings.	Y	Y	Y
C2.6 Adaptable Housing and Accessibility	9 dwellings required to be adaptable. Convenient and safe access for all people, including people with a disability, older people, and people with prams, must be provided to and within all buildings to which the general public have access.	A statement has been provided indicating that the development has been designed to be constructed to meet the relevant Australian Disable Access Standards. A plan showing the typical layout for an adaptable dwelling has also been provided. It is considered that the proposal can achieve the control requirements subject to conditions being incorporated into the consent ensuring that the nominated dwellings are designed and allocated for adaptable use for the life of the development and access to the FNC is to satisfy the requirements of the Australian Standards.	Y	Y	Y
C1.10 Building Facades	For development that includes multiple dwellings with multiple letterboxes,	The design of the development provides areas for mail boxes to be located on/or adjacent to each private allotment.	Y	Y	Y
C2.7 Building Facades	where possible mailboxes should be orientated obliquely to the street to reduce visual clutter and the perception of multiple dwellings.	Awnings are located around the FNC and it is considered that they can be constructed in accordance with the control requirements subject to conditions.			
C2.3 Awnings	Building Facades must not contain any stormwater, sewer, gas, electrical or communication service pipe or conduit that is visible from the public place.				

	Weather protection for pedestrians.				
C1.12 Waste and Recycling Facilities		Recycling receptacles will be able to be stored within the property boundaries.	Y	Y	Y
C1.13 Pollution Control	Residential premises must be designed, constructed, maintained and used in a proper and efficient manner to prevent air, water, and noise and/or land pollution.	The proposal can readily achieve the control outcomes subject to conditions being incorporated into any consent issued.	Y	Y	Y
C1.14 Separately Accessible Structures		None proposed	-	-	-
C1.15 Storage Facilities	Provision of convenient storage with the development.	Each dwelling provides adequate storage areas.	Y	Y	Y
C1.20 Undergrounding of Utility Services	<p>All existing and proposed utility services within the site are to be placed underground or encapsulated within the building.</p> <p>All existing and proposed utility services to the site, or adjacent to the site within a public road reserve, are to be placed underground for the total frontage of the site to any public road.</p> <p>Design and construction of the undergrounding of utility services is to be at full cost to the developer.</p>	<p>The undergrounding of Utility Services is required and can be conditioned as part of any consent.</p> <p>Concern has been raised regarding the affect of undergrounding on the eastern side of Garden St.</p> <p>See discussion under <i>Impacts on Utility Services along Garden Street</i> in Section 8.3 later in this report.</p>	Y	Y	N
C1.23 Eaves	Provision of 450mm eaves on all elevations.	<p>The development does not provide eaves to all elevations.</p> <p>The dwelling design is attached terrace style and cannot accommodate eaves on all elevations like conventional detached dwelling houses.</p> <p>It is recommended that this non compliance be supported on merit given that appropriate solar access and shading is achieved to the development consistent with the outcomes of the control.</p>	N	Y	Y
C1.25 Plant, Equipment Boxes and Lift Over-Run	Where provided, plant and equipment boxes, air conditioning units and lift	Air conditioning is to be provided to each dwelling. The location of air conditioning units has not been	Y	Y	Y

	over-runs are to be integrated internally into the design fabric of the built form of the building.	specified. It is considered that the noise created from the private use of an air conditioning unit is not an unreasonable impact between dwellings. It is considered that the relevant legislation and guidelines regulating noise can satisfactorily control the use of these units.			
C5.21 Plant, Equipment Boxes and Lift Over-Run	Locate and design all noise generating equipment such as mechanical plant rooms, mechanical equipment, air conditioning units, garbage collection areas or similar to protect the acoustic privacy of workers, residents and neighbours.	<p>The delivery space and bin store for the FNC is located close to the dwelling on lot 30. It is noted that the garage of dwelling on lot 30 should provide adequate acoustic protection to the main living areas.</p> <p>It is considered that this is the most practical location for these facilities as it does not disrupt the FNCs connection with the public domain.</p> <p>The tenancies are only indicative and no formal application has been made for the specific use and hours of operation for these tenancies. This would be subject to further development application/s.</p> <p>It is recommended standard conditions requiring compliance with the relevant state legislation be incorporated into the consent.</p>	Y	Y	Y
C6.9 Pedestrian and Cyclist Network - Warriewood Valley Land Release Area	<p>Where pedestrian/cycleway is located in a public reserve, the minimum width is 2.5 metres.</p> <p>Within the creekline corridor, the alignment of the pedestrian/cycleway must provide adequate sightlines for cyclists.</p>	<p>a Councils Landscape Architect has advised that:</p> <p><i>the design and location of the cycleway complies with Control C6.9.</i></p>	Y	Y	Y
C6.10 Ecologically Sustainable Development - Warriewood Valley Land Release Area - Residential Sectors	Development should be designed and located with consideration to orientation, topography, vegetation, microclimate, adjoining development and landscape.	<p>The proposed design ensures that 38 dwellings have a north facing elevation with a living room and private open space.</p> <p>BASIX certificates have been provided and it is considered that the development can achieve the commitments to ecologically</p>	Y	Y	Y

		sustainable development subject to conditions of consent.			
C6.12 Public Recreation and Open Space - Warriewood Valley Land Release Area	To meet the needs of the incoming population the provision of a sports field, district park, and four neighbourhood parks is required.	The development is consistent with the master planning for recreation and open space in the locality.	Y	Y	Y
C6.13 Landscaped Amenity Buffer Strips - Warriewood Valley Land Release Area		The Landscape Amenity Buffer Strip is 50m from the creek centreline and to the built structures.	Y	Y	Y
C6.14 Subdivision Layout - Warriewood Valley Land Release Area	<p>Lots must have the appropriate area and dimensions for the siting of dwellings, canopy trees and other vegetation, private outdoor open space, rainwater tank, and vehicular access and on-site parking. Lots must be of sufficient size and orientation with the main living room(s) able to receive northern sunlight in winter.</p> <p>A variety of lot sizes and dimensions must be provided in the sectors nominated for mixed residential development.</p> <p>The number of driveway entrances from any sector onto major roads in Warriewood Valley including Garden Street, Macpherson Street, Forest Road and Warriewood Road are to be minimised. For example, a single access point to each sector serviced by a roundabout or other on street traffic management facilities (if necessary) with access to individual lots within the subdivision being from internal roads within that subdivision.</p>	<p>The proposal includes community title subdivision to create 46 residential lots, a commercial lot containing the FNC a community lot containing the road and driveway system and associated infrastructure and landscaping.</p> <p>In addition the plan creates a lot containing the multi-functional creekline corridor intended to be dedicated to Pittwater Council.</p> <p>The infrastructure ancillary to the Focal Neighbourhood Centre and residential development will be the responsibility of the Community Association.</p> <p>The subdivision as proposed is satisfactory subject to the imposition of conditions.</p> <p>The development is generally consistent with the requirements of this control. Each lot has an appropriate area with the majority of dwellings receiving adequate daylight access and address the public streets or creekline corridor. While the lot sizes do not vary considerably on this site, consideration is given to the varied sized lots over the entire sector.</p> <p>There is also only one driveway entrance from the site on to a major road (Garden St).</p>	Y	Y	Y
Continued....					
C6.15 Warriewood Valley Land Release Area Focal	A focal neighbourhood centre is to be established in Warriewood Valley, in the	The proposed FNC is 510m ² where the control requires a minimum area of 855m ² . The applicant seeks to rely on	N	Y	N

Neighbourhood Centre	vicinity of the Macpherson and Garden Streets intersection (within Sector 3, 8 or 11).	a variation to the control. Concern has also been raised regarding the undersized retail area of the FNC. See discussion in section 8.3 later in this report.			
C6.17 Social Environment Warriewood Valley Land Release Area	Liveable communities which -foster a strong sense of community and facilitate social interaction amongst residents.	Council's Manager of Community Services & Library has advised that the development can achieve the objectives of the control.	Y	Y	Y
C6.23 Site Coverage, Sector Development Warriewood Valley Land Release Area	The total site coverage within a residential sector -shall not exceed 50% of the sector area. The remaining 50% of the sector area must be landscaped area.	Existing Sector 8 Site Coverage - 30152m ² (38.5%) Proposed Sector 8 Site Coverage - 38272m ² (45.4%)	Y	Y	Y
D14.2 Scenic protection - General	Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.	The proposal ensures that a 25m deep soil vegetation buffer is located next to Fern Creek and an additional 25m zone where only at grade development is located. Landscaping is proposed within an around the proposed dwellings and when viewed from the road the development would be consistent with built form character in the visual catchment of the site and will not create adverse visual impact on the natural environment.	Y	Y	Y
D16.1 Character as viewed from a public place	Buildings which front the street or creek line corridors must have a street presence and incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with any	The development is considered to address the public streets and creekline corridor successfully achieving a desirable visual impact See discussion in section 8.2 later in this report.	Y	Y	Y

		design themes for the locality. Blank street frontage facades without windows shall not be permitted.				
D16.2 Building colours and materials	Building colours and materials	External colours and materials shall be natural tones such as green, brown and dark earthy colours. Roofs to all structures are restricted to the dark colours of the grey sandy earth and the native vegetation, being recessive colours of mid to dark greys, mid to dark browns and mid to dark greens. White, light coloured, red or orange roofs and walls are not permitted.	Roof – Colorbond (Medium Grey) Walls (textured paint finish, panelling) <ul style="list-style-type: none">○ Tan○ Medium Grey○ Dark grey○ Brown grey○ Brown○ Timber Entry Finishes <ul style="list-style-type: none">○ Green○ Ochre	Y	Y	Y
D16.3 Front building lines	Front building lines	Abutting Macpherson Street and Garden Street – 6.5m Abutting Sector Streets Dwelling – 4m Garage – 5.5m Min. Setback to Secondary Street - 3m or 2m Corner blocks or blocks with a double street frontage may apply for a reduced building line (e.g. for a minimum frontage setback of 4.0m, a minimum side setback to corner street of 2.0m would apply.	The dwellings and garages are not 4m and 5.5m to the internal street frontages to Blocks A, B, C and D. Lots 23, 39 and 47 have setbacks less than 2m to their secondary street frontages. See discussion in section 8.2 later in this report.	N	Y	Y
D16.4 Side and rear building lines - Warriewood Valley Residential Sectors	Side and rear building lines - Warriewood Valley Residential Sectors	For detached and attached dwellings, a minimum side boundary setback of 2.5m applies to at least one (1) side boundary.	The numerical aspect of this control cannot be applied to each dwelling in this development as the design is for attached style terrace dwellings (nil side setbacks). See discussion in section 8.2 later in	N	Y	N

		this report.			
D16.5 Building Envelope Warriewood Valley Residential Sectors	Buildings that are Multi-unit housing are to be sited within a building envelope with planes projected at 45 from a height of 3.5 metres above natural ground level at the side boundaries.	The development is not characterised as multi unit housing.	-	-	-
D16.6 Site Coverage Warriewood Valley Residential Sectors	The total built upon area on individual residential allotments shall not exceed 55% of the site area of the allotment. The remaining 45% of the site area shall be landscaped area.	Total Site Coverage - 8120m ² or 56.6% All lots except lots 2, 22, 31 and 40 exceed the maximum site coverage area 55%, with some lots proposing considerable hard surface areas up to 76% of the site. See discussion in section 8.2 later in this report.	N	N	Y
D16.7 Fences Warriewood Valley Residential Sectors	Fencing of properties is restricted to side and rear boundaries only. No fencing is permitted forward of the building line of the dwelling. If fencing exceeds one (1) metre in height and abuts a public road, it must be set back from the boundary a minimum of one metre (in the case of corner lots or lots with more than one frontage this setback may be varied based on merits). This set back area shall be landscaped to screen the fence from the public road.	The proposal incorporates front fencing to the allotments addressing Macpherson and Garden Streets and side and rear boundaries fences between the properties in Block E and F. See discussion in section 8.2 later in this report.	N	Y	Y
D16.8 Construction, Retaining walls, terracing and undercroft areas	Where retaining walls and terracing are visible from a public place, preference is given to the use of sandstone or sandstone like materials.	Retaining walls are located within the front setbacks to Macpherson and Garden Streets to blocks A, B, C and D. The walls are the result of filling the eastern portion of the site to create a level building footprint.	Y	Y	Y

		<p>The maximum height of the retaining walls are 1.8m in the eastern most corner adjacent to Lot 22.</p> <p>The walls are nominated to be concrete, it is considered that this is satisfactory subject to the walls being treated/painted to be mid to dark earthy tones to blend in with the proposed vegetation.</p>			
D16.9 Utilities and Telecommunication Services			Y	Y	Y
D16.10 Pets and companion animals	<p>Pets should be contained within the owners property and/or dwelling, especially at night to prevent predation on wildlife.</p>	<p>The future occupants will be responsible for ensuring that pets and companion are kept in accordance with the Companion Animals Act and Council registration requirements.</p> <p>Each allotment can be contained by a fence and it is considered that the requirements of this control can be satisfied subject to consent conditions.</p>	Y	Y	Y
D16.11 Location and design of carparking facilities - Warriewood Valley Residential Sectors	<p>Covered car space structures such as garages and carports must be setback a minimum of 5.5m or 6.5m from the front property boundary.</p> <p>Garages and carports are to be integrated with the design of the dwelling, such as located behind the building frontage or designed in such a way so as to not be prominent when viewed from the street.</p> <p>Tandem parking is encouraged for lots with a frontage width of 11 metres or less (i.e. incorporation of a single garage / carport and an uncovered car space in front).</p>	<p>The garages to dwellings in Blocks A, B, C and D are not setback the required 5.5m.</p> <p>The garages will be visually prominent when viewed from within the private community road 2 and 3.</p> <p>See discussion in section 8.2 later in this report.</p>	N	Y	Y
D16.13 Solar access Warriewood Valley Residential Sectors	<p>Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 4 hours of sunlight between 9am and</p>	<p>The proposal results in 8 dwellings of 46 that do not receive a reasonable level of solar access (minimum 3 hours).</p> <p>See discussion in section 8.2 later in this report.</p>	N	Y	Y

	3pm on June 21st (that is to at least 50% of the glazed area of those windows. This shall be a reasonable area giving consideration to existing site constraints and block size.				
D16.14 Height	The maximum height of a building or structure shall be 8.5 metres measured from the highest point of the building (including the top of the ridgeline) in a vertical line to natural ground level below, and shall apply to any point on the building.	The eastern portion of Block C (corner of Macpherson and Garden Streets) exceeds the 8.5m height limit to 8.58m. See discussion in section 8.2 later in this report.	N	Y	Y
SEPP (Building Sustainability Index: BASIX) 2004		The BASIX commitments in certificate No. 361834M are achievable subject to recommended conditions of consent.	Y	Y	Y

This compliance table documents in summary form the assessment of the proposal against the relevant controls of PDGP. Where significant breach of policy is sought by the application, or where public submissions require it, additional comments are provided in the section 8 Discussion of Issues later in this report.

8 DISCUSSION OF ISSUES

8.1 Environmental Planning Instruments

8.1.1 State Environmental Planning Policy No. 55 (Remediation of Land)

Clause 7 of SEPP 55 sets out what must be considered by the consent authority in determining a development application. This includes whether the land is contaminated, and if the land is contaminated, whether the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out and the land requires remediation, whether the land will be remediated before the land is used for that purpose.

From the information submitted, an investigation in 2001 found evidence of rubbish fill near the Creek and samples indicated high levels of zinc. A Contamination Assessment Review was submitted with the current application. This review recommends that buried material be removed, asbestos be removed (if found) and that additional test pit investigation and site remedial works be undertaken. A remediation Action Plan has been submitted to address these recommendations.

Council is satisfied that the land is suitable for the proposed development after the recommended remediation works. The consent would need to reference the submitted reports and conditions needed to ensure certification of the remediation is undertaken prior to the commencement of works and maintained during the works.

8.1.2 State Environmental Planning Policy (Building Sustainability Index: BASIX)

A BASIX Certificate has been submitted for all new dwellings and an ABSA Certificate issued. The proposed development can achieve the BASIX commitments subject to conditions being imposed in the consent.

8.1.3 State Environmental Planning Policy (Affordable Rental Housing) 2009

The applicant seeks development consent to construct 46 new dwellings under the provisions of Division 1 In-fill affordable housing of SEPP ARH. It is important to note that during the assessment period SEPP ARH was amended (amended SEPP ARH). The development is still assessed under the policy current at the time of lodgement however the amendments do require council to undertake further considerations. The affect of these amendments are discussed in section 8.1.4

SEPP ARH aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, the SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and minimum development standards.

Submissions raise concerns relating to the application of SEPP ARH and it being inconsistent with the local planning policies for density and parking. Concern is also raised relating to the resulting "substandard design" and affect on existing property values.

Following is an assessment of the applicable clauses in SEPP ARH.

Clause 10 Land to which Division applies

The subject site is on land which the division applies as it satisfies the following criteria:

- 1) The site is within a land use zone 2(f) Mixed Residential that is equivalent to Zone R1 General Residential. Zone R1 General Residential is defined within State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 as *residential accommodation of various types and densities and associated services and facilities*. Zone 2(f) Mixed Residential allows development for the purposes of residential buildings.
- 2) A bus stop is located on the corner of Macpherson & Garden Streets which is within 400 metres walking distance of the site. The bus stop is used by a regular bus service (within the meaning of the *Passenger Transport Act 1990*) that has at least one bus per hour servicing the bus stop between 06.00 and 18.00 each day from Monday to Friday (both days inclusive).
- 3) The subject site is not identified in an environmental planning instrument as being within a scenic protection area.

Clause 11 Development to which Division applies

The proposed development is for the purpose of multi dwelling housing where at least 50 per cent of the dwellings in the proposed development will be used for affordable housing and does not result in a building on the land with a building height of more than 8.5 metres subject to a condition of consent. A portion of Block C ridge exceeds the 8.5m height limit by 8cm. It is recommended that a condition be imposed in the consent to ensure that the maximum ridge height of Block C is RL 20.3.

Clause 12 Development may be carried out with consent

Development to which Division 1 applies may be carried out with consent. It has been established that the proposal is consistent with clause 11 and therefore permissible with consent.

Clause 14 Standards that cannot be used to refuse consent

Clause 14 prescribes standards which cannot be used by a consent authority to refuse consent. It is noted that these are not 'development standards' and therefore are referred to as "minimum standards" within this report.

The following table is an assessment of the proposal against the SEPP ARH minimum standards:

Sub clause	SEPP ARH Minimum Standards	Compliance
LOW RISE DEVELOPMENT		
1(a) Density and scale	The density and scale of the buildings when expressed as a floor space ratio are not more than 0.75:1 (This only applies to the development for the purpose of multi dwelling housing, it does not include the focal neighbourhood centre)	COMPLIES 7205m ² : 14340m ² = 0.5 : 1 See GFA calculations in table in 2(b) below.
1(b) Site area	The site area on which it is proposed to carry out the development is at least 450 square metres	COMPLIES The site area is 14340m ²
1(c) Landscaped area	At least 30 per cent of the site area is to be landscaped	COMPLIES 6220m ² or 43.4% of the site is landscaped Landscaped areas are calculated as all ground level soil/lawn areas and paved recreational areas but does not include public footpaths.
1(d) Deep soil zones	The site area that is not built on, paved or otherwise sealed: - is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area - each area forming part of the deep soil zone has a minimum dimension of 3 metres - if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area	COMPLIES 4852m ² or 33.8% of the site is deep soil zones with minimum dimension of 3m 3139m ² or 65% of the deep soil zone is located at the rear of the site – adjacent to Fern Creek. Satisfied that the majority of the deep soil zone is to the rear portion of the site
1(e) Solar	Living rooms and private open spaces for a minimum of 70 per	COMPLIES

access	cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter	83% of dwellings receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter																																																																																																																																																
GENERAL																																																																																																																																																		
2(a) Parking	At least 0.5 car spaces are provided for each dwelling (23 spaces required)	COMPLIES Total 63 dedicated car spaces provided, therefore 1.3 car spaces are provided for each dwelling Additional 6 off street spaces are located adjacent to the retail parking and an additional 8 spaces are located on the street.																																																																																																																																																
2(b) Dwelling size	Each dwelling has a gross floor area of at least 95 square metres in the case of a dwelling having 3 or more bedrooms	COMPLIES <table><tr><th>Lot</th><th>Bed</th><th>GFA m²</th><th>Lot</th><th>Bed</th><th>GFA m²</th></tr><tr><td>2</td><td>3</td><td>142</td><td>25</td><td>3</td><td>142</td></tr><tr><td>3</td><td>3</td><td>142</td><td>26</td><td>3</td><td>142</td></tr><tr><td>4</td><td>3</td><td>142</td><td>27</td><td>3</td><td>142</td></tr><tr><td>5</td><td>3</td><td>142</td><td>28</td><td>3</td><td>142</td></tr><tr><td>6</td><td>3</td><td>142</td><td>29</td><td>3</td><td>142</td></tr><tr><td>7</td><td>3</td><td>142</td><td>30</td><td>3</td><td>142</td></tr><tr><td>8</td><td>3</td><td>142</td><td>31</td><td>3</td><td>167</td></tr><tr><td>9</td><td>3</td><td>142</td><td>32</td><td>3</td><td>167</td></tr><tr><td>10</td><td>3</td><td>142</td><td>33</td><td>3</td><td>167</td></tr><tr><td>11</td><td>3</td><td>142</td><td>34</td><td>3</td><td>167</td></tr><tr><td>12</td><td>3</td><td>142</td><td>35</td><td>3</td><td>167</td></tr><tr><td>13</td><td>3</td><td>142</td><td>36</td><td>3</td><td>167</td></tr><tr><td>14</td><td>3</td><td>142</td><td>37</td><td>3</td><td>167</td></tr><tr><td>15</td><td>3</td><td>142</td><td>38</td><td>3</td><td>167</td></tr><tr><td>16</td><td>3</td><td>142</td><td>39</td><td>3</td><td>167</td></tr><tr><td>17</td><td>3</td><td>142</td><td>40</td><td>4</td><td>198</td></tr><tr><td>18</td><td>3</td><td>142</td><td>41</td><td>4</td><td>198</td></tr><tr><td>19</td><td>3</td><td>142</td><td>42</td><td>4</td><td>198</td></tr><tr><td>20</td><td>3</td><td>142</td><td>43</td><td>4</td><td>198</td></tr><tr><td>21</td><td>3</td><td>142</td><td>44</td><td>4</td><td>198</td></tr><tr><td>22</td><td>3</td><td>142</td><td>45</td><td>4</td><td>198</td></tr><tr><td>23</td><td>3</td><td>142</td><td>46</td><td>4</td><td>198</td></tr><tr><td>24</td><td>3</td><td>142</td><td>47</td><td>4</td><td>198</td></tr></table>	Lot	Bed	GFA m²	Lot	Bed	GFA m²	2	3	142	25	3	142	3	3	142	26	3	142	4	3	142	27	3	142	5	3	142	28	3	142	6	3	142	29	3	142	7	3	142	30	3	142	8	3	142	31	3	167	9	3	142	32	3	167	10	3	142	33	3	167	11	3	142	34	3	167	12	3	142	35	3	167	13	3	142	36	3	167	14	3	142	37	3	167	15	3	142	38	3	167	16	3	142	39	3	167	17	3	142	40	4	198	18	3	142	41	4	198	19	3	142	42	4	198	20	3	142	43	4	198	21	3	142	44	4	198	22	3	142	45	4	198	23	3	142	46	4	198	24	3	142	47	4	198
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Clause 15 Design requirements

The consent authority must not consent to this development unless it has taken into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development*. The policy aims to promote a balance between need for greater housing choice and the need to safeguard the character of residential neighbourhoods. The policy is divided into five sections each corresponding to a key

issue when designing infill development. An assessment has been undertaken and the development design is considered to be consistent with the aims and objectives of the policy. Each section is discussed below:

- Responding to Context

The aim of this chapter is to indicate specific areas which need to be considered in order to effectively respond to the local context. The policy uses the method of posing key questions which should be asked in relation to the following areas:

- Analysis of neighbourhood character
- Street layout and hierarchy
- Block and Lots
- Built environment
- Trees
- Policy environment
- Site analysis

The site is located on the corner of two vital roads in Warriewood Valley, Macpherson St and Garden St. Built form along Macpherson street is predominantly two storey attached terrace and villa style dwellings with secondary street frontages to the rear where vehicular access is provided. The commercial operation known as Flower Power is a single storey building substantially setback from Macpherson St and multi unit developments are located outside the site's visual catchment to the east.

Built form along Garden Street is predominately detached dwellings on standard sized residential lots immediately adjacent to the site and detached dwellings on small lots to the south. The south western boundary is a zone boundary to non urban land uses and development. These lots are very large, developed by a residential dwelling and agricultural structures.

A range of tree sizes and vegetation line the streets. Small to medium sized vegetation is located within the front setbacks to the more recent developments with large mature canopy trees lining the northern side of Macpherson St.

Building heights along these streets are generally two storey and front setbacks are consistently 6.5m addressing the street frontages. A regular rhythm of building types is evident along Macpherson Street. Of particular importance is the streetscape design characteristic which minimises driveway and vehicular access point to each dwelling from the main street. Internal roads within super lots are configured to provide secondary frontages to the dwellings.

Buildings within the locality generally have a consistent scale and massing noting that it does vary given the mix of residential development planned for the area. The area is also characterised by creek line corridors which facilitate the growth of significant native vegetation usually running along a site boundary. Appropriate buffer zones protect these corridors from being developed and provide community open space for the residents and the greater public.

- Site planning and Design

The aim of this chapter is to design a site in an effort to optimise internal amenity and minimise impacts to neighbours. The development locates the majority of the dwellings towards the front of the site to address the public streets. Blocks E and F have been orientated to minimise the elevations to the neighbours to the north west. Considering the density proposed, the development performs well with regard to solar

access. The daylight amenity provided to 60% of the dwellings is optimal, with a further 20% at least meeting the minimum requirement of 3 hours. The remaining 20% do not meet the minimum standards however this is an inevitable outcome when dwellings are required to address Garden Street which has a south eastern orientation. 83% of dwellings receiving high levels of daylight amenity is considered a good outcome.

There are limited significant trees and vegetation on the site and the development proposes to enhance the native vegetation substantially, particularly within the 50m buffer zone to the south. Trees are located within the private allotments and along Macpherson and Garden Streets. While the landscaped areas allocated within each private allotment do not achieve minimum requirements under the local controls the total landscaped area across the site which are mostly deep soil zones are approximately 43%. This more than exceeds what is considered satisfactory in SEPP ARH.

The development does minimise impact on the neighbours and streetscape character. Reasonable to optimal levels of amenity is provided to the new dwellings and a large proportion of the site is deep soil zone for mature tree planting which also provides residential amenity.

- Impacts on Streetscape

The aim of this chapter is to respond to desired streetscape character through sympathetic design. There is a consistent front building line of 6.5m which the development meets and exceeds. The development is divided into blocks which are slightly stepped to provide some articulation in the façades. The spatial separation between the blocks is 2m or 4m. Roof styles vary between the blocks with those addressing the street having pitched roofing consistent with terrace development to the north west.

Generally a variety of materials, colours and design elements are proposed to visually break up the facades. However there are some larger uninterrupted facades of painted render and fibre cement cladding. While these facades are depicted as light tones on the elevations the applicant has submitted Dulux colour samples which are notably darker. It is considered that subject to these colours being applied to the development, it would minimise the visual impacts of the built form particularly when viewed from the public streets.

Landscaping is provided in front of fencing to the public street which is open steel and aluminium construction. While landscaping is required to soften the impact of the development it is considered that the fencing will be able to achieve a high level activation and passive surveillance to the street.

The development provides quality transition between public and private domains. The FNC is directly accessible from Garden St with clear and open pedestrian entrance. The dwellings facing the street each have private pedestrian stairs and pathways to access each property.

The road/driveway design is a satisfactory and practical approach for this site. All driveways have been located to minimise visibility from the public streets with all vehicular access to each lot provided from internal roads. While the driveways are

limited to single vehicle width the visual impact of numerous driveways when viewed from the internal roads is less than desirable however inevitable. Effort has been made to recess garages behind the predominant building line and small areas of landscaping have been provided to break in the secondary street setbacks. Furthermore terminating internal roads have areas allocated for trees and vegetation.

The development is consistent with the desired future character statement in that when viewed from the public domain the built form harmonises with the existing streetscape. Dwelling style, front setbacks, trees, planting and front fences are of a design and scale which correspond with the existing built form along the public streets.

- Impacts on Neighbours

The aim of this chapter is to establish design principles to minimise impacts on neighbours. Concerns from the neighbours to the north west have been received relating to visual privacy and visual bulk which are addressed in detail under the relevant section later in this report.

The development does not overshadow existing neighbouring dwellings. Residential dwellings to the north west will still retain views to the existing creek line corridor and through the development site to the future regenerated creek line corridor. The apparent bulk of the development when viewed from the north west is considered acceptable as the design orientates the end of three blocks to the north west boundary minimising the perception of built form.

The development proposes private open space within the front and rear setbacks to reduce any privacy impacts between existing and proposed neighbouring dwellings. While it appears effort has been made to provide spatial separation and minimise privacy impacts to 185 Macpherson St and 51 Callistemon Way conditions would need to be incorporated into any consent issued to ensure that direct overlooking is protected from the proposed north west facing windows.

Delineation between the new and existing development to the north west is provided by the existing road known as Lomandra Way with a secondary measure being landscaping between the boundary and the proposed dwellings. While these setbacks are minimal (2m), landscaping in this setback will be effective once the development is established.

The internal character of the new development has been discussed under other sections and considered to be adequate. The side setbacks to Lots 23, 39 and 47 are 500mm and 1m fronting internal road 2 and 3 where the rules of thumb nominate minimum 1.2m. While landscaping is depicted on the landscape plan and elevations it is considered that in order to support these reduced setbacks and achieve consistency with the guidelines for internal site amenity and design that landscaping to these boundaries is required as part of any consent issued.

- Internal Site Amenity

The aim of this chapter is to provide design guidelines to ensure that the development provides an optimal amenity within the site for future occupants.

Each dwelling within each block is slightly staggered providing some differentiation. Building entries are clear and do not look directly into other dwellings.

Habitable rooms are generally located away from driveways and where they do not are usually elevated and protected by projecting balconies. While the dominance of driveways when viewed internally within the site is undesirable, the impact is minimised by providing single parking areas with open tandem areas. The development offers distinct and separate pedestrian and vehicle circulation including private and public areas.

A small however practically sized area has been allocated for private open space on each lot. Some lots provide two areas with at least one area orientated to north or east on each lot.

The acoustic amenity provided to all dwellings including the affordable rental housing will be satisfactory subject to conditions requiring the walls of attached dwellings requiring a noise transmission rating in accordance with Part F(5) of the Building Code of Australia.

Communal private open space is located to the south west which is easily accessible and connects to a large public corridor with access to play grounds and sporting facilities.

Clause 17 Must be used for affordable housing for 10 years

Twenty three (23) dwellings must be used for purposes of affordable housing for a period of 10 years. Specific conditions of consent must be imposed by the consent authority to the following effect:

- (a) For 10 years from the date of the issue of the occupation certificate the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing.
- (b) For 10 years from the date of the issue of the occupation certificate all accommodation that is used for affordable housing will be managed by a registered community housing provider.
- (c) A restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements in (a) and (b) are met.

Clause 18 Subdivision

Land on which development has been carried out under this Division may be subdivided with the consent of the consent authority. The application seeks to subdivide the land under a community title scheme. The subdivision as proposed is satisfactory subject to the imposition of conditions.

Summary

The proposed development is consistent with relevant provisions including the aims and objectives of SEPP ARH.

8.1.4 State Environmental Planning Policy Amendment (Affordable Rental Housing) 2011

On the 20 May 2011, changes were made to SEPP ARH to remove certain provisions applying in low density residential areas and to amend other aspects of the policy. As the amendments came into force after the lodging of and prior to determination of the subject application, it is identified as an “existing application” in terms of applying any relevant provisions in the amended SEPP ARH. Following is the savings and transitional provisions in which council is required to consider as the application is still under assessment:

Clause 54A Savings and transitional provisions—2011 amendment

1. *Division 1 of Part 2, as in force before its amendment by State Environmental Planning Policy Amendment (Affordable Rental Housing) 2011 (the amending SEPP), continues to apply to development, if:*
 - (a) *the land on which the development is situated is owned by the Land and Housing Corporation and was owned by that Corporation immediately before the amendment, and*
 - (b) *the development is commenced not later than 2 years after the amendment.*
2. *If a development application (an existing application) has been made before the commencement of the amending SEPP in relation to development to which this SEPP applied before that commencement, the application may be determined as if the amending SEPP had not been made.*
3. *If an existing application relates to development to which Division 1 or 3 of Part 2 applied, the consent authority must not consent to the development unless it has taken into consideration whether the design of the development is compatible with the character of the local area.*
4. *Despite subclause (2), clause 13 (2) (as in force before the amendments made by the amending SEPP) does not apply to development the subject of an existing application and any such application is to be determined by applying instead clause 13 (2) and (3) as inserted by the amending SEPP.*

The subject application can continue to be assessed and determined under the SEPP ARH however:

- Clause 54A(3) - council must take into consideration whether the design of the development is compatible with the character of the local area; and
- Clause 54A(4) - the application is to be determined by applying clause 13 (2) and (3) as inserted by the amending SEPP instead of 13(2) in SEPP ARH.

Various sections (8.1.3 and 8.2) in this report address and demonstrate that the development is compatible with the existing natural and built form character of the local area.

Clause 13 (1), (2) and (3) state:

5. *This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.*
6. *The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential*

accommodation permitted on the land on which the development is to occur, plus:

- a. if the existing maximum floor space ratio is 2.5:1 or less:
 - i. 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or
 - ii. Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent,
 - iii. where:
AH is the percentage of the gross floor area of the development that is used for affordable housing.
 $Y = AH \div 100$

or

- b. if the existing maximum floor space ratio is greater than 2.5:1:
 - i. 20 per cent of the existing maximum floor space ratio—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or
 - ii. Z per cent of the existing maximum floor space ratio—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent,
 - iii. where:
AH is the percentage of the gross floor area of the development that is used for affordable housing.
 $Z = AH \div 2.5$

- 7. In this clause, **gross floor area** does not include any car parking (including any area used for car parking).

Note. Other areas are also excluded from the gross floor area, see the definition of **gross floor area** contained in the standard instrument under the Standard Instrument (Local Environmental Plans) Order 2006.

Clause 13(1) of the amended SEPP ARH does apply as the proposed percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent (proposed 45%).

Clause 13(2) is interpreted to mean that the maximum floor space ratio for the development is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur plus an additional density depending on the specific standards for that site and percentage of affordable rental housing.

existing maximum floor space ratio means the maximum floor space ratio permitted on the land under an environmental planning instrument or development control plan applying to the relevant land, other than this Policy or State Environmental Planning Policy No 1—Development Standards. (SEPP ARH Amended)

environmental planning instrument means an environmental planning instrument (including a SEPP or LEP but not including a DCP) made, or taken to have been made, under Part 3 and in force. (EP&A Act)

development control plan (or **DCP**) means a development control plan made, or taken to have been made, under Division 6 of Part 3 and in force. (EP&A Act)

No maximum floor space ratio for this land is specified in PLEP or PDCP. SEPP (Housing for Seniors or People with a Disability) 2004 permits residential care facilities, a hostel or a group of self-contained dwellings on the land. No existing maximum floor space ratio is specified in this SEPP however minimum density standards that cannot be used to refuse development consent do apply to these forms of development. Clauses 48(b), 49(b) and 50(b) nominate floor spaces ratios of 1:1, 1:1 and 0.5:1 respectively.

These are not considered to be 'maximum' development standards rather they are thresholds in which once surpassed, the application can be refused for that reason or consent can be granted. It is therefore assumed that there is no existing maximum floor space ratio which applies to this site and there a maximum floor space ratio cannot be calculated.

Therefore clause 13(2) is irrelevant.

For the purposes of calculating gross floor area, the definition provided in clause 13(3) has been used in addition to the other areas to be included as contained in the standard instrument.

Summary

The relevant savings and transitional provisions have been considered and as such the development is able to be determined under SEPP ARH.

8.1.5 Pittwater Local Environmental Plan 1993 (PLEP) and Permissibility

Permissibility - Clause 9 [Zone No. 2(f) (Urban Purposes – Mixed Residential)]; Clause 44 and Schedule 10 Development for certain additional purposes

The zoning table for the 2(f) zone indicates:

- No development permissible in the zone **without development consent**;
- Only *residential buildings; associated community and urban infrastructure* is permissible **with development consent**;
- Any other purpose, other than *residential buildings; associated community and urban infrastructure* is **prohibited**.

The development proposes multi dwelling housing, ancillary infrastructure and a focal neighbourhood centre. PLEP does not define 'residential buildings' or 'associated community and urban infrastructure'. Notwithstanding this, it is considered that the proposed multi dwelling housing and associated infrastructure is development for the purposes of a residential building and associated community and urban infrastructure and is therefore permissible within the zone.

The focal neighbourhood centre is prohibited development under the zoning table.

Clause 44 states:

- 1) *Nothing in this plan prevents a person, with the consent of the council, from carrying out development on land referred to in Schedule 10 for a purpose*

specified in relation to that land in that Schedule, subject to such conditions, if any, as are so specified.

- 2) *Subclause (1) does not affect the application to or in respect of development to which that subclause applies of such of the provisions of this plan as are not inconsistent with that subclause or with a consent granted by the council in respect of the development.*

Schedule 10 nominates the following purposes permissible on 23B Macpherson Street, Warriewood:

- *Neighbourhood shops; and*
- *Restaurants.*

neighbourhood shop means retail premises used for the purposes of selling small daily convenience goods such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.

restaurant means a building or place the principal purpose of which is the provision of food or beverages to people for consumption on the premises, whether or not takeaway meals and beverages or entertainment are also provided.

The proposed focal neighbourhood centre proposes an indicative floor area for a café and general store which are uses consistent with the definitions outlined above. In this regard the focal neighbourhood centre is permissible under the provisions of clause 44 and Schedule 10 of PLEP.

Clause 30A Objectives

The objectives of Division 7A are to:

- (a) *permit development for urban purposes on land within the Warriewood Valley Urban Land Release in accordance with a planning strategy for the release area,*
- (b) *permit staged development for urban purposes in the various sectors of the Warriewood Valley Urban Land Release that has regard to a development control plan applying to the release area, and*
- (c) *permit greater housing diversity and wider housing choice in areas provided with adequate physical and social infrastructure in accordance with a planning strategy for the release area.*

Clause 30B Development of UDP land in Warriewood Valley; Part 2 of Schedule 11 - Zone Objectives for the Warriewood valley Urban Land Release

Clause 30B applies as the development is located on the following land:

Land at Warriewood within Sector 8 of the Warriewood Valley Urban Land Release shown edged heavy black on Sheet 1 of the map marked "Pittwater Local Environmental Plan 1993 (Amendment No. 70)"

This clause provides that:

2. *The Council may grant consent for development of land to which subclause (1) applies that is within Zone No. 2(f) only after it has considered the objectives of the zone as specified in Part 2 of Schedule 11.*
3. *The council shall not grant consent to the carrying out of development on land to which this clause applies unless arrangements satisfactory to the Council have been made for the following, where relevant to the development proposed:*
 - (a) *identification and management of any limitations to urban development and associated works created by slope, soil structure, geotechnical instability, flooding or the like,*
 - (b) *conservation and protection of any significant vegetation and associated plant communities,*
 - (c) *conservation and protection of any significant fauna populations and their habitat,*
 - (d) *identification and remediation of any contaminated lands,*
 - (e) *enhancement and protection of any significant visual elements within the landscape and its setting,*
 - (f) *identification and protection of any significant Aboriginal heritage items or sites,*
 - (g) *identification and protection of any significant European heritage items or sites,*
 - (h) *management of urban stormwater from a total catchment management viewpoint,*
 - (i) *management and provision of traffic networks and facilities,*
 - (j) *identification and protection of any development from bushfire hazard.*
4. *Before granting any consent to development of land to which this clause applies, the Council must consider any development control plan which may apply to the land.*

The objectives of zone No. 2(f) are:

- (a) *to identify land within the Warriewood Valley Urban Land Release which is suitable for residential development and which will be provided with adequate physical and social infrastructure in accordance with a planning strategy for the area, and*
- (b) *to provide opportunities for more varied forms of housing and wider housing choice, and*

- (c) *to provide opportunities for a mixture of residential buildings which can be in the form of detached dwellings, integrated development, cluster housing, group buildings and the like.*

Given that SEPP ARH overrides the ability for Council to apply density standards, Council is satisfied that the development is consistent with the zone objectives in that the proposal provides for mixed residential development supported by adequate physical and social infrastructure both directly provided or to be provided by section 94 contributions. Additionally the considerations under PLEP and PDCP within this report ensure that satisfactory arrangements have been made to assess, manage, and support the development.

Clause 30C Dwelling Yield

This clause provides that:

The council shall not grant consent to residential development on land to which clause 30B applies unless it is satisfied that the total number of dwellings to be erected in a particular sector or buffer area will comply with the following:

- *Sector 8 not more than 159 dwellings*

The subject site is the last developable lot in sector 8. It has a maximum dwelling yield of 19 dwellings (within the 159 dwellings) as identified in the Warriewood Valley Planning Framework 2010. The proposal is for 46 dwellings which substantially exceeds the PLEP requirement. The SEPP ARH density control is specified as 0.75:1 where the development proposes density of 0.5:1. Therefore whilst the development is inconsistent with envisaged density for the site as expressed in dwelling numbers, pursuant to clause 14(1)(a) of SEPP ARH the consent authority cannot refuse consent based on the scale and density of the development.

Clause 46 Provision of adequate water and sewerage services

Council is satisfied that adequate provision has been made for the supply of water and the disposal of sewage subject to conditions of consent.

8.2 Draft Environmental Planning Instruments

Council's Principal Land Release Planner has provided the following comments in relation to draft LEP Amendment No. 94:

Council, on 15 November 2010, adopted a Planning Proposal to amend the PLEP (draft LEP Amendment No. 94). The intention of the draft LEP Amendment No. 94 is to specifically prescribe a:

1. *Maximum floorspace for the FNC of 2,222m² (consistent with control C6.15 of the Pittwater 21 DCP, initially built into DCP 29 – Warriewood Valley Urban Land Release (now repealed))*
2. *A maximum floorspace of 800m² for individual retail tenancies*

Nonetheless, the draft LEP Amendment incorporates a savings provision to the effect that if a DA is made before LEP 94 comes into effect and the DA is still not determined at that date, the DA must be determined as if LEP 94 has not commenced. The provision of a FNC in this proposal is consistent with Council's intention to pursue this Amendment is consistent with the pre-planning for the release area and expectations for this site, albeit that the proposal is 1712m² less floor space than the maximum specified.

Regardless of the savings provision in the draft LEP Amendment, it is worth noting the draft LEP has been through the Gateway process, has been publicly exhibited and has been endorsed by Council, therefore the community has expectations regarding the subject site and the anticipated FNC.

Notwithstanding that the current application is required to be assessed and determined as if LEP 94 has not commenced consideration is still given as to whether the proposed development would be consistent with the standards in the draft LEP. The proposal being 510m² of FNC is within the maximum floor space permitted for the centre and individual retail tenancies under the draft LEP (as amended).

8.3 Development Control Plan

8.3.1 Pittwater 21 Development Control Plan – Amendment No. 6

The following section addresses specific PDCP controls where the application seeks variation of the policy, where further technical details and explanation is required or where public submissions require additional comments.

- **6.6 Section 94 Contributions - Warriewood Valley**

Council's Warriewood Valley Team has provided the following advice in relation to calculation of Section 94 Contributions:

'This development will, if approved, generate additional services and infrastructure demand identified under the Warriewood Valley Section 94 Contributions Plan.

The proposed cycleway is now relocated to Lot 49 being the lot to be dedicated to Council as required under Section 94 of the EP&A Act.

A Section 94E Direction, effective 13 May 2011, was issued to Council. A copy of this Direction will also be provided to the JRPP for their consideration. This Direction in effect limits the maximum amount to be levied under Section 94 to \$62,100 per dwelling/residential lot. Given that this Direction does not allow for any indexation it is appropriate that the total monetary contribution be paid prior to the issue of the Construction Certificate.

The methodology for calculating the residential contribution, limited to \$62,100 for each dwelling/residential lot, inclusive of land dedication for multi creekline corridor in accordance with the Minister's Direction is \$62,100 x 46 dwellings = \$2 856 600.

Additionally, the DA includes Lot 48 for the Focal Neighbourhood Centre comprising of 534m² of the lot area. If approved, this floorspace also generates contributions under the Warriewood Valley Section 94 Contributions Plan (for which the Section 94E Direction of 13 May 2011 does not apply). Under the Plan, this component of the DA will attract a contribution in accordance with the S94 Plan.

Conditions relating to Section 94 have been prepared in the draft Consent, particularly the timing of the contribution being paid prior to issue of the Construction Certificate.'

A total monetary contribution of \$2,498,422.56 will be required to be paid prior to issue of the Construction Certificate. The breakdown of the contribution is outlined in the table below:

Element	Contribution	Cashier Code
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Traffic & Transport	\$446,968.16	SWTT
Multi-functional creek line corridors (works)	\$321,021.34	SWCW
Community Facilities	\$343,525.24	SWCF
Public Recreation	\$874,165.60	SWPR
Pedestrians/Cycleways	\$238,690.60	SWPC
Bushfire Protection	-\$1,701.20	SWBF
Library Services	\$75,408.26	SWLS
Plan Management	\$48,248.14	SWPM
Creekline Corridor (land)	\$152,096.42	SWCL

- **Water Management** (C6.23 Site Coverage, Sector Development - Warriewood Valley Land Release Area; C6.4 Flood - Warriewood Valley Land Release Area Residential Sectors; C6.5 Flood - Warriewood Valley Land Release Area Employment Generating Sectors; C6.7 Water Management and Creekline Corridors - Warriewood Valley Land Release Area; B3.23 Climate Change (Sea Level Rise and Increased Rainfall Volume)).

Council's Project Leader of Stormwater Management and Manager of Catchment Management & Climate Change have provided the following advice relating to flood related matters and the residential aspect of the development:

'The flood related matters have been mostly addressed with the key change being the specification of Flood Planning Levels incorporating the required climate change scenario.

- (a) The new information now appropriately applies the climate change scenario flood impact (an addition of approximately 200mm across the site when an increase of rainfall intensity of 30% is considered and no applicable sea level rise impacts), consistent with the NSW Government Flood Risk Management Guide: Incorporating Sea Level Rise in Flood Risk Assessments (2010).*
- (b) A remaining concern is the creation of additional flood affected allotments that would attract a Flood Category 1 (low hazard) notation on Section 149(2) Certificates. This is not acceptable as Council does not recommend any increase in the number of allotments that would have levels below the Flood Planning Level.*

Also, the floor levels of some of the accessible dwellings are set at the Flood Planning Level incorporating the climate change scenario, and not at the required level of the PMF. The proposal to rely on home conversions such as stair lifts in accessible units to compensate for floor levels below the probable maximum flood level is not acceptable.

Further information was provided on Flood Emergency Response however this needs to be appropriately detailed within a Flood Emergency Response Plan. The measure proposed to manage accessible dwelling with floor levels below the PMF relies on vertical evacuation by mandating future home conversions to include stair lifts, and is not considered acceptable to Council.

There is no provision for a reliable pedestrian access route to allow safe evacuation from each of the dwellings (including the accessible dwellings) to the evacuation area above the Probable Maximum Flood. A reliable pedestrian access route is to be

maintained to allow safe evacuation from each of the dwellings to the evacuation area above the Probable Maximum Flood.

The issues raised above may be addressed by the following Conditions of Consent:

- The minimum fill level for individual allotments must be the Flood Planning Level that includes an allowance of climate change of 200mm to achieve a Flood Category 2 notation on Section 149(2) Certificates.
- Floor levels for all development (except accessible units) shall be at or above the Flood Planning Level that includes an allowance of climate change of 200mm.
- Floor levels for accessible units shall have a minimum floor level of the probable maximum flood. Reliance is not be made on home conversions such as stair lifts in accessible units to compensate for floor levels below the probable maximum flood.
- A reliable pedestrian access route is to be maintained to allow safe evacuation from each of the dwellings to the evacuation area above the Probable Maximum Flood.

Council's Project Leader of Stormwater Management and Manager of Catchment Management & Climate Change have provided the following advice relating to flood related matters and the commercial aspect of the development:

Specifically addressing water management

'This Control applies as part of the development proposes the Focal Neighbourhood Centre, a commercial land use to which this control applies. Notwithstanding, given this proposal is, in terms of floor space, minor to the residential proposal, detailed comments made under Control C6.4 should be relied on.'

Council's Principal Land Release Planner has provided the following commentary on advice received relating to Water Management and Creekline Corridors:

'Water management

Principal Officer – Land Release observes that there is no statement detailing whether the information on water management is satisfactory however there appears to be a requirement for the provision of a revised water management report:

'Conditions of Consent requiring the provision of the revised Water Management Report to achieve full compliance with the Warriewood Valley Water Management Specification February 2001 (WMS 2001) and the Pittwater 21 Development Control Plan are required.'

Designs for Fern Creek corridor

Council's Project Leader – Stormwater Management, and Manager – Catchment Management & Climate Change) provided:

'Additional information was received relating to the design for the works in the Fern Creek corridor (up to the centreline) to determine:

- *The water management impacts associated with the development's flood levels in regard to properties upstream and downstream of the site and,*
- *Likely impacts on creek connectivity (and up to the centreline of Fern Creek).*

There are still some insufficient design details relating to the works in the Fern Creek corridor and minor adjustment required of the proposed creek alignment.

Given the deficiency in design are minor, this can be resolved through the imposition of a condition for submission of additional detailed designs, plans, specifications and the required information for all works needed to achieve full compliance with the Warriewood Valley Water Management Specification February 2001 (WMS 2001) and the Pittwater 21 Development Control Plan.'

Council's Principal Officer – Land Release advises the actual works involving the construction and rehabilitation of the inner 25m of Fern Creek are to be carried out by Council or the applicant (on behalf of Council) under Section 94 of the EP&A Act. Dedication of land within the inner 25m of Fern Creek corridor is limited to the portion contained on the development site.'

- **Traffic Management** (B6.2 Access Driveways and Works on the Public Road Reserve; B6.6 Off-Street Vehicle Parking Requirements - All Development other than Dwelling Houses, Secondary Dwelling and Dual Occupancy; C6.8 The Road System - Warriewood Valley Land Release Area).

Council's Principal Engineer in Strategy Investigation & Design has provided the following advice relating to the proposed Access Driveways and Works on the Public Road Reserve:

'No referral required to the Sydney Regional Development Advisory Committee or the Local Traffic Committee (under the Infrastructure SEPP).

The proposed entry to the development from Garden Street to Road 1 is located in an acceptable position that does not result in unacceptable adverse impacts on local traffic in Garden Street. With the provision of the pedestrian refuge the design is considered acceptable.

The applicant will be required to provide infrastructure upgrades for the full length of both the frontages to Macpherson Street and Garden Street. This is to be conditioned to include the design (to be approved by Council prior to issue of the CC) and construction of kerb and gutter, shared footpaths, half road pavement construction, street lights, landscaping and all utility/service adjustments.

The approval of parking restrictions/Give Way/bus zone/ and 90° parking spaces and any other related traffic restrictions is to be conditioned as requiring approval by the Traffic Committee and the Council prior to issue of the CC. Separate RTA approvals are not required.'

Council's Principal Engineer in Strategy Investigation & Design has provided the following advice relating to the proposed Off-Street Vehicle Parking Requirements:

'Being an affordable housing proposal under the SEPP, Council's control on parking requirements is not applicable. The proposal provides more parking spaces than required by the SEPP and so is considered acceptable.

The manoeuvring areas around the parking spaces and in the road network are considered acceptable with the conditioned parking restrictions.'

Council's Principal Engineer in Strategy Investigation & Design has provided the following advice relating to the proposed Road System:

'The traffic/parking analysis demonstrates that the proposed road layout of the Development is satisfactory and consistent with the objectives of the Warriewood Valley Roads Masterplan. The traffic volumes generated by the development (noting the lower traffic generation rates for affordable housing) will not have an unacceptable adverse impact on the local road system. It is not considered necessary to make Road 3 a 10kph Shared Zone as per the Warriewood Valley Roads Masterplan (for Access Streets) as a path has been provided, it is a no through road and its short length will effectively limit traffic speed.

Noting the DA is for a Community title road system the proposed roads pavements meet the objectives of the Warriewood Valley Roads Masterplan while the road reserve widths are less and both are considered acceptable. However, the following matters will need to be conditioned to ensure the final design is effective:

- *Provide a 2m wide pedestrian refuge in Road 1 at its intersection with Garden Street to provide safe pedestrian access across the road for users of the shared path in Garden Street.*
- *Provide a minimum 1 metre wide landscaped area between the turning area of Road 3 and Lomandra Way.*
- *Vehicular guard rail with warning chevron attached is to be provided between the turning areas of Roads 1 and 3 and Lomandra Way.*
- *Provision of a 'Give Way' control sign/holding line in Road 1 at its intersection with Garden Street.*
- *Provision of the following parking restrictions:*
 - *No Parking restrictions for the full length of both sides of Roads 1 and 2 and for full length of Road 1 on opposite side to 90° parking bays.*
 - *No Stopping restrictions in turning facilities of Roads 1 and 3.*
 - *Provision of Loading Zone in indented parking space in Road 2 adjacent to the NFC to be 30 minute time limited for approved hours of operation of the NFC*
 - *The 15 parking spaces assigned to the NFC located in the first two 90° parking bays (when entering from Garden Street) are to be time restricted (up to 3 hours maximum) during the approved business hours of the NFC. The applicant is to specify the time restriction for the CC, but this can be changed at any time by the future owner(s) of the NFC.*
- *Dedication of land as road reserve at the intersection of Garden Street and Macpherson Street to allow construction of roundabout.'*

The majority of resident submissions raise concern relating to the lack of parking provided in the development. The development provides parking consistent with the requirements of PDCP for the FNC. The off street parking allocated to each dwelling (1.3 spaces) does not meet the requirement of 2 spaces per dwelling under PDCP.

Whilst compliance with the PDCP control should be achieved to minimise impacts on on-street parking, the proposed 63 spaces more than exceed the minimum standard of 0.5 spaces per dwelling (23 spaces) under SEPP ARH. Subsequently, pursuant to

clause 14(2)(a) of SEPP ARH the consent authority cannot refuse consent based on the non compliance with parking requirements under PDCP.

Numerous other concerns were raised in the submissions relating to the affect of the development on local traffic conditions and increased safety risks for pedestrians and vehicles. Specifically, the increased level of vehicular activity and the dangerous location of the entry and exit onto Garden Street, the narrowness of the internal streets and bus stop standing area and need for additional on street parking spaces. Some submissions also suggested that the site entrance should be off Macpherson St or pure access to the site be provided by connecting to the existing community roads in the Australand Development to the north west.

These concerns were forwarded to Council's Principal Engineer in Strategy Investigation & Design for consideration. The comments received advise that the:

- *'Proposed entry/exit onto Garden Street is considered to be in an acceptable location providing acceptable traffic sight distances as per certification by the Applicants Traffic Consultant.*
- *Double separation lines in Garden St will be adjusted to suit the new intersection layout as part of the roadworks required of the development.*
- *Roads in the adjacent development were approved and built for traffic generated by that site only. A condition imposed on that development that the road system is not be connected to a future road system on site at 23B and so vehicular access must be to Garden St.*
- *The proposed bus stop in Garden St is required to be 3 m wide and separate from the through traffic lane so that any bus stopped at the bus stop does not block traffic.*
- *The provision of street trees is a landscaping requirement of Councils DCP for the Valley and so can not be replaced by additional parking spaces.'*

It is also important to note that increased traffic would be the result of any residential/commercial development on this site. Council is satisfied that the proposed traffic arrangements are the most appropriate for this site and therefore the development is considered acceptable subject to consent conditions.

- **Natural Environment and Education** (B4.15 Saltmarsh Endangered Ecological Community; C6.11 Natural Environment - Warriewood Valley Land Release Area).

Submissions received raised concern that there is a lack of open space area for community facilities such as a playground and cycle/pathway. The development incorporates an area totalling 2776m² of which will be dedicated to council for public purposes. This land incorporates a cycle/pathway and open landscape area consistent with the Masterplan for the area and specific PDCP controls.

Council's Natural Environment and Education Officer has provided the following comments in relation to the proposal:

'The property consists of a large paddock containing mainly grasses and weeds with Fern Creek along the southern boundary which contains riparian vegetation which has been degraded with high weed abundance.

A Flora and Fauna Assessment (Banksia Ecology January 2008) has been submitted (the same report as in previous DA's on the site) which provides an extensive summary of all components of the flora and fauna surveyed onsite. The site is considered to have little ecological significance, as a high level of disturbance has

resulted in the site not supporting a diverse range of species or significant habitat. A total of 53 flora species (much of which is exotic and/or weeds) and 13 common faunal species were observed or detected within the site. The surveys did not result in the recording of any threatened species or endangered populations as listed in any of the relevant Acts. The proposed works (construction of 46 new dwellings, a small retail outlet and carpark) are unlikely to have a significant effect on the remnant vegetation or fauna in the area. However, a wildlife corridor exists along Fern Creek and potential exists to restore the creekline and enhance the habitat along this corridor by removing noxious and environmental weeds and creating a riparian buffer zone using locally native species.

This has been discussed in the recommendations section of the report and it is suggested that a Vegetation Management Plan (VMP) is to be created which will be the leading document used to outline actions to restore and enhance the creekline corridor in order to provide some ecological value to the site as a whole. This is required to be addressed and is conditioned below.

The DA involves provision of 46 new dwellings of which 50% are to be secured as affordable housing on the site with a Focal Neighbourhood Centre which includes a café and general store. A total of 86 carparking spaces will be provided, as well as the creekside reserve and communal open space. The buffer areas bordering Fern Creek are to remain as per previous applications.

Two existing small Swamp Mahogany (*Eucalyptus robusta*) trees occur away from the creekline area, and these are to be removed as part of the works, along with a few exempt Coral Trees and Kaffir Plums near Fern Creek. The Landscape Plan (Umbaco Landscape Architects Pty Ltd Drawing No. L01 March 2011) provides a large number of locally native canopy trees along the streetfront and proposed cycleway areas. The list of plants provided is considered appropriate and in accordance with the Warriewood Valley Landscape Masterplan. Council's Landscape Architect is to provide comment on the technical aspects of the landscaping.

The plants listed on the schedule for the Fern Creek Corridor are 100% locally native and should be planted at a density of 4 plants per square metre throughout the riparian corridor area. As mentioned, a Vegetation Management Plan is required for the Fern Creek riparian corridor, to be implemented within the first two years before the area is handed over to Council for future management. This VMP is required to be provided before the release of the Construction Certificate. Two options exist for construction of the creek line corridor works which form part of the works program under the Warriewood Valley Section 94 Contributions Plan - (1) Construction by Council in which case a VMP would not be required to be provided by the applicant or (2) Construction by the applicant as a Material Public Benefit in which case creekline design documentation and a VMP will be required to be submitted to the certifier and Council.

Discussion of the proposed creekline corridor with Council's Stormwater Engineer has indicated that the current creekline drawings do not give enough detail in terms of the actual profile, dimensions, gradients, materials and construction methods, and there may also be an issue with works and access on the adjoining property to the south, which the creekline currently extends into. Canopy trees exist within the creekline corridor, which are both native and exotic/exempt species.

An arborist report (Growing My Way Tree Services December 2009) was submitted for a previous DA on the site and this report assessed four (4) native trees which are considered significant. The report determined that the proposed modifications to the Fern Creek and riparian zone adjacent to the sites would not adversely impact on

these trees. This may still be the case however the details of the currently proposed works are unknown at this stage due to a lack of detail in the current creekline plans. Conditions can be imposed which ensure the safe retention of these trees.'

- **Landscaping** (C6.7 Water Management and Creekline Corridors - Warriewood Valley Land Release Area; C6.9 Pedestrian and Cyclist Network - Warriewood Valley Land Release Area; C6.13 Landscaped Amenity Buffer Strips - Warriewood Valley Land Release Area; D16.12 Landscaping; C6.22 Landscaping on the existing and proposed public road reserve frontage to subdivision lots)

Council's Landscape Architect has provided the following comments:

Landscape works to be constructed in strict accordance with landscape plans as prepared by Unibaco Landscape Architects Job No. 0822 Issued March 2011.

The following specifications are included as part of the consent conditions and be incorporated into final working drawings.

- *All trees to front road reserve to be Angophora Costata 200 litre with understorey of native grasses/groundcovers planted at 4/m2.*
- *All trees to front building setbacks to be minimum 200 litre size.*
- *Internal pathway verges from McPherson Street to internal road system to be plated with native grasses/groundcovers at 4/m2.*
- *All trees to be planted must have minimum 4m3 root volume available.*
- *Completed works to be certified as being in accordance with nominated landscape plans and Conditions of Consent by a qualified Landscape Architect.*
- *Evidence of a 12 month maintenance contract to be verified by the Certifier prior to release of Occupation Certificate.*
- *All plant material to be purchased to be Natspec requirements.'*

Concern has been raised regarding excessive intrusion into the 25m outer buffer zone and lack of landscaping. The development proposes an internal road, 23 at grade car spaces and an electrical substation within the outer 25m zone. Control C6.7 Water Management and Creekline Corridors - Warriewood Valley Land Release Area guides development to be located in the outer 25m zone. The control requires dwellings, garages and other built structures must not be located within the private 25 metre buffer strip.

"Built Structure" is not defined in PLEP or PDCP. The development within the 25m buffer is not considered structures or buildings as they are not enclosures or part enclosures which incorporate walls and/or a roof. The proposal is considered consistent with the control as it only incorporates water quality control ponds, landscaping and at grade development within the private 25 metre buffer strip.

- **Community Services** (C6.15 Warriewood Valley Land Release Area Focal Neighbourhood Centre; C6.17 Social Environment - Warriewood Valley Land Release Area)

Council's Manager of Community Services & Library provides the following comments relating to the Affordable Housing SEPP and proposed future management of the affordable housing units:

'Dwelling attributes

My original comments...regarding the dwelling types has largely been addressed with the additional information supplied by the applicant. The proposed management agreement with Link Housing provides an opportunity for the proposed development to be managed as part of a future stock of affordable housing managed by Link. When seen in this context the proposal for only 3 bedroom dwellings is of less concern.

Management of the affordable rental properties

The additional information supplied by the applicant and Link Housing provide sufficient information to feel reasonably confident that the proposed affordable rental dwellings will be appropriately managed.

Affordable Housing SEPP

Based on the above and my other comments on the 25th May I believe the application is now able to meet the Aims of the SEPP (Affordable rental Housing) with the conditions I have recommended.'

- **C6.15 Warriewood Valley Land Release Area Focal Neighbourhood Centre**

This control has been specifically developed to apply to a focal neighbourhood centre. It is important to note that there has been support in the submissions received (objecting and supporting) for the proposed size of the FNC and to a lesser extent concern has been raised relating to the minimal size of the FNC not being able to service the growing population in the vicinity of the site. Each area of the control (boxed) is addressed below:

A focal neighbourhood centre is to be established in Warriewood Valley, in the vicinity of the Macpherson and Garden Streets intersection (within Sector 3, 8 or 11). This location is spatially central to the incoming residential population, industrial/commercial areas, and school located in the Valley, and within reasonable walking and cycling distance of most residents and employees in Warriewood Valley. Macpherson Street is also the primary vehicular and public transport route through the Valley along which medium density residential development is concentrated.

The development application proposes a FNC with a retail floor space of 510m² addressing Garden St. The proposal satisfies this aspect of the control in that the site is in sector 8 and is in the vicinity of the Macpherson and Garden Streets intersection.

The focal neighbourhood centre is to incorporate a retail floor space area between 855m - 2,222m to meet the retail convenience needs of the incoming population (such as a small general store, post office shop, ATM, internet coffee shop, etc). The retail potential in Warriewood is limited to this size given nearby established retail/commercial centres at Mona Vale and Warriewood Square. (Refer to Ingleside/Warriewood Urban Land Release Area Demographic and Facility/Service Needs Studies (December, 1994).

Council's Principal Land Release Planner has provided the following comments in relation to the proposed size of the FNC:

'Background to Floorspace range specified under this Control

The Ingleside-Warriewood Urban Release Area Demographic and Facility/Service Needs Studies (December 1994) identified the potential for limited retailing that provides convenience to the incoming population of the Warriewood Valley Release Area. The retail floorspace was based on a projected 600 dwellings (low scenario) to 1560 dwellings (high scenario) in the Release Area, translating to 855m² to 2222m² of retail floorspace that may be supported by the incoming resident population for Warriewood Valley.

The limited retail provision of 855m² to 2222m² was incorporated in the Warriewood Valley Urban Land Release Planning Framework 1997, being the strategic framework guiding the development of Warriewood Valley Land Release project.

The provision for limited retail offering in the release area was further developed under Development Control Plan No. 29 – Warriewood Valley Urban Land Release (adopted 16 July 2001), by identifying the locational and retail floorspace requirements for a Focal Neighbourhood Centre. The retail floorspace range identified in the 1997 Framework and original study was reiterated in DCP 29.

The provisions for a Focal Neighbourhood Centre in Warriewood Valley are reiterated in the current Pittwater 21 DCP, under Control C6.15 – Warriewood Valley Land Release Area Focal Neighbourhood Centre.

Justification for a smaller floorspace

Hill PDA provided additional information on 18 May 2011 providing justification and a background analysis to substantiate a variation to the floorspace below the minimum 855m² specified in Control C6.15.

The Hill PDA response (dated 18 May 2011) states:

'Modern format small convenience stores, such as Spar, IGA or Friendly Grocer, frequently occupy retail units from 250sqm Gross Floor Area upwards. A [sic] small supermarket/ grocery or mixed business store of [sic] 510sqm is sufficient in scale to perform its role as a neighbourhood centre anchored by a general store or mini-supermarket... In addition, the DCP requires that retail floorspace on site performs a 'neighbourhood centre' role... Analysis of this reveals that a 'neighbourhood centre' comprises of a few shops or services, such as a corner shop, convenience store or café, servicing a local catchment of around 150-200 metres and up to 1,000 dwellings. On this basis, the 510sqm of retail floorspace currently proposed fulfils the role of a 'neighbourhood centre' and therefore meets the aims of the DCP in regard to retail provision in this location... The size of the current proposal will ensure that retail facilities perform a neighbourhood centre shopping role and would thus be used for top-up shopping purposes only.'

From the **economic and resultant social impact** perspective (as it relates to Section 79C), the proposed shortfall in retail floorspace (below the minimum 855m²) is not critical, as detailed below:

- (a) The proposed Focal Neighbourhood Centre would not impact on the existing retail hierarchy. Conversely, the proposal will help create a sense of community and place.

- (b) *The FNC would provide a reasonable focal point for the Valley with good access to transport and also the multi-purpose pathways. Furthermore the FNC would be within reasonable proximity to significant proposed open space areas.*
- (c) *Like other similar developments in Sector 8 and Sector 11 the proposed development would meet the outcomes in C6.17 of the DCP.*

The focal neighbourhood centre must be linked to public transport nodes and the pedestrian and cyclist network, and if possible, to the district park and/or community facilities. This will enable the majority of residents and people employed in the Valley to walk or cycle to the local shops, public transport, and services. This will also enhance the viability of the neighbourhood centre as a focal point in the Valley. Reduced dependence on the car is encouraged.

The proposed FNC will be linked to an upgraded pedestrian and cyclist network directly accessible to public transport and open space.

The opportunity exists for shop-top housing to be incorporated with the retail facilities within the neighbourhood centre.

The proposal does not incorporate a shop top housing component into the FNC.

Safety and security are to be considered in the design of the centre.

Control C2.2 Safety and Security of PDCP prescribes principles that need to be applied to the design to minimise the opportunity for crime. They are addressed below:

Surveillance

The location of the FNC and landscaping arrangements allows occupants to overlook public places and minimises opportunities for concealment. Specific details of public lighting have not been provided however it is considered that this can be conditioned to ensure that:

- *Lighting must be designed and located so that it minimises the possibility of vandalism or damage.*
- *Security lighting must meet AS4282 The control of the obtrusive effects of outdoor lighting.*
- *Public facilities (toilets, telephone, ATMs, etc) are to be located so as to have direct access and to be clearly visible from well-trafficked public spaces.*

Access Control

The development allows for pedestrian access through the site which will be clearly visible from the street. It is recommended that conditions be incorporated into the consent to ensure that:

- *Pedestrian access through the site is to be clearly defined, signposted, appropriately lit, and visible and give direct access to building from parking and other areas likely to be used at night.*
- *Pedestrian access along the street frontage shall not be impeded by landscaping, street furniture or other restrictions.*

Territorial reinforcement

The pedestrian pathways have been designed to direct visitors to the FNC and not directly to the private areas.

Space Management

Space management aims to ensure that public space is attractive, well maintained and a well used space. The applicant has addressed the need for a well cared for centre and surrounding space to ensure it's success. The appropriate management of the centre will be the responsibility of the community scheme and therefore it is recommended conditions be incorporated into the consent to ensure that the community scheme management plan generally includes:

- *Space management strategies include activity coordination, site cleanliness, rapid repair of vandalism and graffiti, the replacement of burned out pedestrian and car park lighting and the removal or refurbishment of decayed physical elements.*

Security Devices

It is recommended a condition be incorporated into the consent to ensure that:

- *Solid roller shutters are not permitted as security devices on shop fronts (windows and doors).*

Carparking for the centre is to be in accordance with this DCP.

The car parking allocated to the FNC is 15 commercial off street parking spaces, 2 accessible off street parking spaces, 1 delivery van off street parking space and Bicycle parking consistent with PDCP controls.

Requirements under the Disability Discrimination Act 1992 and this DCP must also be considered in the design of the centre.

PDCP requires that convenient and safe access for all people, including people with a disability, older people, and people with prams, must be provided to and within all buildings to which the general public have access.

The development site is relatively flat and compliance with the *AS1428 Design for Access and Mobility* is achievable. It is recommended that conditions be incorporated into any consent issued to ensure appropriate certification and obligations are satisfied.

- **D16.1 Character as viewed from a public place**

The control is quite prescriptive in what design elements should be incorporated into building which front the street or creek line corridor.

The character of the built form as it relates to the existing character and visual impact when viewed from the street has been addressed in the consideration of the *Seniors*

Living Policy: Urban Design Guidelines for Infill Development in section 8.1.4 earlier in this report.

From that discussion, an issue with the development is the internal visual amenity from within the site. When viewed from the internal roads 2 and 3 the garages and parking areas will be a dominant feature. As these areas are not visible from the public domain the visual impact is not one which is of major concern. The facades that address the public streets and creekline corridor are successful in achieving a desirable visual impact for the following reasons:

- Design provides distinct visual separation the blocks and protecting wall elements to each dwelling so they do not appear as continuous horizontal mass of dwellings.
- Different fenestration combinations are applied to each block.
- Varying roof forms across the development with pitched roofs on block fronting public streets.
- Dwellings incorporate juliet balconies, projecting architectural elements, screening devices, varied materiality and entry features to address public and internal road frontages.
- No garages or parking structures are orientated to or visible from the public streets.
- Effective landscaping has been provided to the public street frontages and within the vegetative corridor.
- The FNC addresses Garden St as a single storey with split level second storey with open space.

• **D16.3 Front building lines**

The control requires that the dwellings abutting Macpherson Street and Garden Street are setback 6.5m and dwellings abutting internal sector streets are setback 4m and garage 5.5m. A variation is permitted where there are corner blocks or blocks with a double street frontage. The secondary frontage is required to be 2m.

Blocks Abutting Macpherson Street or Garden Street with Secondary Frontage

Block	Primary 6.5m	Secondary 2m
A	6.8m – 7.7m	2m – 3m
B	6.5m – 6.8m	2m – 2.3m
C	6.5m – 7.4m	2.8m – 4.7m
D	6.5m – 7.2m	2m – 2.6m

Blocks Abutting Sector Streets

Block	Primary 4m	Secondary 2m
E	4.8m – 6.3m	N/A
F	5.2m – 6.4m	N/A

Corner lots within Sector streets

Lot	Secondary frontage
23	900mm (NE)
39	300mm – 1m (SE)
47	500mm – 900mm (SE)

Focal Neighbourhood Centre

Primary setback	6.5m
South eastern	2.5m
South western	1.2m

The dwellings and garages are within the 4m and 5.5m setback respectively to Blocks A, B, C and D. It is considered that these can be supported given the variation allows consideration of secondary frontages with a minimum 2m setback. These lots provide adequate setbacks to the public street frontages and do provide some space for single tree planting within the front internal street setback.

Lots 23, 39 and 47 have setbacks less than 2m to their secondary street frontages. These setbacks contribute to the dwellings appearing bulky when viewed from within the site. The minimal distances (300mm and 500mm) are to projecting design elements on the ground floor. The upper floor is setback at the greater distance. While effort has been made to treat the elevations addressing the internal roads additional landscaping should be provided to achieve a screening element. To provide effective landscaping along these setbacks the south eastern boundary fence between lot 39 and 47 should be set in to be in line with the southern corner of dwelling on lot 39 and eastern corner of dwelling on lot 47. This will allow landscaping to be located between the footpath and dwellings/fence (approx 1.2m wide) for a distance of 34m along road 3. Landscaping can be provided along the north eastern boundary of lot 23 to road 2.

- **D16.4 Side and rear building lines - Warriewood Valley Residential Sectors**

The control states that for detached and attached dwellings, a minimum side boundary setback of 2.5m applies to at least one side boundary. The control goes on to state:

Council encourages design initiatives that provide spatial separation between dwellings and adjoining residential properties, and discourages the design and construction of structures that will cause bulking and diminution of the visual amenity of the locality. Building design, location of windows and balconies/decks, landscaping, and screening devices can be utilised to ensure privacy between dwellings.

The numerical aspect of this control cannot be applied to each dwelling in this development as the design is for attached style terrace dwellings (except dwellings on end of block, there are no side boundary setbacks). Where the development is adjacent to the north western boundary and where blocks A, B and C are separated, side boundary setbacks can be calculated:

Lot	Side setback
2	2m
7	1m
8	1m
14	1m

15	1m
31	2m
40	2m

While these blocks do not provide 2.5m to one side, given the style of the dwelling design the numerical side setback control is considered to be less relevant. The design initiatives outlined in the control and outcomes are considered to be a more appropriate test for side setbacks.

Concern has been raised by the neighbours to the north west relating to the proximity of the development to the side boundary (Lomandra Way) and the visual impact.

The proposed spatial separation between dwellings and adjoining residential properties is 10m which is considered sufficient for two storey single dwelling residential development. The bulk and massing of the development arises from the terrace style design which is not considered to be inconsistent with the built form character within the locality.

All dwellings, existing and proposed are orientated to overlook their own private open space or road which minimises privacy impacts. Secondary measures such as landscaping and restrictions on window positioning will also aid in minimising the perception of built form and overlooking between neighbouring properties.

- D16.6 Site Coverage - Warriewood Valley Residential Sectors**

The control requires that the total built upon area on individual residential allotments shall not exceed 55% of the site area of the allotment with the remaining 45% of the site area as landscaped area. The following table demonstrates that all lots except lots 2, 22, 31 and 40 exceed the maximum site coverage area of 55%, with some lots proposing considerable hard surface areas up to 76% of the site.

Lot	Area (m ²)	SC (%)	Lot	Area (m ²)	SC (%)
2	100	50.4	25	90	71
3	97	75	26	90	71
4	95	75.6	27	94	74
5	93	75.2	28	92	74.5
6	92	74.9	29	92	75.8
7	95	62.7	30	92	76.3
8	94	62.2	31	117	51.2
9	95	78	32	119	62.6
10	91	74.7	33	119	61.9
11	91	74.5	34	116	62.9
12	93	76	35	114	64.3
13	93	75.6	36	117	65.5
14	91	59.3	37	116	63.7
15	91	57.7	38	112	60.9
16	94	72.5	39	122	57.7
17	94	71.6	40	136	52.9
18	95	71.7	41	139	66.8
19	90	67.5	42	135	63.3
20	96	71.7	43	139	63.3
21	100	74.7	44	137	62.2
22	100	40.2	45	133	61.7
23	94	61.3	46	133	61.9
24	94	74	47	134	56.5

Compliance with the PDCP control should be achieved for each site to ensure there is an appropriate balance between built form and landscape. While the development as a whole can generally achieve the control outcomes the bulk and scale of the built form could be minimised if compliance were achieved. Notwithstanding this, the site coverage is a factor of the permissible density on the site under SEPP ARH and whilst the development is inconsistent with the control and outcomes of PDCP, pursuant to clause 14(1)(a), 14(1)(c) and 14(1)(d) of SEPP ARH the consent authority cannot refuse consent based on the scale of the development and landscaped areas.

- D16.7 Fences - Warriewood Valley Residential Sectors**

The control specifies that fencing of properties is restricted to side and rear boundaries only and that no fencing is permitted forward of the building line of the dwelling. Notwithstanding this, the control goes on to state that if fencing exceeds one metre in height and abuts a public road, it must be set back from the boundary a minimum of one metre so landscaping can screen the fence.

The proposal incorporates front fencing to the allotments addressing Macpherson and Garden Streets. These front setbacks also incorporate dwelling frontages, pedestrian access and postal addresses consistent with the control requirements.

The fencing is black aluminium and steel construction which is open in nature. The fencing is setback approximately 1.2m – 2m to Garden Street and 2.2m from Macpherson St which is also consistent with the control. The fencing is elevated, located on top of a concrete retaining wall which provides adequate soil depth to provide vegetation to screen the fence and a privacy measure for future occupants.

Side and rear fencing is also located within the site between the properties in Block E and F. The fencing is conventional timber construction to 1.8m high. This is consistent with the control and it is considered that fencing would be appropriate in these locations to delineate the property boundaries and provide privacy to future occupants.

It is recommended that appropriate conditions be included in any development consent to restrict height, construction and materiality of fences.

- **D16.11 Location and design of carparking facilities - Warriewood Valley Residential Sectors**

The control requires that the car space structures must be setback a minimum of 5.5m from the front property boundary and located behind the building frontage or designed in such a way so as to not be prominent when viewed from the street. Furthermore tandem parking is encouraged for lots with a frontage width of 11 metres or less.

The garages to dwellings in Blocks A, B, C and D are not setback the required 5.5m. This has been supported given that this is the secondary street frontage and adequate setbacks have been provided to the public roads. The garages will be visually prominent when viewed from within the private community road 2 and 3. Whilst this visual impact is not preferable, it appears to be the most practical way of providing parking while not addressing the public streets. The way the lots address the street is a desirable outcome consistent with policy controls and existing terraces to the north west of the site.

Each dwelling provides a single garage. In addition to this 17 dwellings provide an extra tandem uncovered car space in front of the garage.

- **D16.13 Solar access - Warriewood Valley Residential Sector**

The control requires that private open space and windows to the principal living area of the proposal and adjoining dwellings are to receive a minimum of 4 hours of sunlight between 9am and 3pm on June 21st. While PDCP requires 4 hours, SEPP ARH requires minimum 3 hours. Therefore the following table demonstrates hours provided to each lot and whether they achieve compliance or not with each policy:

LOT	POS	WIN	DCP	SEPP	LOT	POS	WIN	DCP	SEPP
2	> 4	> 4	✓	✓	25	1.5	1.5	✗	✗
3	> 4	> 4	✓	✓	26	1.5	1.5	✗	✗
4	> 4	> 4	✓	✓	27	1.5	1.5	✗	✗
5	> 4	> 4	✓	✓	28	1.5	1.5	✗	✗
6	> 4	> 4	✓	✓	29	1.5	1.5	✗	✗
7	> 4	> 4	✓	✓	30	1.5	1.5	✗	✗
8	> 4	> 4	✓	✓	31	> 4	> 4	✓	✓
9	> 4	> 4	✓	✓	32	> 4	> 4	✓	✓
10	> 4	> 4	✓	✓	33	> 4	> 4	✓	✓
11	> 4	> 4	✓	✓	34	> 4	> 4	✓	✓
12	> 4	> 4	✓	✓	35	> 4	> 4	✓	✓
13	> 4	> 4	✓	✓	36	> 4	> 4	✓	✓
14	> 4	> 4	✓	✓	37	> 4	> 4	✓	✓
15	> 4	> 4	✓	✓	38	> 4	> 4	✓	✓
16	> 4	> 4	✓	✓	39	> 4	> 4	✓	✓
17	> 4	> 4	✓	✓	40	> 4	> 4	✓	✓
18	> 4	> 4	✓	✓	41	> 4	> 4	✓	✓
19	> 4	> 4	✓	✓	42	> 4	> 4	✓	✓
20	> 4	> 4	✓	✓	43	> 4	> 4	✓	✓
21	> 4	> 4	✓	✓	44	> 4	> 4	✓	✓
22	> 4	> 4	✓	✓	45	> 4	> 4	✓	✓
23	1.5	1.5	✗	✗	46	> 4	> 4	✓	✓
24	1.5	1.5	✗	✗	47	> 4	> 4	✓	✓

The solar access numerical assessment is based on access to primary and secondary private open space and living room windows. The assessment reveals that:

- Dwellings in Blocks A, B, C, E and F (38 dwellings or 83%) receive a reasonable (minimum 3 hours) to optimal (6 hours) amounts of solar access during mid winter.
- Dwellings in Blocks A, B, C and F (29 dwellings or 63%) receive more than 4 hours to the principal living area and windows to the principal living area.
- Dwellings in Block D (8 dwellings or 17%) receive 1.5 hours.

Block E - Lots 31 to 39 inclusive

Dwellings in Block E receive 1.5 hours to the 'main' private open space (alfresco and rear yard) and kitchen dining room windows. Despite this, the solar amenity provided to Block E dwellings is very good as secondary north facing private open space and living room windows have been incorporated into the design. The north facing living room window, upper floor balcony and front garden all receive in excess of 4 hours during mid winter. When assessing the solar access to these dwelling is considered unreasonable to ignore these secondary areas orientated to the north which receive excellent solar amenity, therefore these dwellings are not considered to be inconsistent with the control and policy outcomes.

Block D - Lots 23 to 30 inclusive

Dwellings in Block D receive 1.5 hours to the 'main' private open space (alfresco and rear yard) and living room windows. These dwellings do not comply with the numerical control nor do they provide secondary areas which gain solar access therefore an unacceptable level of access is provided to these dwellings. Notwithstanding this, consideration is given to the site orientation and the policy requirement for these dwellings to address Garden St while providing vehicular access to the rear (north west). The inevitable outcome is main living areas are orientated in a south easterly direction where solar access cannot be maximised during winter. During summer these areas receive minimum 4 hours.

Given the site orientation constraints and weight given to other PDGP design and subdivision controls it is considered that the development performs well with regard to solar access and can be supported on merit. The proposal results in 8 dwellings of 46 that do not receive solar access at a minimum of 3 hours, which equates to 83% of the development meeting the minimum standards under SEPP ARH.

• **D16.14 Height**

The control requires the maximum height of a building or structure shall be 8.5 metres measured from the highest point of the building (including the top of the ridge line) in a vertical line to natural ground level below, and shall apply to any point on the building. The maximum ridge levels and heights from natural ground level are calculated as follows:

Block	Maximum Ridge (RL)	Maximum Heights (m)
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A	20.81	8.21
B	20.595	8.395
C	20.38	8.58
D	19.905	7.905
E	20.66	8.26
F	20.295	7.695
FNC	20.25	8

Note: to ensure that the heights were correctly measured from the natural/existing ground level the roof plan was superimposed over the spot level and contour survey.

The eastern portion of Block C (corner of Macpherson and Garden Streets) exceeds the 8.5m height limit to 8.58m. While this is considered a minor non compliance, SEPP ARH specifies that no building shall be erected on the land with a height greater than 8.5m from existing/natural ground level. As discussed previously, it is recommended that a condition be imposed in the consent to ensure that the maximum ridge height of Block C is RL 20.3.

- **Amenity Impacts**

Concerns have been raised in the submissions relating to the amenity impacts on neighbouring properties including visual privacy, acoustic/noise impacts and affect of headlights.

Visual Privacy

Concerns have been raised by the owners of 185 Macpherson St and 51 Callistemon Way regarding overlooking impacts to the existing rear yards and living room and kitchen windows to the north west. These dwellings are in visual proximity to the dwellings proposed on Lots 2, 31 and 40 with the minimum distance between them being 10m.

The upper floor windows along the north western elevations to dwellings on Lots 2, 31 and 40 do not appear to correctly correlate to the typical floor plans provided. The lower floor windows will not result in direct cross looking between the properties due to fencing and at grade landscaping. Given that there is some uncertainty relating to the upper floor windows and the potential for over looking to the lower rear yards and cross looking to the bedroom windows to the properties to the north west. It is recommended that the upper floor windows along the north western elevations to dwellings on Lots 2 and 31 be conditioned to either have sill heights of 1.7m or be obscured glazing. These measures are not considered to be necessary for the dwelling on lot 40 as it is not immediately adjacent to the existing dwellings therefore the oblique angles and greater spatial separation is considered to be adequate. Furthermore the windows facing north east and south west are also not of concern given the oblique viewing angles and spatial separation.

The development proposes private open space within the front and rear setbacks to reduce any privacy impacts between existing and proposed neighbouring dwellings. While it appears effort has been made to provide spatial separation and minimise privacy impacts to 185 Macpherson St and 51 Callistemon Way conditions would need to be incorporated into any consent issued to ensure that direct overlooking is protected from proposed north west facing windows.

Acoustic/Noise impacts

Concern has been raised in a submission relating to noise impacts generated by increased traffic around the development site. The traffic generation has been assessed and considered to be acceptable and consistent with the relevant policies. Increased traffic is a consequence of any form of development on this site. It is considered that noise generated from the residential and retail use of the site is a reasonable impact considering the zoning allows this form of development.

Affect of Headlights

Concern has been raised by the owner of 201 Garden St relating to vehicle headlight intrusion. The location of the entry/exist to the development is directly opposite the property at 201 Garden St.

The distance between the entry/exit driveway and 201 garden St boundary is 20m and to the dwelling is 30m. An existing 1m high picket fence with low landscaping exists on the eastern side of the fence. Considering the 20m - 30m distance, height of the existing barriers (fencing and landscaping) and the slightly higher level of the subject site, headlight intrusion is likely to occur.

Council has been advised that there is an agreement between the developer and the owner of 201 Garden St for the provision of a fence to negate the impact on rooms facing Garden St. It has been requested that this form a condition of any consent issued.

This is a civil agreement between the neighbour and developer however a condition will be imposed to facilitate discussion between the applicant and neighbour and investigations into providing planting and/or suitable screening to mitigate the impact of headlights on the dwelling at 201 Garden St, Warriewood.

- **Impacts on Utility Services along Garden Street**

Concern has been raised in the submissions received by owners of properties along the eastern side of Garden Street relating to the impact of undergrounding services and upgrading the road reserve on the western side of Garden St. Significant redevelopment of a site requires a developer to be responsible for upgrading and improving services and road connections immediately adjacent to the site. The eastern side of Garden Street is currently serviced by overhead power lines running across Garden St and has an unformed road reserve with no kerb and guttering. Submissions have requested details of when the eastern side will likely be upgraded and request reassurance that access to services will not be affected by the development.

Improvement works to the eastern side of Garden St is not the responsibility of the developer but Council and is not a requirement under this application. These works will be undertaken by Council at a later stage in accordance with any relevant plan. As the development does require the undergrounding of electricity lines, the over road lines will obviously be affected. In this instance it is the developer's responsibility along with the relevant utilities authority to ensure that existing services to properties along Garden St are maintained.

9.0 CONCLUSION

The likely impacts of the development have been addressed through the assessment of the proposal against the statutory and PDGP requirements. The development has

minimal environmental impact on natural and built environments and will actually enhance the natural environment within the creekline corridor. This development achieves social outcomes relating to provision of affordable rental housing and providing public space for recreational and retail purposes.

The provision of a 510m² FNC certainly will be limited in its retail service offering. The size of the retail floorspace will not adversely affect other existing centres in the vicinity such that it would result in any social disbenefit to the community.

The site is identified as being suitable for mixed residential and retail uses. While the density of the residential component is inconsistent with the maximum dwelling yields identified in the local plan, SEPP ARH overrides this provision. The density expressed as a floor space ratio is 0.5:1 and is not incompatible with existing development and built form character in the locality.

The FNC incorporates a retail floor area that is inconsistent with the minimum requirement under PDCP. The reduced size of the centre has the support of the community and is acceptable for this site in that it can achieve desired social and economic outcomes.

Submissions have been received objecting to and supporting the proposed development. Overall the submissions clearly indicate the desire for a FNC of the size proposed. The common objection from the local community relates to the increased density, lack of parking and safety and traffic arrangements. All concerns have been addressed within the report and where appropriate conditions of consent have been recommended.

Consideration is given to the relevant state and local plans, the objections received and the likely impacts of the development. The development achieves a balanced environmental, social and economic outcome for this site. Considering that there is generally support for FNC proposed and the development is generally consistent with the State and Local planning outcomes, the development would be in the public interest.

The visual character and amenity impacts have been thoroughly assessed and considered to result in reasonable impacts to adjoining properties, acceptable visual impacts when viewed from the public domain and provides reasonable amenity to incoming residents. Overall the development is consistent with development envisaged for this site and accordingly, the application is recommended for consent.

RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER

That the Joint Regional Planning Panel as the consent authority pursuant to Section 80 of the *Environmental Planning and Assessment Act 1979* grant consent to Development Application N0085/11 for an Infill Affordable Housing development comprising of 46 residential terraces/townhouses, a Focal Neighbourhood Centre, associated infrastructure, creekline corridor works and subdivision of the land at 23B Macpherson St, Warriewood subject the conditions of consent as contained in the attached draft notice of determination.

Report prepared by

Amy Allen

SENIOR PLANNER

DRAFT NOTICE OF DETERMINATION

**CONSENT NO: N0085/11
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)
NOTICE TO APPLICANT OF DETERMINATION
OF A DEVELOPMENT APPLICATION**

Applicants Name and Address:
WARRIEWOOD PROPERTIES PTY LTD
4 PONDEROSA PARADE
WARRIEWOOD 2102

Being the applicant in respect of Development Application No N0085/11
Pursuant to section 80(1) of the Act, notice is hereby given of the determination by Pittwater Council, as the consent authority, of Development Application No N0085/11 for:

Construction of an Infill Affordable Housing development comprising of 46 residential terraces/townhouses (23 maintained as affordable rental housing for a period of 10 years), Focal Neighbourhood Centre (510m² of retail floor area), provision of roads, parking and other infrastructure, restoration and dedication of the creekline corridor and subdivision of the land

At:

23B Macpherson Street, Warriewood (Lot 11 DP 5464)

DECISION:

The Development Application has been determined by the granting of consent based on information provided by the applicant in support of the application, including the Statement of Environmental Effects, and in accordance with

- **Architectural Plans Job No. N10-037 Drawings DA 02, 03, 05, 06, 07, 08, 09 All Revision B Dated 18 May 2011 Prepared by i2C Design and Management;**
- **Architectural Finishes Presentation Sheet and Colour Swatches N10-037 Dated May 2011 Prepared by i2C Design and Management;**
- **BASIX Certificate No. Dated 22 March 2011;**
- **Landscape Plan Job No. 0822 Drawing L01 Revision B Dated May 2011 Prepared by Umbaco Landscape Architects;**
- **Subdivision Plan 1736-L03 (01) Dated 18 May 2011 Prepared by Craig & Rhodes;**
- **Soil and Water Management Plan 1736-DA-07 [00] Dated 17 March 2011 Prepared by Craig & Rhodes;**
- **Traffic and Parking Assessment Report Reference 08276 Dated March 2011 Prepared by Transport and Traffic Planning Associates;**
- **Road Cross Sections DA02 [00] Sheets 2/6 – 6/6 Dated 15 March 2011 prepared by Craig & Rhodes;**
- **Flora and Fauna Assessment for 25 lot subdivision at 23B Macpherson Street, Warriewood Dated January 2008 Prepared by Banksia Ecology;**

- **Arborist Report for proposed focal neighbourhood centre at 23B Macpherson Street, Warriewood Dated December 2009 Prepared by Growing my Way Tree Consultants;**
- **Preliminary Geotechnical Assessment Project 37747.01 Dated 13 May 2009 Prepared by Douglas Partners Pty Ltd;**
- **Contamination Assessment Review and Remediation Action Plan Reference JT08499A-rl Dated 21 May 2008 Prepared by GeoEnviro Consultancy Pty Ltd;**
- **Site Asbestos Review Reference DL1978 Dated 28 May 2008 Prepared by David Lane Associates;**
- **Water management Report for Layout 3 23B Macpherson Street, Warriewood Issue 2 Dated March 2011 Prepared by Civil Certification;**
- **Addendum Report Water Management/Flooding Report Dated 18 May 2011 Prepared by Civil Certification:**
 - **Appendix A to Civil Cert letter dated 18 May 2011 – Architectural plan titled “Master Plan – Ground Floor” numbered DA02 Issue B dated 18/5/11 drawn by i2c Design and Management.**
 - **Appendix B to Civil Cert letter dated 18 May 2011 –Road and Drainage Layout Plan with Flood Levels titled “Figure 2 (Rev) 23b Macpherson St Flood Levels (Layout 3) numbered Civil Cert Issue C dated 19/5/11.**
 - **Letter titled “Development Application N0085/11. 23B Macpherson Street, Warriewood (Lot 11 DP 5464)” from Warriewood Properties (Paul Allinson) to Pittwater Council (Amy Allen) dated 19 May 2011.**
 - **Civil design drawing titled “Road and Drainage Layout Plan for Subdivision of Lot 11 Section C CP5464 Cnr Macpherson & Garden Street, Warriewood” numbered 1736-DA01 [01] dated 16/3/11 drawn by Craig & Rhodes.**
 - **Civil design drawing titled “Fern Creek Long & Cross Sections For Proposed Community Title Subdivision Of Lot 11 Section C D.P.5464 Cnr. Macpherson & Garden Streets, Warriewood” numbered 1736-DA-08 [00] dated 18/5/11 drawn by Craig & Rhodes.**

as amended in red (shown clouded) or as modified by any conditions of this consent.

The reason for the imposition of the attached conditions is to ensure that the development consented to is carried out in such a manner as to achieve the objectives of the Environmental Planning and Assessment Act 1979 (as amended), pursuant to section 5(a) of the Act, having regard to the relevant matters for consideration contained in section 79C of the Act and the Environmental Planning Instruments applying to the land, as well as section 80A of the Act which authorises the imposing of the consent conditions.

Endorsement of date of consent

Mark Ferguson
GENERAL MANAGER
Per:

CONDITIONS OF APPROVAL

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, there is to be such a contract in force.
3. Critical stage inspections are to be carried out in accordance with clause 162A of the *Environmental Planning & Assessment Regulation 2000*. To allow a Principal Certifying Authority or another certifying authority time to carry out critical stage inspections required by the Principal Certifying Authority, the principal contractor for the building site or the owner-builder must notify the Principal Certifying Authority at least 48 hours before building work is commenced and prior to further work being undertaken.
4. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
5. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
6.
 - a. in the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor, and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
 - b. in the case of work to be done by an owner-builder:
 - i. The name of the owner-builder, and

- ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
-
- 7. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
 - 8. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

B. Matters to be incorporated into the development and maintained over the life of the development:

- 1. The following General Terms of Approval (GTA) issued by the NSW Office of Water must be incorporated into the development and maintained over the life of the development:
 - (a) The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.
 - (b) The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.
 - (c) The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
 - (d) The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to the NSW Office of Water as and when required.
 - (e) The consent holder must design and construct all ramps, stairs access ways, cycle paths, pedestrian paths or other non-vehicular form of access way so that they do not result in erosion, obstruction of flow, destabilisation, or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by the NSW Office of Water.
 - (f) The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by the NSW Office of Water.
 - (g) The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to

river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

- (h) The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.
 - (i) The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.
 - (j) The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
 - (k) The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
 - (l) The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water.
 - (m) The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the NSW Office of Water.
 - (n) The consent holder must clearly mark (with stakes using a GPS or peg out survey), protect and maintain a riparian corridor with an average width of 25 metres measured horizontally landward from the centreline of the river for the length of the site directly affected by the controlled activity in accordance with a plan approved by the NSW Office of Water.
 - (o) The consent holder must establish a riparian corridor along the Fern Creek in accordance with a plan approved by the NSW Office of Water.
- 2. The internal driveways are to be constructed to an all weather standard finish to be of dark or earthy tones, line marked and signposted.
 - 3. Storage of hazardous materials, electrical items, items of plant, equipment or stock and other items which may be susceptible to water damage are to be located above the Flood Planning Level as determined in the Water Management Report.

4. The minimum fill level for individual allotments must be the Flood Planning Level that includes an allowance of climate change of 200mm to achieve a Flood Category 2 notation on Section 149(2) Certificates.
5. Floor levels for all development (except adaptable/accessible dwellings) shall be at or above the Flood Planning Level that includes an allowance for climate change of 200mm.
6. Floor levels for adaptable/accessible dwellings shall have a minimum floor level of the Probable Maximum Flood. Reliance is not to be made on home conversions such as stair lifts in accessible units to compensate for floor levels below the probable maximum flood.
7. A reliable pedestrian access route is to be maintained to allow safe evacuation from each of the dwellings to the evacuation area above the Probable Maximum Flood.
8. The commitments reported in the Water Management Report that forms part of this consent, are to be maintained for the life of the development.
9. The water management facilities are to be maintained over the life of the development.
10. All utility services including overhead power supply and communication cables located in the adjacent road verge and those servicing the development are to be placed and/or relocated underground for the total frontage of the development site to any public road at the full cost to the developer. The location of any trenching shall have regard for future and proposed landscaping in the public domain.
11. Street lighting facilities to the existing public roads reserves along the development site frontages are to be provided at the full cost of the developer and in accordance with the requirements of Energy Australia.
12. For 10 years from the date of the issue of the occupation certificate dwellings on lots 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30 are to be used for the purposes of affordable housing as defined in the State Environmental Planning Policy (Affordable Rental Housing) 2009.
13. For 10 years from the date of the issue of the occupation certificate dwellings on lots 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30 will be managed by a registered community housing provider as defined in the Housing Act 2001. In addition the registered community housing provider must have more than 400 dwellings in their overall housing portfolio in the Northern Sydney Region of Sydney.
14. The registered community housing provider will manage the accommodation used for affordable housing in accordance with the NSW Affordable Housing Guidelines July 2010 or subsequent versions. In keeping with these guidelines the registered community housing provider will seek to achieve allocations to households across a mix of Very low, Low and Moderate income bands.
15. All applications, allocations and rent setting for the accommodation used for affordable housing will be at the sole discretion of the registered community housing provider.

16. For the period described in B12 the owner and the registered community housing provider will provide a copy of any agreement between themselves for the management of the accommodation used for affordable housing to Pittwater Council prior to the first tenancy agreement being signed for the use of the accommodation used for affordable housing. If the registered community housing provider changes during the period described in B10 a copy of the new agreement between the owner and the registered community housing provider must be provided to Pittwater Council within 14 days of the agreement being executed.
17. Landscape works to be constructed in strict accordance with landscape plans Job No. 0822 Drawing L01 Revision B Dated May 2011 Prepared by Umbaco Landscape Architects.
18. All plant material to be purchased to be Natspec requirements.
19. All remediation work nominated in the Contamination Assessment Review and Remediation Action Plan Reference JT08499A-rl Dated 21 May 2008 Prepared by GeoEnviro Consultancy Pty Ltd and Site Asbestos Review Reference DL1978 Dated 28 May 2008 Prepared by David Lane Associates must, in addition to complying with any requirements under the Act or any other law, be carried out in accordance with the State Environmental Planning Policy No 55 – Remediation of Land.
20. Provision must be made for storage of garbage containers, containers for recyclable material in an external area of the commercial premises or in a room specifically for that purpose.
21. External garbage areas associated with the commercial premises must be provided with a hose tap connected to the water supply, be paved with an impervious material, be graded and drained to sewer and be designed and constructed so they are easy to clean.
22. Roomed garbage areas must have impervious floors that are coved at the floor/wall intersection and be graded and drained to the sewage system. Walls of roomed garbage areas must be smooth and impervious. The room must be ventilated, proofed against pests and be provided with a hose tap connected to the water supply.
23. No odour nuisance, to the public or any adjoining premises, shall be created by the operation of any plant or equipment or any procedures carried out at the commercial premises.
24. No noise nuisance shall be caused through the operation of any plant or equipment at the commercial premises. Noise generated from the premises must not exceed the limits as specified in the NSW Industrial Noise Policy.
25. Sanitary facilities are to comply with the requirements set out within Table F2.3 of the BCA.
26. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
27. The focal neighbourhood centre shall comply with *AS1428 Design for Access and Mobility* and shall incorporate the following:

- (a) continuous accessible path of travel to all areas that the public or a section of the public is entitled or allowed to enter or use; and
 - (b) walkways, ramps and landings at a reasonable gradient and width, with handrails and kerbs provided on all ramps, and slip-resistant materials on all floor surfaces;
 - (c) accessible toilet facilities, tactile ground surface indicators, effective signage and illumination, and adequate circulation space through passageways and doorways.
28. Nine (9) dwellings are required to be at the rate and class as required under the Accessibility Control (C1.9 Adaptable Housing and Accessibility of Pittwater 21 DCP) and in compliance with the requirements of AS 4299 - Adaptable Housing.
29. All carparking facilities and driveway profiles, for adaptable and accessible housing, from the street to the on site car parking spaces for the adaptable dwellings must comply with AS/NZS 2890.1:2004 Parking facilities - Off-street car parking.
30. Continuous footpath awnings should be provided to the street adjoining business development for weather protection for pedestrians.
31. Awnings shall be constructed of any suitable and durable material, excluding glass, Perspex and the like due to heat transmission.
32. No water pollution shall result from the operation of any plant or equipment or activity carried out.
33. Noise from the operation of any plant or equipment at on all residential lots shall comply with the noise provisions of the Protection of the Environment Operations Act, 1997.
34. Any future use of the commercial premises must comply with the nominated uses "neighbourhood shop" and "restaurant" as defined in Schedule 10 of *Pittwater Local Environmental Plan 1993*.
35. New electrical connections to the residential dwellings and commercial premises are to be carried out using underground cabling.
36. All sanitary drainage must be concealed in service ducts or otherwise hidden from external view to the satisfaction of the Responsible Authority.
37. The materials and colour scheme is to be in accordance with the submitted Architectural Finishes Presentation Sheet and Colour Swatches N10-037 Dated May 2011 Prepared by i2C Design and Management. Specifically:
- (a) The roof tones shall be medium and/or dark grey;
 - (b) The walls (textured paint finish and fc panelling) shall be a combination of the following tones and/or materials:
 - (i) Tan
 - (ii) Medium Grey
 - (iii) Dark grey
 - (iv) Brown grey
 - (v) Brown
 - (vi) Timber

(c) The finishes shall be a combination of the following tones and/or materials:

- (i) Green
- (ii) Ochre
- (iii) Timber

(d) Capping and Gutters shall be dark grey.

38. Fences visible from and adjacent to Macpherson St and Garden St shall be constructed in 'open' materials (such as aluminium and steel construction) for the full height of the fence with at least 50% of the fence being 'open'.
39. Side and rear boundary fencing to lots 31 – 47 (inclusive) shall not exceed 1.8 metres in height and be constructed of timber.
40. Concrete retaining walls visible from and adjacent to Macpherson St and Garden St shall be treated (painted) with earthy tones such as medium grey, brown or green.
41. Dwellings are to be constructed to allow internal access for telecommunications, intelligent lighting and home automation facilities from underground street electrical and telecommunications cabling.
42. Cats, ferrets and rabbits are not permitted to be kept on the site.
43. Dogs are to be restricted to within the building at night and otherwise to be either within a fenced compound on the lot or on a lead.
44. The maximum ridge height for dwellings in Block C shall be RL 20.3 to ensure that the development does not exceed 8.5m from natural/existing ground level.
45. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.
46. The four (4) large native canopy trees (Angophoras) within the creekline corridor are to be retained **where possible**. Any creekline reconstruction works are to be diverted away from the root zone of these trees. Any excavation or soil disturbance proposed within 5 metres of the trunks of these trees is to be supervised by a qualified arborist who is to provide advice on the treatment of roots encountered.
47. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Pittwater Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for noxious/environmental weed lists.
48. No environmental weeds are to be planted on the site. Refer to Pittwater Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds for environmental weed lists.
49. Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.
50. Any vegetation planted onsite outside approved landscape zones is to be consistent with:

- (a) Species listed in the Ecological Sustainability Plan or Bushland Management Plan (if applicable)
 - (b) Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Pittwater Council website http://www.pittwater.nsw.gov.au/environment/species_lists
51. Lighting must be designed and located around the commercial premises so that it minimises the possibility of vandalism or damage.
52. All lighting including security lighting must meet *AS4282 The control of the obtrusive effects of outdoor lighting*.
53. Public facilities (toilets, telephone, ATMs, etc) are to be located so as to have direct access and to be clearly visible from well-trafficked public spaces.
54. Pedestrian access along the street frontage shall not be impeded by landscaping, street furniture or other restrictions.
55. Solid roller shutters are not permitted as security devices on shop fronts (windows and doors).
56. The south eastern boundary fence between lot 39 and 47 should be set in to be in line with the southern corner of dwelling on lot 39 and the eastern corner of dwelling on lot 47. this is to ensure that there is adequate space between the boundary and fence to provide landscaping along the length of internal road 3.
57. Landscaping with varied minimum maturity heights of 3m – 6m is to be located on lots 39 and 47 between the south eastern boundary and the dwellings and fences for a distance of 34m along internal road 3.
58. Landscaping with varied minimum maturity heights of 3m – 6m is to be located to lot 23 between the north eastern boundary and dwelling for the length of the dwelling.
59. The upper floor windows along the north western elevations to dwellings on Lots 2 and 31 shall either have minimum sill heights of 1.7m from finished floor level and/or be obscured glazing.
60. The walls and/or ceilings of attached dwellings shall have a noise transmission rating in accordance with Part F(5) of the Building Code of Australia.
61. The walls and/or ceilings of attached dwellings shall comply with the fire rating provisions of the Building Code of Australia.
62. Discussions are to occur between the applicant and neighbour at 201 Garden St, Warriewood with an aim to provide planting and/or suitable screening to mitigate the impact of headlights on the dwelling at 201 Garden St, Warriewood.
63. This consent does not approve any internal fit out, use or hours of operation of the commercial premises.
64. Separate Development Application/s must be submitted to Council to obtain development consent for the works and/or operation of the commercial premises.

65. Seven (7) additional parking spaces are to be provided along Macpherson Street between Garden Street and the western boundary. Details are to be provided to Council.

C. Matters to be satisfied prior to the issue of the Construction Certificate:

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. The Construction Certificate will not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the Approval has been provided to Council.
2. The following General Terms of Approval (GTA) must be satisfied prior to the issue of the Construction Certificate:
 - (a) These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to N0085/11 and provided by Council:
 - i. Site plan, map and/or surveys
 - ii. Landscape Plan
 - iii. Erosion and Sediment Control Plan
 - iv. Soil and Water Management Plan
 - (b) Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.
 - (c) Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified. The consent holder must prepare or commission the preparation of:
 - i. Vegetation Management Plan
 - ii. Works Schedule
 - (d) All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's guidelines located at ww.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx
 - i. Vegetation Management Plans
 - ii. Riparian Corridors
 - iii. Outlet structures
 - (e) The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.

3. Drainage plans including specifications and details showing the site stormwater management are to be submitted to the Accredited Certifier with the Construction Certificate application. Such details are to be accompanied by a certificate from (as appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, 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. The details shall include disposal of site stormwater.
4. Plans and details demonstrating that the following issues have been addressed are to be submitted to the Accredited Certifier with the Construction Certificate application.
 - a. Driveway profiles must be obtained from Council for all access driveways across the public road verge to road edge. The driveway profiles provided by Council must be incorporated into and attached to design plans for the access driveway and internal driveway.
 - b. A Deed of Agreement indemnifying Council must be entered into for construction of a cosmetic access driveway across the public road verge (i.e. other than a plain concrete finish).
 - c. All construction of the access driveway across the public road verge must be undertaken by a Council authorised contractor.
 - d. Councils Fees and Charges apply to driveway profiles and Deed of Agreement for Access Driveway.
5. Applicants will be required to obtain prior to the issue of a Construction Certificate, a Section 139 Consent for Works on a Public Road Reserve issued by the Council under the provisions of Section 138 of the Roads Act 1993 for the design and construction of any works located on the road reserve including Access Driveways.
6. Erosion and Sediment Management Plan is to be submitted to the Accredited Certifier with the Construction Certificate application. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises shall be undertaken through the installation of erosion control devices such as catch drains, diversion drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, sedimentation basins. Such plan is to be accompanied by a certification from an appropriately qualified person, that the plans/ details have been designed in accordance with the requirements of the N.S.W. Department of Land and Water Conservations *Urban Erosion and Sediment Control* manual.

The plan is to include specific details required to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
7. Construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
8. The Accredited Certifier must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.

9. The applicant is to consult with Sydney Water to establish whether there are any Section 73 Compliance Certificate requirements for this proposal, under the provisions of the *Sydney Water Act, 1994*. A copy of any Notice of Requirements letter which may be issued by Sydney Water, is to be provided to the Private Certifying Authority with the Construction Certificate application.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

10. Structural Engineering details relating to the all approved works are to be submitted to the Accredited Certifier prior to release of the Construction Certificate. Each plan/sheet is to be signed by a qualified practising Structural Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field.
11. Certification from the Accredited Access Adviser that design details and specifications comply with the Accessibility Control and the DA Access Report, must be submitted to the Accredited Certifier with the Construction Certificate application.
12. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate or complying development plans and specifications are fulfilled.
13. Detailed creekline drawings/profiles are required to be provided prior to the issue of the Construction Certificate which indicates the setback distance of the channel and any reconstruction works in relation to the four (4) existing canopy trees to be retained.
14. Prior to the issue of a Construction Certificate, a revised Water Management Report is to be submitted and certified by a qualified practising Civil Engineer with corporate membership of the Institution of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in urban stormwater (quantity and quality) and flood management.
The revised Water Management Report is to provide additional detailed designs, plans, specifications and the required information for all works needed to achieve full compliance with the *Warriewood Valley Water Management Specification February 2001 (WMS 2001)* and the *Pittwater 21 Development Control Plan*.
15. The revised Water Management Report is also to address the following details/issues:
 - (a) Creekline Redesign
Fern Creek is to be redesigned such that its centreline aligns closely with (or slightly to the north-east) of the existing property boundary between the development site and no. 209 Garden Street Warriewood (lot A DP 378841). The new design is to achieve half creek construction wholly within the development site.

- (b) Minimum floor levels required at different locations within the development need to be clearly shown on the site layout plans.
- (c) Interallotment Drainage System
An interallotment drainage system and associated drainage easements are to be created where necessary to provide legal access for the proposed interallotment drainage system.

16. The Water Management System is to be designed to provide for:

- (i) Staging of the works is to ensure that the objectives of the Warriewood Valley Water Management Specification are achieved for each stage prior to the release of any Occupation Certificate. Sufficient water quality and water quantity facilities must be provided to service each stage.
- (ii) The Stormwater Management System is to include a design for a stormwater drainage system, which drains collected roof, road and surface water from the site and is to cater for flows from upstream catchments. The systems are to include combined piped and overland flow components, which convey the 1% AEP and Probable Maximum Flood events and comply with relevant Australian Standards and contemporary engineering best practice.

17. Submission to Council of the detailed design of all works associated with the full and half creek construction of Fern Creek for the full frontage of the site. The detailed design is to include plans, longitudinal sections, cross sections and specifications of civil engineering works and landscape works. The detailed design is also to address the following details/issues:

- (i) Pipelines that originate from the subject site to be constructed within the creekline are to be reinforced concrete rubber ring jointed pipes.
- (ii) The associated headwall outlets are to be designed with natural stonework in accordance with the Warriewood Valley Water Management Specification February 2001.

18. The Water Management Report, and all associated plans and detailed design are to be certified as being in accordance with the *Warriewood Valley Water Management Specification (February 2001)* and as meeting the requirements of this consent. The certification is to be provided by a qualified practising Civil Engineer with corporate membership of the Institution of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in urban stormwater (quantity & quality) and flood management. A copy of the revised and certified Water Management Report is to be submitted to the Council for its records.

19. An application is to be made to and approved by Council's Local Traffic Committee as the Consent Authority for:

- (i) The installation of a "No Stopping" zone along the southern side of Garden Street, starting from Macpherson Street and ending past the entry to the carpark for the development.
- (ii) Provision of a "Give Way" control sign/holding line in Road 1 at its intersection with Garden Street.
- (iii) No Parking restrictions for the full length of both sides of Roads 1 and 2 and for full length of Road 1 on opposite side to 90o parking bays.
- (iv) No Stopping restrictions in turning facilities of Roads 1 and 2.

- (v) Provision of Loading Zone in indented parking space in Road 2 adjacent to the NFC to be 30 minute time limited for approved hours of operation of the NFC
- (vi) The 15 parking spaces assigned to the NFC located in the first two 90o parking bays (when entering from Garden Street) are to be time restricted. **Signage to be erected to allow up to 3 hours maximum during the approved business hours and out of approved operating hours unlimited parking** of the NFC. The applicant is to specify the time restriction for the CC, but this can be changed at any time by the future owner(s) of the NFC.

20. Engineering plans and specifications for all roads, drainage and other civil engineering works required by this consent within an existing Public Road reserve (including Macpherson Street and Garden Street) must be submitted and approved in writing by the Council prior to the issue of any Construction Certificate. Payment of the Engineering Plan Assessment fee (in accordance with Council's adopted Fees and Charges) is required prior to Council releasing the approved engineering plans. The installation of traffic facility signs and markings, including parking signs and speed restrictions will require the approval of Council and Council's Traffic Committee prior to commencement of installation.

The plans required by this condition are to include and provide for the following matters:

- (i) The works in relation to that part of the Macpherson Street and Garden Street frontages of the development site (from the culvert centreline in Garden Street to Lomandra Way in Macpherson Street) and including the works in relation to the vehicular access to the Development;
- (ii) Kerb and Guttering and associated stormwater drainage to drain the road pavement for the full length of the roadway of that part of Macpherson Street and Garden Street in both cases for the full frontage of the site subject to this consent (vertical faced kerb only will be permitted);
- (iii) An indented parking bay in Macpherson Street;
- (iv) A minimum 2m wide (separating width between in/out traffic) pedestrian refuge on the nature strip to service the shared pathway;
- (v) A raised, mountable (coloured and/or textured) area on the portion of the exit side to separate the travel path of articulated vehicles from other traffic (not across shared path) across the nature strip;
- (vi) A speed bump is to be provided on private property at the property boundary of the exit side of the driveway to Garden Street;
- (vii) Landscaping;
- (viii) Kerb alignment and footpath design and construction to accommodate the future roundabout at intersection of Macpherson Street and Garden Street;
- (ix) Road shoulder and road pavement construction, including pavement design and treatments up to the road centre line in Macpherson Street and Garden Street for the full frontage of the site subject to this consent;
- (x) Footpath/cycleway 2.1m wide for the full length of the frontage in Macpherson Street and Garden Street; and
- (xi) All entrances to the development shall be via access driveways (including layback crossings) constructed to Council's issued driveway profiles;

- (xii) A bus bay is to be provided on the **Garden** Street frontage in a location agreed to in writing by Sydney Buses;
- (xiii) Land shall be dedicated as Public Road as follows: -
- (xiv) Splay corner (5m x 5m) in accordance with the plan of subdivision at the intersection of Macpherson Street and Garden Street to facilitate the future roundabout and ensure that the public path along the development frontage is wholly located on public land.
- (xv) Pavement design and treatments. Kerb and Guttering (vertical faced kerb only will be permitted);
- (xvi) Street landscape;
- (xvii) Provide a minimum 1 metre wide landscaped area between the turning area of Road **1 and 2** and Lomandra Way;
- (xviii) Vehicular guard rail with warning chevron attached is to be provided between the turning areas of Roads **1 and 2** and Lomandra Way.

The plans required under this condition must meet the objectives and requirements of: The Warriewood Valley Roads Master Plan; Austroads; AUSSPEC and Pittwater 21DCP, as relevant and achieve a road design and landscaped effect consistent with the Warriewood Valley Concept Masterplan (Public Domain), dated October 2007.

The engineering design and plans for road and drainage works must be certified as meeting the requirements of this condition by an experienced civil engineer who is NPER accredited by the Institution of Engineers (Australia).

21. Detailed landscape plans are required to be provided prior to the issue of Construction Certificate and must incorporate the following:

- (i) All trees to front road reserve to be Angophora Costata 200 litre with understorey of native grasses/groundcovers planted at 4/m²;
- (ii) All trees to front building setbacks to be minimum 200 litre size;
- (iii) Internal pathway verges from McPherson Street to internal road system to be plated with native grasses/groundcovers at 4/m²;
- (iv) All trees to be planted must have minimum 4m³ root volume available.

22. A contribution of \$2,498,422.56 (for 46 dwellings and 534m² of commercial/retail space) and dedication of 2776m² of creekline corridor land (being lot 49 in the plan of proposed subdivision) is to be made pursuant to Section 94E (Ministerial Direction relating to Developer Contributions Dated 13 May 2011) and Section 94 (Warriewood Valley Section 94 Contributions Plan) of the *Environmental Planning and Assessment Act 1979*, for the provision of public infrastructure. The breakdown of the contribution follows:

Element	Contribution	Cashier Code
Traffic & Transport	\$446,968.16	SWTT
Multi-functional creek line corridors (works)	\$321,021.34	SWCW
Community Facilities	\$343,525.24	SWCF
Public Recreation	\$874,165.60	SWPR
Pedestrians/Cycleways	\$238,690.60	SWPC

Bushfire Protection	-\$1,701.20	SWBF
Library Services	\$75,408.26	SWLS
Plan Management	\$48,248.14	SWPM
Creekline Corridor (land)	\$152,096.42	SWCL

The monetary component of the Developer Contribution is to be paid prior to issue of the Construction Certificate, unless otherwise agreed by Council. The land dedication is to be effected prior to or by the registration of the subdivision of the site.

Where rates payable under the Warriewood Valley Section 94 Contributions Plan are reviewed and varied, the applicant is to pay the contribution rate as specified in the plan as it exists at the time of contribution.

D. Matters to be satisfied prior to the commencement of works and maintained during the works:

Note: It is an offence to commence works prior to issue of a Construction Certificate.

- 1 Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
- 2 Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
- 3 An all weather accessway at the front of the property consisting of 50-75mm aggregate or similar material at a minimum thickness of 200mm and 15metres long laid over geotechnical fabric is to be constructed prior to commencement of works and maintenance over the works period.
- 4 Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
- 5 Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility.
- 6 All waste dockets and receipts regarding demolition, excavation and construction waste are to be retained on site to confirm which facility received the material for recycling or disposal.
- 7 The ongoing operation of Recycling and Waste Management Services is to be undertaken in accordance with the Waste Management Plan.
- 8 The site is to be fully secured by a fence to all perimeters to the site to prevent unauthorised access both during the course of the works and after hours.
- 9 No works are to be carried out in Council's Road Reserve without the written approval of the Council.
- 10 A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site,

including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.

- 11 No skip bins or materials are to be stored on Council's Road Reserve.
- 12 A site fence and silt and sediment control fence is to be erected and maintained during the course of works along any street boundary and park/reserve boundary to the site.
- 13 A clearly legible Site Management Sign is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 - The builder's name, builder's telephone contact number both during work hours and after hours.
 - That no works are to be carried out in Council's Road Reserve without the written approval of the Council.
 - That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - That no skip bins or materials are to be stored on Council's Road Reserve.
 - That the contact number for Pittwater Council for permits is 9970 1111.
- 14 A satisfactory construction traffic management plan (CTMP) prepared by a suitably qualified traffic consultant is required to be submitted to the Private Certifying Authority prior to the commencement of any site works. The plan is to detail:
 - Quantity of material to be transported
 - Proposed truck movements per day
 - Proposed hours of operation
 - Proposed traffic routes, noting that 3 tonne load limits apply to some roads within Pittwater
- 15 If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Metropolitan Local Aboriginal Land Council (MLALC) and Department of Environment & Heritage are to be notified.
- 16 A stamped copy of the approved plans is to be kept on the site at all times, during construction.
- 17 Toilet facilities are to be provided in a location which will not detrimentally affect the amenity of any adjoining residents at or in the vicinity of the work site during the duration of the development.
- 18 Sampling, testing and remediation of the site as identified in the contamination assessment carried out by the Contamination Assessment Review and Remediation Action Plan Reference JT08499A-rl Dated 21 May 2008 Prepared by GeoEnviro Consultancy Pty Ltd and Site Asbestos Review Reference DL1978 Dated 28 May 2008 Prepared by David Lane Associates is to be carried out as per EPA guidelines and the

requirements of SEPP 55 - Remediation of Land is to be confirmed in writing to the Private Certifying Authority by a suitably qualified independent consultant.

- 19 Protection fencing measures (including sedimentation fences) are to be installed along the edge of the creekline corridor area. Protection measures are to be maintained for the duration of the works. Protection fencing that is no longer required is to be removed once all works are completed.

E. Matters to be satisfied prior to the issue of Occupation Certificate:

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

1. Certification is to be provided to the Principal Certifying Authority by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E.), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, that the drainage/stormwater management system has been installed to the manufacturer's specification (where applicable) and completed in accordance with the engineering plans and specifications required under this consent.
2. A Certificate is to be submitted to the Principal Certifying Authority with the Subdivision Certificate application by a qualified practising Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field confirming to the satisfaction of the Private Certifying Authority that the driveway has been constructed in accordance with the approved plans and relevant conditions of Development Consent.
3. Prior to issue of an Occupation Certificate photographic evidence of the condition of the street trees and road reserve and area adjoining the site after the completion of all construction, must be submitted to the Principal Certifying Authority showing that no damage has been done and if damage has been done that it has been fully remediated.

The photographs shall be accompanied by a statement that no damage has been done (or where damage has been remediated that Council has approved that work). In this regard Council's written agreement that all restorations have been completed satisfactorily must be obtained prior to the issue of any Occupation Certificate.

4. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.

5. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
6. A copy of the Section 73 Compliance Certificate issued under the provisions of the *Sydney Water Act, 1994*, is to be forwarded to Council or the Private Certifying Authority with the Occupation Certificate.
7. All proposed dwellings are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.
8. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.
9. Removal of Noxious and Environmental Weeds onsite, including the Fern Creek riparian corridor area is to be certified by a Bushland Management Consultant as being complete.
10. A detailed Flood Emergency Response Plan including how residents are to be notified and whether they should evacuate or refuge on site, and the details of evacuation routes and flood evacuation assembly areas is required to be submitted to Council for its records.
11. To ensure protection of the downstream creek system, certification is to be provided to Council, by an appropriately qualified professional, that works associated with the water management system have been carried out and completed in accordance with the Water Management Report required under this consent. Certification is to be provided in accordance with the *Warriewood Valley Water Management Specification (February 2001)*.
12. All works associated with the water management system required under this consent are to be completed prior to the issue of the Occupation Certificate.
13. At the completion of construction and certification the Water Management Report is required to be updated and must contain all reports, assessments and plans as required by the *Warriewood Valley Water Management Specification (February 2001)*. A copy of the updated Water Management Report is to be submitted to Council for its records.
14. The following documents and payments are to be submitted to Council in a single package:
 - (i) Works-as-executed plans for all structures or facilities which will be dedicated to Council or which are located within drainage easements or which will require ongoing maintenance by Council.
 - (ii) The plans are to be in paper and electronic format (dwg or dxf file) and comprise at least the following:
 - Boundary layout;
 - Kerb and gutter, road pavement, footpaths, traffic devices, retaining walls;

- Signage (including type and wording), line marking; easements, survey numbers and marks, reduced levels and coordinates;
 - Stormwater drainage, pipe sizes and types, pit sizes and types, subsoil drains;
 - Water quality devices, ponds, creek line corridors, parkland, play equipment
 - A Stormwater Quality Improvement Devices (SQIDs) Maintenance Plan including details of how all SQIDs are to be cleaned/maintained and the need for the 'Stormfilter' filters to be replaced/cleaned as per the manufacturers instructions;
 - Significant landscaping.
- (iii) Each component of the works as outlined above is to be certified as being carried out in accordance with the relevant plans and documentation by suitably qualified professional persons as outlined in this development consent. In particular, the construction of the Water Management System is to be supervised and certified by person(s) with appropriate experience and expertise in Environmental Science, Hydrology and Hydraulics, and must be NPER registered members of the Institution of Engineers (Australia).
- (iv) (vii) A security deposit of a value of 5% of the cost of the works is to be made to ensure rectification of any defects during the maintenance period. A maintenance period is to apply to all works to be dedicated to Council or which will require ongoing maintenance by Council. The maintenance period will apply for six (6) months after the issue of the Occupation Certificate. In that period the applicant will be liable for any part of the works which fail to perform in the manner required by the relevant certifications, or as would be reasonable expected under the design conditions.
15. A restriction is to be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements in conditions in B12, B13, B14, B15 and B16 are met.
16. Completed works to be certified as being in accordance with nominated landscape plans and Conditions of Consent by a qualified Landscape Architect.
17. Evidence of a 12-month landscape maintenance contract to be verified by the Certifier prior to release of Occupation Certificate.

F. Matters to be satisfied prior to the issue of Subdivision Certificate:

1. All conditions in this consent relating to the construction and servicing of the residential and commercial buildings, the accessway and works within the public road adjoining the site are to be satisfied prior to issue of the Subdivision Certificate.
2. Appropriate easements are to be created prior to the issue of a subdivision certificate or by the registration of the subdivision plan the subject of the subdivision certificate where service lines or drainage lines pass through private property other than the lot which they benefit.
3. Appropriate easements are to be created prior to the issue of a subdivision certificate or by the registration of the subdivision plan the subject of the subdivision certificate where boundaries pass through common walls.

4. All infrastructure required to service the proposed residential lots and commercial lot is to be provided; including roads and access ways, drainage facilities, landscaping and water management facilities.
5. All consent requirements relating to Water Management are to be satisfied prior to the issue of the Subdivision Certificate.
6. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained.
7. A copy of the Section 73 Compliance Certificate issued under the provisions of the Sydney Water Act, 1994, is to be provided to Council, prior to release of the Subdivision Certificate.
8. The following documents and payments are to be submitted to Council in a single package to ensure the efficient release of the Subdivision Certificate: -
 - (i) A copy of the Section 73 Compliance Certificate issued under the provisions of the Sydney Water Act, 1994.
 - (ii) Copies of the Subdivision Plans (original plus 6 copies).
 - (iii) The private certifier's Compliance Certificate. Each component of the works as outlined above is to be certified as being carried out in accordance with the relevant plans and documentation by suitably qualified professional persons as outlined in this development consent. In particular, the construction of the Water Management System is to be supervised and certified by person(s) with appropriate experience and expertise in Environmental Science, Hydrology and Hydraulics, and must be NPER registered members of the Institution of Engineers (Australia).
 - (iv) Works-as-executed plans for all structures or facilities which will be dedicated to Council or which are located within drainage easements or which will require ongoing maintenance by Council.

The plans are to be in paper and electronic format (dwg or dxf file) and comprise at least the following:

- Boundary layout;
 - Kerb and gutter, road pavement, footpaths, traffic devices, retaining walls;
 - Signage (including type and wording), line marking;
 - Easements, survey numbers and marks, reduced levels and co-ordinates;
 - Stormwater drainage, pipe sizes and types, pit sizes and types, subsoil drains;
 - Water quality devices, ponds, creek line corridors, parkland, play equipment;
 - Significant landscaping.
- (v) A security deposit of a value to be determined by Council is to be made to ensure rectification of any defects during the maintenance period. A maintenance period is to apply to all works to be dedicated to Council or which will require ongoing maintenance by Council. The maintenance period will apply for six (6) months after the issue of the Subdivision Certificate. In that period the applicant will be liable for any part of the works which fail to perform in the manner required by the relevant certifications, or as would be reasonable expected under the design conditions.

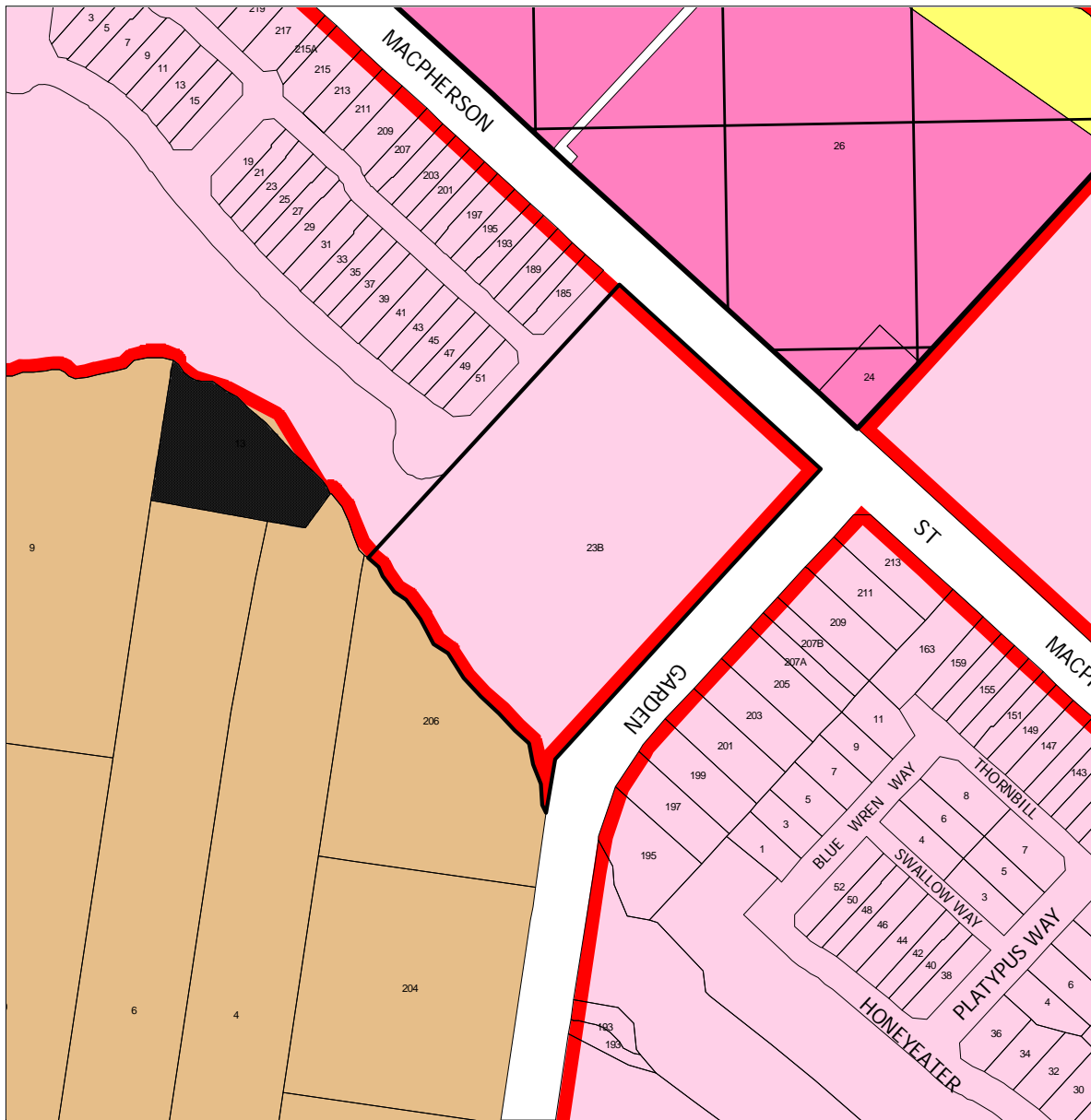
9. The dedication of 2776m² of Public Reserve shown as lot 49 in the proposed plan of subdivision is to be effected prior to or through the registration of the Subdivision Plan the subject of the Subdivision Certificate.
10. Creation of a suitable restriction on use of land/positive covenant is required prior to the issue of the subdivision certificate or by the registration of the plan of subdivision the subject of the Subdivision Certificate against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements in conditions in B12, B13, B14, B15 and B16 are met.
11. the applicant is to submit a Neighbourhood Development Contract and Community Management Statement which incorporates all of the statutory requirements of Schedule 2 of the Community Land Development Act, 1989 and is to specifically address the following:
 - (a) Cats, ferrets and rabbits are not permitted to be kept on the site.
 - (b) Dogs being restricted to within the building at night and otherwise to be either within a fenced compound or on a lead.
 - (c) Space management strategies including activity coordination, site cleanliness, rapid repair of vandalism and graffiti, the replacement of burned out pedestrian and car park lighting and the removal or refurbishment of decayed physical elements being put in place and maintained.

G. Advice:

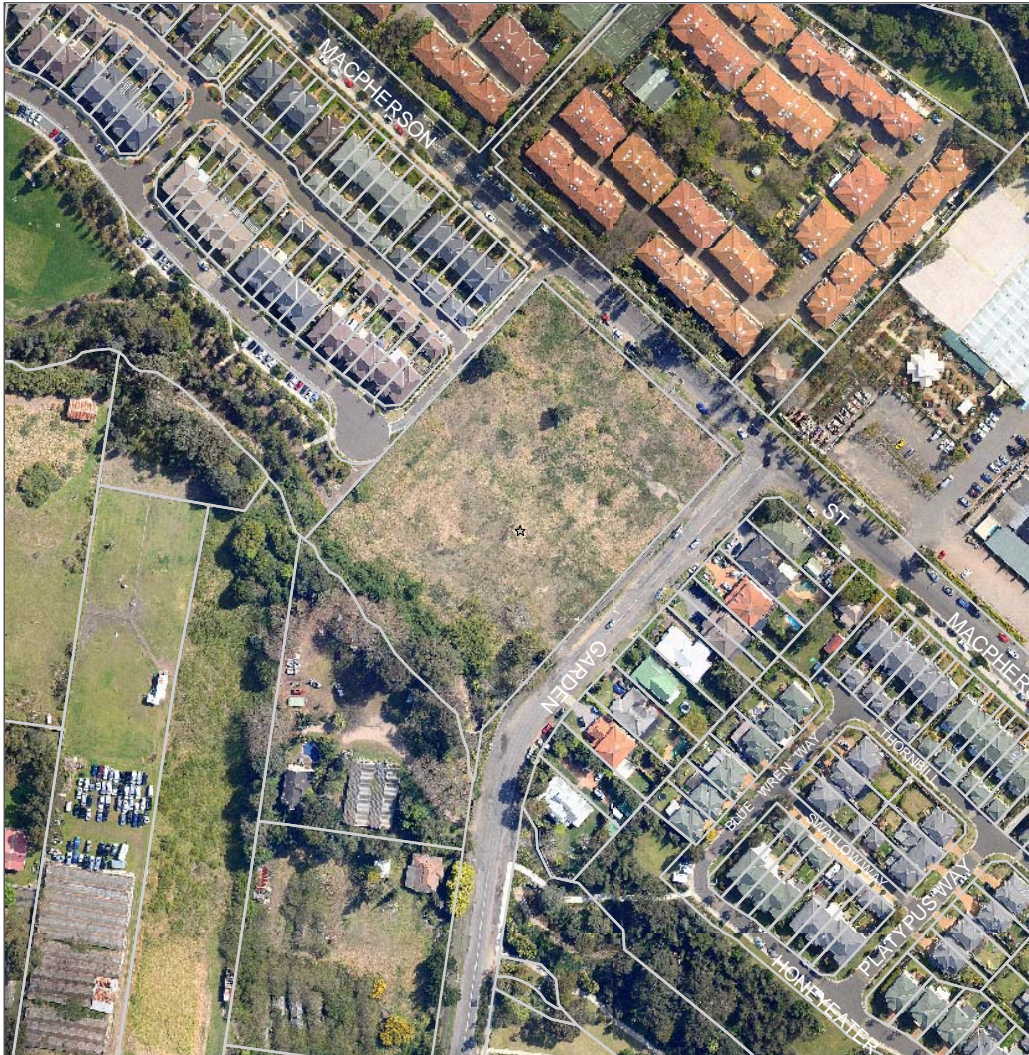
1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. The applicant is also advised to contact the various supply and utility authorities, i.e. Sydney Water, Sydney Electricity, Telstra etc. to enquire whether there are any underground utility services within the proposed excavation area.
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the Act, this consent will lapse if the development, the subject of this consent, is not physically commenced within 5 years after the date from which this consent operates.
5. To ascertain the date upon which the determination becomes effective and operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).

6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the *Environmental Planning and Assessment Act, 1979*. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 1 year from the date of determination.
7. If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act, 1979*, gives you a right of appeal to the Land and Environment Court within 12 months of the date of endorsement of this Consent.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.
9. You are reminded of your obligations under the objectives of the Disability Discrimination Act (DDA) 1992.

LOCALITY MAP



AERIAL PHOTOGRAPH



1. SITE PLAN
SCALE 1:1000

NOTE:
NO STREET
CONNECTION TO
LOMANDRA WAY OR
CALLISTON WAY.

3. VIEW FROM OUR MACPHERSON AND LOMANDRA WAY

4. VIEW FROM GARDEN STREET

2. VIEW FROM CALLISTON WAY

1. VIEW FROM OUR MACPHERSON AND GARDEN STREET

2. VIEW FROM CALLISTON WAY

3. VIEW FROM OUR MACPHERSON AND LOMANDRA WAY

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