

## SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PAN-410408
<b>DA Number</b>	Mod2024/0051
<b>LGA</b>	Northern Beaches
<b>Proposed Development</b>	Modification of Development Consent N0440/15 for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping
<b>Street Address</b>	Lot 1 DP 5055, 8 Forest Road WARRIEWOOD NSW 2102
<b>Applicant</b>	Architecture Design Studio Pty Ltd
<b>Date of DA lodgement</b>	08/03/2024
<b>Number of Submissions</b>	1
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	Section 4.56 Modification Application to a Regionally Significant Development pursuant to Schedule 7 Clause 2
<b>List of all relevant s4.15(1) (a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Planning Systems) 2021</li> <li>• State Environmental Planning Policy (Housing) 2021</li> <li>• Statement Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• Statement Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>• Pittwater Local Environmental Plan 2014</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Architectural Plans</li> <li>• Landscape Plans</li> <li>• Stormwater Plans</li> </ul>
<b>Clause 4.6 requests</b>	N/A
<b>Summary of key submissions</b>	<ul style="list-style-type: none"> <li>• Stormwater management, Traffic, Waste.</li> </ul>
<b>Report prepared by</b>	Maxwell Duncan, Principal Planner
<b>Report date</b>	27 August 2024

**Summary of s4.15 matters**

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>YES</b>
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**Legislative clauses requiring consent authority satisfaction**

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

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>NO</b>
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### Special Infrastructure Contributions

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

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

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

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

The modifications proposed under this application largely relate to new communal facilities, stormwater amendments and minor internal and external alterations to the approved townhouses and residential flat buildings. There are no changes to the approved number of dwellings on the site.

The exhibition of the proposal attracted one (1) submission, which raised concerns with regards to traffic and noise. The concerns raised are for the whole development and not specific to this modification application. The concerns were previously addressed in the original assessment of consent No. N0440/15.

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

On the balance, the assessment of the application finds that the proposal is satisfactory, and it is recommended that the SNPP, as the consent authority, grant **approval** to the modification application, subject updated stormwater and waste conditions.

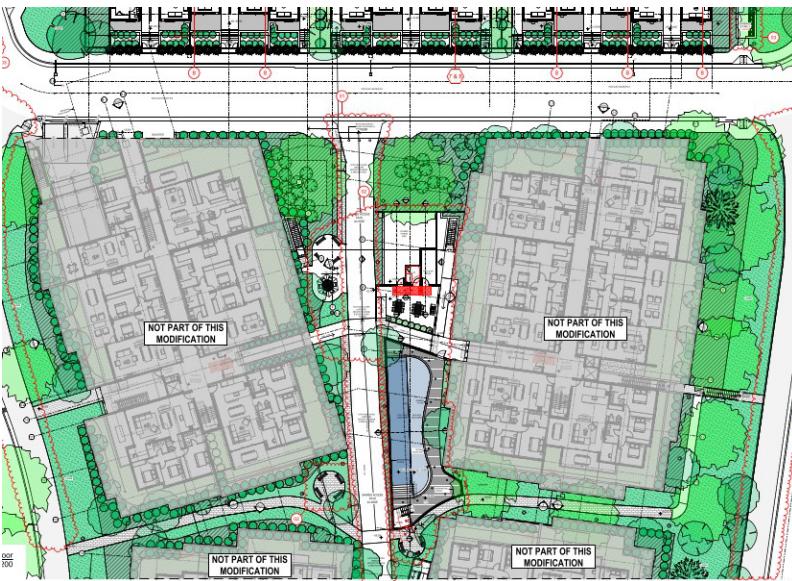
## PROPOSED DEVELOPMENT IN DETAIL

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

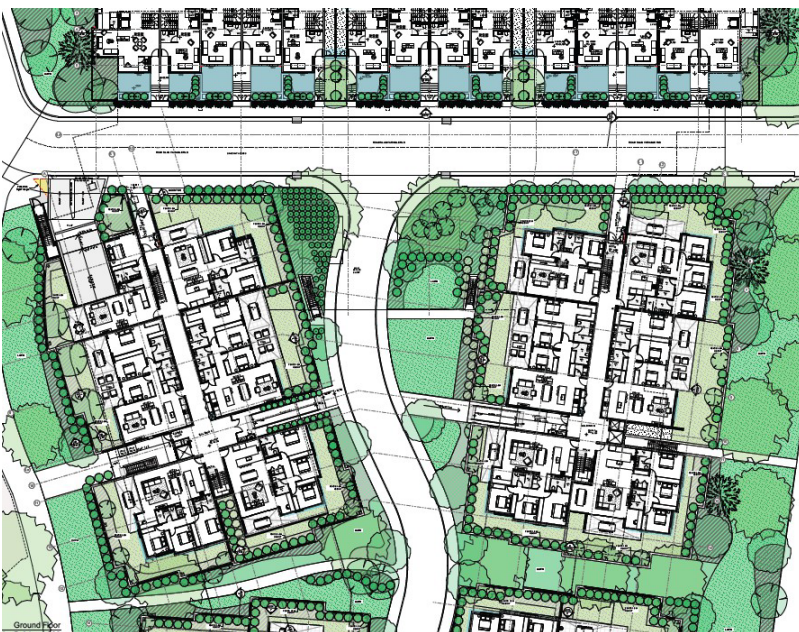
The modifications proposed include:

- New communal facilities;
  - Gymnasium
  - BBQ area
  - Swimming Pool

- Alteration to the approved stormwater management regime including the introduction of drainage swales to replace piped drainage infrastructure.
- Upgrade of the perimeter fire access road into a sealed road and retain the approved 4 metre width.
- Modify the alignment of the central private access road.
- Extension of Unit 50 Building D private open space.
- Lifts removed from Townhouses Nos. 2, 3, 4, 5, 8, 9, 10, 11, 12, 13 and 14.
- Finishes alterations.
- Lift overrun removal and minor external alterations.
- Internal fitout changes to unit 12.
- Landscaping alterations



**Figure 1** - Proposed communal gym, swimming pool and BBQ area and road alterations



**Figure 2** - Current Approval

The modifications propose the amendment of the following conditions to reflect the proposed modifications.:

Amend Condition B20  
Amend Condition B37  
Amend Condition B63  
Amend Condition B66  
Amend Condition C33  
Amend Condition E22  
Amend Condition F2(k)  
Amend Condition F5(f)

## **ASSESSMENT OF AMENDED CONDITIONS**

- Condition B20 can be amended to allow a single space for apartment 4, which is a one bedroom apartment. This is a carparking requirement and is supported by Council's Traffic Engineer.
- Condition B37 can be amended to allow for bulkheads below 2.7m in habitable rooms. This is a minor acceptable design change.
- Condition B63, B66, F2(k) and F5(f) can be amended to reflect updated BASIX requirements.
- Condition C33 can be amended to fix an administrative error.
- Condition E22 can be amended to change the wording from 'an Occupation Certificate' to 'the relevant Occupation Certificate'. This is supported by Council's Environmental Health Officer.

## **ASSESSMENT INTRODUCTION**

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## **SUMMARY OF ASSESSMENT ISSUES**

There are no assessment issues.

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 5055, 8 Forest Road WARRIEWOOD NSW 2102
<b>Detailed Site Description:</b>	<p>The subject site is Lot 1 in Deposited Plan 5055, and is known as No. 8 Forest Road, Warriewood. Narrabeen Creek runs along the northern boundary of the site, creating a slightly irregular rectangular shaped allotment, with a total area of 5.678 hectares.</p> <p>The site is subject to a split zoning; with 2.855 Hectares zoned R3 Medium Density (R3) and the remaining 2.823 Hectares zoned RU2 Rural Landscape (RU2) of Pittwater Local Environmental Plan 2014. The division between the zones is irregular, dissecting the 324.48m long western boundary at a distance of approximately 231m from the south-western corner of the site and the 275.20m long eastern boundary at a distance of approximately 70m from the south-eastern corner of the site.</p> <p>The zone boundary is consistent with the boundary of the Warriewood Valley Release Area, and the R3 zoned portion of the site forms part of "Sector 501" of the Warriewood Valley Release Area, as shown on the Warriewood Valley Release Area Map of PLEP 2014. The portion of the site zoned RU2 is not within the Warriewood Valley Release Area.</p> <p>The R3 zoned portion of the site previously contained multiple outbuildings and dilapidated glass houses, which have since been demolished under a separate CDC. An existing dwelling straddles the zone and Land Release boundary, but is primarily situated on R3 zoned land. In the image below, the cleared portion of land to the north of the site is the developable area subject to this application.</p> <p>The RU2 zoned portion of the site is heavily landscaped and free of development.</p> <p>Access is currently gained from the north-eastern corner of the site, via a roadway that was constructed within the Jubilee Road public road reserve by the owners of the adjoining Community Title residential estate to the east (previously known as 6 Forest Road). With the exception of this one existing residential estate to the east and a portion of RU2 zoned land to the north, Jubilee Avenue is characterised by industrial and business park development, including warehouses, offices, wholesalers, and a number of childcare centres.</p> <p>An unmade public road reserve (Boundary Street) adjoins the western property boundary, with large vegetated parcels</p>

of E2 Environmental Conservation (E2) zoned land to the west and south-west. Mater Maria Catholic School is situated to the south, separated from the site by an unmade public road reserve (Forest Road). No. 4 Forest Road, an undeveloped R3 zoned allotment, adjoins the south-eastern portion of the Site, forming the remainder of Sector 501 of the Warriewood Valley Release Area, as shown on the Warriewood Valley Release Area Map of PLEP 2014. The remainder of properties along Forest Road comprise medium density residential development.

Map:



## SITE HISTORY

### HISTORY AND BACKGROUND OF APPLICATIONS

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

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

- **Modification Application N0440/15/S96/1** - to modify the approved development consent. Approved by Council on 09 April 2018.
- **Modification Application MOD2018/0019** - to modify the approved development consent by way of providing a staged construction of the approved development, and the release of the Torrens Title subdivision prior to the finalisation and Strata Subdivision of individual dwellings.

The application also included physical works, however they were removed during the course of the assessment and did not form part of the approval as modified.

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

- **Modification Application MOD2018/0566** - to modify the design of the 14 approved town houses by deleting the third floor loft space from each dwelling and modifying the roof. Approved by Council on 13 December 2018.
- **Modification Application MOD2021/0816** - to reverse the staging elements approved under MOD2018/0019 and remove conditions under that consent. The application also sought to modify conditions to permit multiple Occupation Certificates to be issued, rather than a singular Occupation Certificate as required under the parent consent. Approved by the Sydney North Planning Panel on 24 February 2022.
- **Modification Application MOD2022/0070** - this application was approved by the Sydney North Planning Panel on 22 September 2022. The modifications approved include:
  - The re-introduction of a loft level, previously approved but subsequently deleted from the fourteen townhouses.
  - Internal reconfiguration of apartments and increasing seven apartments from one to two bedrooms, and six apartments from two to three bedrooms.
  - Changes and detailing to all building facades to facilitate internal changes, and to enhance balcony spaces.
  - Addition of air-conditioning units on the roof of the flat buildings.
  - Amendment to the basement layout including improved circulation.
- **Modification Application MOD2023/0201** - this application was approved by the Sydney North Planning Panel on 31 August 2023. The modifications approved include:
  - 1.8m fencing to the private open space for ground floor dwellings
  - Amendment to the approved schedule of finishes and colours for the residential flat buildings and townhouses.
  - Addition of side sliding door to the ground floor of townhouse 6
  - Addition of backyard doors on townhouse 4,6,9 and 10
  - Internal alterations - Master bedroom flipper with wardrobe and ensuite on townhouse 2 - 13
  - Townhouses front yard altered from lawn to deck

An aerial photograph shows the commencement of development on the site, dated 4 August 2024 and from *Nearmap*:



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

## **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

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

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for N0440/15, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.56 of the Environmental Planning and

Assessment Act, 1979, are:

Section 4.56- Other Modifications	Comments
(1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under N0440/15.</p> <ul style="list-style-type: none"> <li>• The modified development remains consistent with the original approval in terms of use and density of development for both the residential flat building and townhouses.</li> <li>• The bulk and scale of the development remain largely the same, with the exception of the new communal facilities, and visually is not significantly altered from the original approval when viewed from the public realm.</li> </ul>
(b) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of N0440/15.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed	See discussion on "Notification & Submissions Received" in this report.

Section 4.56- Other Modifications	Comments
by the regulations or provided by the development control plan, as the case may be.	

### Section 4.15 Assessment

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

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>Part 4, Division 2 of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p>Clause 29 of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p>Clauses 36 and 94 of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to BCA compliance.</p> <p>Clause 61 of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>Clauses 62 and/or 64 of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p>Clause 69 of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The subject site is mapped as being bushfire prone land. A letter was provided with the application by the applicant's bushfire consultant with an assessment of the proposed modifications.

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

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

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 14/03/2024 to 11/04/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

Name:	Address:
Mr Marc Reicher	Mater Maria Catholic College 5 Forest Road WARRIEWOOD NSW 2102

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

- **Traffic**

The submissions raised concerns about the increased traffic that would result from the proposed development

Comment:

The increased traffic impacts that result from the development were considered as part of the original assessment of the development application. The proposed development does not increase density on the site.

- **Noise**

The submission raises concern about the potential construction noise impact of the development on Mater Maria Catholic College, to the south of the subject site.

Comment:

There is no change to the approved construction hours proposed.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><b><i>Supported, with Conditions</i></b></p> <p>The application has been further investigated with respects to aspects relevant the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Landscape Officer	<p><b><i>Supported, with Conditions</i></b></p> <p>The application is for modification to development consent N0440/15 as described in reports and as illustrated in plans.</p> <p>Amended Landscape Plans are submitted reflecting adjusted landscape outcomes, in co-ordination with the architectural plans. On review of the amended Landscape Plans no concerns are raised and</p>

Internal Referral Body	Comments
	<p>condition A.1.(b) shall be modified to nominate the amended Landscape Plans submitted under this modification application.</p> <p>Condition A.1.(b) is to be modified to reflect the modified plans and consultant reports prepared in support of this application, as follows: Landscape Plans L-01, L-02, L-03, L-04, L-05, L-06, L-07, L-08, L-09, L-10 and L-11, all issue S, dated 09/01/24, and all prepared by Site Design + Studios.</p>
NECC (Bushland and Biodiversity)	<p><b>Supported, without Conditions</b></p> <p>The proposed modification will not require removal of additional native trees or vegetation, and is considered unlikely to result in an increase in impacts to biodiversity values</p>
NECC (Development Engineering)	<p><b>Supported, with conditions</b></p> <p>The applicant and their engineers Warren Smith and Partners have now provided an updated list of new stormwater plan drawing numbers together with detailed descriptions of the changes from the original court approved Marten and Associates stormwater management plans . The Enscape plans are generally the same as the original Marten and Associate plans with the water quality treatment/OSD basins located in the same positions.</p> <p>A compliance certificate has also been provided by Warren Smith and Partners stating that the amended plans are generally in accordance with the Warriewood Valley Stormwater Management Plan 2001.</p> <p>With reference the original consent conditions (N0440/15) prescribed condition A 1G is to be amended to remove reference to condition numbers i -iv.</p> <p>A new condition A 1Ga is required as detailed in the draft conditions.</p> <p>No objections to the proposed stormwater drainage modifications subject to conditions.</p>
NECC (Flooding)	<p><b>Supported, without Conditions</b></p> <p>The proposal seeks consent for modifications to the approved development at 8 Forest Road, Warriewood.</p> <p>There are no flood related objections.</p>
NECC (Riparian Lands and Creeks)	<p><b>Supported, without Conditions</b></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Warriewood Valley Landscape Masterplan and Design Guidelines;</li> <li>• Warriewood Valley Urban Land Release Water Management Specification 2001; and</li> <li>• Relevant LEP and DCP clauses.</li> </ul> <p>The proposal includes the introduction of drainage swales to replace piped drainage.</p>

Internal Referral Body	Comments		
	The amended documentation is satisfactory, the modification is supported.		
NECC (Water Management)	<p><b>Supported, with Conditions</b></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"><li>• Supplied plans and reports;</li><li>• Warriewood Valley Landscape Masterplan and Design Guidelines;</li><li>• Warriewood Valley Urban Land Release Water Management Specification 2001; and</li><li>• Relevant LEP and DCP clauses.</li></ul> <p>Proposed modification is for upgrade of perimeter fire access road, modification of central access road alignment and reduced width, introduction of parking spaces, provision of additional community facilities, and extension of private open space. The proposal also includes the replacement of piped drainage with drainage swales.</p> <p>The amended documentation is satisfactory. The proposed stormwater management strategy is acceptable.</p>		
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS		
	Discussion of reason for referral		
	<b>Supported, without Conditions</b>		
	The proposal has been referred to Heritage as the existing dwelling 'Oaklands' on the property was noted as being of potential heritage significance		
	Details of heritage items affected		
	The dwelling is a large single storey bungalow style building that is the former farmhouse for the property and is likely to have been constructed in the early 20th century. It is located at the western end of the property on a benched and elevated terrace. This terrace is constructed from sandstone blocks likely quarried from the site which have then been placed above a natural rock outcrop		
	Other relevant heritage listings		
	SEPP (Biodiversity and Conservation) 2021	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
National Trust of Aust (NSW) Register	No		
RAIA Register of 20th Century Buildings of Significance	No		

Internal Referral Body	Comments		
	Other	No	
	Consideration of Application		
	<p>The proposal seeks consent for modifications to the approved residential development. Proposed changes are to finishes, internal layouts and the road network. Of concern for Heritage is the changes to the fire trail and central corridor where they adjoin in front of the farmhouse. These proposed changes would seen the road and trail with associated excavation and retaining wall come further into the curtilage for the dwelling with a visual impact from the loss of space between the new development and the farmhouse. Heritage does not support this further breach and the proposal should revert to the approved layout for this area that allowed for an appropriate buffer.</p> <p>Therefore, Heritage does not support the proposal.</p> <p><b>Amended Plans 17 July 2024</b></p> <p>Amended plans have been provided which change the fire trail perimeter road. It has been moved away from the retained cottage and closer to the apartment buildings. Heritage supports this change to the perimeter road and retention of a curtilage area for the cottage.</p> <p>Therefore, Heritage no longer objects to the proposal.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? a short letter has been provided</p>		
Strategic and Place Planning (Urban Design)	<p><b>Supported, without Conditions</b></p> <p>This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment.</p> <p>The application seeks consent to:</p> <ul style="list-style-type: none"><li>• Upgrade of the perimeter fire access road into a sealed road and retain the approved 4 metre width.</li><li>• Modify the alignment of the central private access road by removing the road curvature with a generally straighter alignment and reduce the width to 4 metre to permit traffic flow in one direction from east to west only,</li><li>• The introduction of 4 kerbside car parking spaces on the western side of the approved 8 metre wide access road for use as short term parking for deliveries and ride share/taxi drop off, and</li></ul>		

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• The provision of additional communal facilities for occupants of the development including a covered fitness area with bathroom facilities, BBQ area and swimming pool.</li> <li>• Extension of Unit 50 Building D private open space.</li> </ul> <p>Urban Design raises no objection to the proposed development.</p> <p><b>Please note:</b> Regarding any view impacts and any impacts on solar amenity and overshadowing these matters will be dealt with under the evaluation of Council Planning Officer. Any impacts of non-compliances regarding heritage will be dealt with under the evaluation of Council Heritage Officer, and any Landscape non-compliances will be dealt with under the evaluation of Council Landscape Officer.</p>
Strategic and Place Planning (Development Contributions)	<p><b>Supported, without Conditions</b></p> <p><b>CONTEXT</b> The Court consent N0440/15 notes that the bridge over Jubilee Avenue is to be managed (including the ongoing maintenance and repair) by the Community Association. It is the Assessment Officers responsibility to consider any requirements for owners' consent for access and maintenance of the accessway bridge on Jubilee Avenue.</p> <p><b>THE SUBJECT APPLICATION</b> On 8 March 2024, Strategic and Place Planning received a referral request for application (Mod2024/0051) seeking to modify development consent N0440/15 that was granted for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping.</p> <p>Condition 9 of development consent N0440/16 as modified by (Mod2021/0816) specifically relates to the total development contributions as a result of the approved development, to which:</p> <ul style="list-style-type: none"> <li>• On 14 April 2022, Council received payment of \$5,162,191.85 (being the adjusted development contribution).</li> <li>• The section of Narrabeen Creek is to be dedicated to Council by way of subdivision prior to issue of any Occupation Certificate.</li> </ul> <p>On 19 April 2022, Metropolitan building approvals issued a Construction Certificate for works under consent N0440/15 as amended and works commenced on site.</p> <p>The subject modification application does not seek a change to condition 9 insofar as it relates to the contributions amount nor is there a change to the approved number of dwellings.</p> <p><b>CONCLUSION</b> The monetary contribution imposed against consent condition 9 has been paid to Council and this modification is not seeking to increase the number of dwellings. No change is to be made to condition 9 of</p>

Internal Referral Body	Comments
	<p>the development consent.</p> <p><b>RECOMMENDATION</b></p> <ol style="list-style-type: none"> <li>1. The modification application is supported without change to consent condition 9.</li> <li>2. It is the Assessing Officer's responsibility to consider any required consents have been obtained especially on the section of the bridge used as accessway located on Jubilee Avenue.</li> </ol>
Traffic Engineer	<p><b><i>Supported, without Conditions</i></b></p> <p>The amended landscaping plans show details for removable bollards at the top and bottom ends of the 4m central private access road to ensure that only emergency vehicle access is available to that road. This addresses previous concerns about the reduced width of the central private access road. It also addresses concerns about safety for pedestrians using this road and the potential for parking activity on the footpath segments or landscaped areas beside it.</p> <p>Given that vehicular access along the central private access road will be rare and confined only to emergency vehicles, the paving of it in "Surepave" is not opposed.</p> <p>The firetrail is now shown as being paved which addresses concerns previously raised about the use of a gravel surface, the turning of trucks on such a surface and the potential for gravel to wash into stormwater pits.</p> <p>Given the above there are no traffic engineering concerns with approval of the modification and no new conditions to add</p>
Waste Officer	<p><b><i>Supported, with Conditions</i></b></p> <p>Additional conditions of consent have been added relating to use of the street level waste service bay.</p> <p>Waste Management Assessment Supported - subject to conditions.</p> <p>The proposed modifications have one potential impact waste collection services.</p> <p>The proposed "short term parking spaces" possibly need to be located further away from the driveway leading to the basement carpark.</p> <p>The waste collection vehicles will be required to park on the road pavement adjacent to the driveway to empty the bins and remove bulky goods.</p>

Internal Referral Body	Comments
	<p>A minimum distance of 12.5 metres is required to park the truck and to undertake loading operations at the rear of the truck.</p> <p>Existing Waste conditions of consent to remain unchanged.</p>
External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><b>Supported, with Conditions</b></p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>
Integrated Development - Rural Fire Service - Rural Fires Act, s100B - Subdivisions and Special Fire Protection Purposes	<p><b>Supported, with conditions</b></p> <p>This response is to be deemed a Bush Fire Safety Authority as required under section 100B of the Rural Fires Act 1997. The NSW Rural Fire Service has reviewed the provided information and raises no objections to the proposed modifications, subject to compliance with Anderson Environment &amp; Planning PL, Natalie Black, Addendum, Reference: 377.09, dated 4 August 2023 and the subsequent Anderson Environment &amp; Planning PL, Bushfire Threat Assessment, S4.56 Modification report, Chis Wark, Ref: 1377.09 &amp; dated 25 June 2024; as well as the with the previous general terms of approval dated 7 July 2022.</p>
Nominated Integrated Development - DCCEEW - Water - Water Management Act 2000, s91 - Controlled Activity Approval for works within 40m of watercourse	<p><b>Supported, with conditions</b></p> <p>The Department of Planning and Environment—Water has reviewed documents for the above application to modify a DA Consent and considers that, for the purposes of the Water Management Act 2000 (WM Act), General Terms of Approval are required.</p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

### SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. BASIX Certificate No. 669006M\_09 dated 7 November 2023 and BASIX Certificate No. 668084M\_10 dated 2 November

2023).

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

## **SEPP (Housing) 2021**

### **Application of Chapter**

Clause 144 of State Environmental Planning Policy Housing 2021 (SEPP Housing) stipulates that:

(1) This chapter applies to development only if:

(a) the development consists of:

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

(b) the building concerned is at least 3 or more storeys, not including underground car parking storeys, and

(c) the building contains at least 4 dwellings.

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

As per the provisions of Clause 144 outlining the application of the policy, the provisions of Chapter 4 SEPP Housing are applicable to the assessment of this application.

As previously outlined within this report Clause 29 of the Environmental Planning and Assessment Regulation 2021 requires the submission of a Design Verification Statement from the qualified designer at lodgement of the development application. This documentation has been submitted with the development application.

### **Referral to design review panel for modification applications**

Clause 146 of SEPP Housing requires:

*(2) If the statement by the qualified designer required to accompany the modification application under the Environmental Planning and Assessment Regulation 2021, section 102(1) does not verify that the qualified designer designed, or directed the design of, the original development, the consent authority must refer the modification application to the relevant design review panel for advice before determining the modification application.*

Comment: The application is accompanied by a statement from the qualified designer that design or directed the design of the original development application. As such, referral of the modification application to the design panel is not required.

*(3) The consent authority may also refer a modification application for residential apartment*

*development to the relevant design review panel for advice before determining the modification application.*

Comment: Sub clause (3) allows Council to refer the modification to the design panel if they wish (even if accompanied by a statement by the original designer. However, given the minor nature of the changes this is not necessary in this circumstance.

### **Determination of development applications and modification applications for residential apartment development**

Clause 147 of SEPP Housing requires that:

*(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—*

- (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
- (b) the Apartment Design Guide,*
- (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.*

Comment: The below part of the report makes an assessment against the design quality principles contained within Schedule 9 (a) and an assessment is carried out against the ADG below (b).

Overall, the proposal meets the design quality principles of Schedule 9 for the reasons outlined below. The proposal appropriately responds to the design guidelines within the ADG and where strict compliance is not achieved numerical requirements, reasonable alternative solutions are provided to meet the objectives of the ADG.

### **Non-discretionary development standards for residential apartment development**

Clause 148 of SEPP Housing contain non-discretionary development standards that, if complied with, prevent the consent authority from requiring more onerous standards for the matters (i.e 'must not refuse' standards).

The following are non-discretionary development standards under sub clause (2):

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

Comment: As noted in the below assessment, there is no modifications to the standards listed above.

## **DESIGN QUALITY PRINCIPLES - Schedule 9**

### **Principle 1: Context and Neighbourhood Character**

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

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

Comment:

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

### **Principle 2: Built Form and Scale**

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

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

Comment:

The height and scale of the proposed communal fitness building is single storey and therefore remain consistent with Principle 2.

### **Principle 3: Density**

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

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Comment:

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

### **Principle 4: Sustainability**

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

Comment:

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

### **Principle 5: Landscape**

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

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

Comment:

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

**Principle 6: Amenity**

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

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

Comment:

The modifications will enhance both the internal and external amenity for residents and neighbours by providing additional community facilities.

**Principle 7: Safety**

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

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

Comment:

The development maintains an appropriate degree of safety.

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

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

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

Comment:

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

**Principle 9: Aesthetics**

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

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

Comment:

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

**APARTMENT DESIGN GUIDE**

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

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

<b>Deep Soil Zones</b>	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>Less than 650m<sup>2</sup></td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m<sup>2</sup> – 1,500m<sup>2</sup></td><td>3m</td></tr> <tr> <td>Greater than 1,500m<sup>2</sup></td><td>6m</td></tr> <tr> <td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td><td>6m</td></tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m <sup>2</sup>	-	7%	650m <sup>2</sup> – 1,500m <sup>2</sup>	3m	Greater than 1,500m <sup>2</sup>	6m	Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	<p><b>Consistent</b></p> <p>The proposal reduces the level of deep soil within the centre of the site to allow for the communal facility (swimming pool, gym, BBQ area).</p> <p>However 60% of the site is still retained as deep soil, comfortably compliant with the 7% requirement.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)												
Less than 650m <sup>2</sup>	-	7%												
650m <sup>2</sup> – 1,500m <sup>2</sup>	3m													
Greater than 1,500m <sup>2</sup>	6m													
Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m													
<b>Visual Privacy</b>	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table> <p><b>Note:</b> Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p><b>No changes from approved development</b></p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
<b>Pedestrian Access and entries</b>	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p><b>No changes from approved development</b></p>												

<b>Vehicle Access</b>	Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?	<b>No changes from approved development</b>
<b>Bicycle and Car Parking</b>	<p>For development in the following locations:</p> <ul style="list-style-type: none"> <li>On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<b>No changes from approved development.</b>
<b>Part 4 Designing the Building</b>		
<b>Amenity</b>		
<b>Solar and Daylight Access</b>	To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:	<b>No changes from approved development</b>
	<ul style="list-style-type: none"> <li>Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.</li> <li>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.</li> </ul>	<b>No changes from approved development</b>
<b>Natural Ventilation</b>	The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:	<b>No changes from approved development</b>

	<ul style="list-style-type: none"><li>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</li></ul>													
	<ul style="list-style-type: none"><li>Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.</li></ul>	No changes from approved development												
Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor  2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor  2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	No changes from approved development
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Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope													
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use													
Apartment Size and Layout	<p>Apartments are required to have the following minimum internal areas:</p> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms</p>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	No changes from approved development		
Apartment type	Minimum internal area													
Studio	35m <sup>2</sup>													
1 bedroom	50m <sup>2</sup>													
2 bedroom	70m <sup>2</sup>													
3 bedroom	90m <sup>2</sup>													

	increase the minimum internal area by 12m <sup>2</sup> each.																
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	No changes from approved development															
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	No changes from approved development															
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	No changes from approved development															
	Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	No changes from approved development															
	Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.	No changes from approved development															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"><li>3.6m for studio and 1 bedroom apartments</li><li>4m for 2 and 3 bedroom apartments</li></ul>	No changes from approved development															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	No changes from approved development															
Private Open Space and Balconies	All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m<sup>2</sup></td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m	No changes from approved development
	Dwelling Type	Minimum Area	Minimum Depth														
	Studio apartments	4m <sup>2</sup>	-														
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2 bedroom apartments	10m <sup>2</sup>	2m															
3+ bedroom apartments	12m <sup>2</sup>	2.4m															
	The minimum balcony depth to be counted as contributing to the balcony area is 1m																
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.	No changes from approved development															
Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	No changes from approved															

		development										
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	No changes from approved development										
Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling Type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m<sup>2</sup></td></tr><tr><td>1 bedroom apartments</td><td>6m<sup>2</sup></td></tr><tr><td>2 bedroom apartments</td><td>8m<sup>2</sup></td></tr><tr><td>3+ bedroom apartments</td><td>10m<sup>2</sup></td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling Type	Storage size volume	Studio apartments	4m <sup>2</sup>	1 bedroom apartments	6m <sup>2</sup>	2 bedroom apartments	8m <sup>2</sup>	3+ bedroom apartments	10m <sup>2</sup>	No changes from approved development
Dwelling Type	Storage size volume											
Studio apartments	4m <sup>2</sup>											
1 bedroom apartments	6m <sup>2</sup>											
2 bedroom apartments	8m <sup>2</sup>											
3+ bedroom apartments	10m <sup>2</sup>											
Acoustic Privacy	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	<b>Consistent</b>  The proposed fitness area and swimming pool provides adequate separation to the adjoining residential dwelling to ensure reasonable levels of acoustic privacy.										
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	No changes from approved development										
Configuration												
Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	No changes from approved development										
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	No changes from approved development										
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Consistent										
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be	No changes from approved development										

	any unreasonable amenity impacts caused by the use of the roof top.																																				
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Consistent  Updated landscape plan provided.																																			
Planting on Structures	When planting on structures the following are recommended as minimum standards for a range of plant sizes:	No changes from approved development																																			
	<table><tr><th>Plant type</th><th>Definition</th><th>Soil Volume</th><th>Soil Depth</th><th>Soil Area</th></tr><tr><td>Large Trees</td><td>12-18m high, up to 16m crown spread at maturity</td><td>150m<sup>3</sup></td><td>1,200mm</td><td>10m x 10m or equivalent</td></tr><tr><td>Medium Trees</td><td>8-12m high, up to 8m crown spread at maturity</td><td>35m<sup>3</sup></td><td>1,000mm</td><td>6m x 6m or equivalent</td></tr><tr><td>Small trees</td><td>6-8m high, up to 4m crown spread at maturity</td><td>9m<sup>3</sup></td><td>800mm</td><td>3.5m x 3.5m or equivalent</td></tr><tr><td>Shrubs</td><td></td><td></td><td>500-600mm</td><td></td></tr><tr><td>Ground Cover</td><td></td><td></td><td>300-450mm</td><td></td></tr><tr><td>Turf</td><td></td><td></td><td>200mm</td><td></td></tr></table>		Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m <sup>3</sup>	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m <sup>3</sup>	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m <sup>3</sup>	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm	
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Universal Design	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features	No changes from approved development																																			
Adaptable Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	N/A																																			
Mixed Use	Can the development be accessed through public transport and does it positively contribute to the public domain?	N/A																																			
	Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.																																				

<b>Awnings and Signage</b>	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.  Signage must respond to the existing streetscape character and context.	<b>N/A</b>
<b>Performance</b>		
<b>Energy Efficiency</b>	Have the requirements in the BASIX certificate been shown in the submitted plans?	<b>No changes from approved development</b>
<b>Water Management and Conservation</b>	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	<b>No changes from approved development</b>
<b>Waste Management</b>	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	<b>No changes from approved development</b>
<b>Building Maintenance</b>	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	<b>No changes from approved development</b>

## SEPP (Transport and Infrastructure) 2021

### Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

### Comment:

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

### Transport for NSW (TfNSW)

No increase to density. Therefore, a referral to TfNSW was not required in this instance.

## SEPP (Resilience and Hazards) 2021

### Chapter 4 – Remediation of Land

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

### **Pittwater Local Environmental Plan 2014**

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

### Principal Development Standards

Development Standard	Requirement	Approved	Proposed	Complies
Height of Buildings	10.5m	10.7m	Communal fitness building (Gym) - 4m	<b>Yes</b>

### Compliance Assessment

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

### **Pittwater 21 Development Control Plan**

#### Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front Building Line (south, Forest Road)	Articulation zone - 3.0m Garage - 4.5m Building - 4.5m	Approx. 135.0m	Gym - 176m	Yes
Rear Building Line	(north) 3.0m	Varies - average approx. 48.0m	Gym - 73m	Yes
Side Building Line	(east) 3.0m	min. 9.0m	Gym - 136m	Yes Yes
	(west) 3.0m	approx. 52.0m	Gym - 52.8m	Yes

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.14 Warriewood Locality	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.18 Heathland/Woodland Vegetation	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.23 Eaves	Yes	Yes
C6.1 Integrated Water Cycle Management	Yes	Yes
C6.2 Natural Environment and Landscaping Principles	Yes	Yes
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
C6.5 Utilities, Services and Infrastructure Provision	Yes	Yes
C6.6 Interface to Warriewood Wetlands or non-residential and commercial/industrial development	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.5 Landscaped Area for Newly Created Individual Allotments	Yes	Yes
D16.6 Front building lines	Yes	Yes
D16.7 Side and rear building lines	Yes	Yes
D16.9 Solar access	Yes	Yes
D16.11 Form of construction including retaining walls, terracing and undercroft areas	Yes	Yes
D16.12 Fences	Yes	Yes
D16.13 Building colours and materials	Yes	Yes

## THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

## CONCLUSION

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

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

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

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

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

## Planning Conclusion

The proposal for modification of Development Consent No. N0440/15 has been referred to the Sydney North Planning Panel as it is a S4.56 application to a court granted consent.

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

The modifications generally seek to enhance the amenity and livability of the apartments for future occupants by providing additional communal facilities (Gym, swimming pool and communal open space). The proposed amendments and condition changes have been considered and deemed to be acceptable.

New referral conditions (stormwater, building compliance, waste and water management) have been imposed to reflect the changes proposed. Further, conditions have been amended to reflect the modified proposal.

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

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

## Development Contributions

The monetary contribution imposed against consent condition 9 has been paid to Council and this modification is not seeking to increase the number of dwellings. No change is to be made to condition 9 of the development consent.

## RECOMMENDATION

THAT Sydney North Planning Panel as the consent authority grant approval to Modification Application No. Mod2024/0051 for Modification of Development Consent N0440/15 for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping on land at Lot 1 DP 5055,8 Forest Road, WARRIEWOOD, subject to the conditions outlined in Attachment 1.

## ATTACHMENT 1

## Modification Summary

The development consent is modified as follows:

**Note:** Condition wording amendments noted below are in bold and in italics for ease of reference

### MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-410408 MOD2024/0051	The date of this notice of determination	<p>Modification of Development Consent N0440/15 granted for the construction of a residential development, comprising 81 dwellings</p> <p>Add Condition A1E - Modification of Consent 3 - Approved Plans and supporting Documentation</p> <p>Add Condition A9(a) - Compliance with Other Department, Authority or Service Requirements 2</p> <p>Amend Condition B20 -</p> <p>Amend Condition B37 -</p> <p>Amend Condition B37 -</p> <p>Amend Condition B63 -</p> <p>Amend Condition B66 -</p> <p>Amend Condition C33 - Amendments of Landscape Plan (C33A)</p> <p>Amend Condition E22 -</p> <p>Amend Condition F2(k) -</p> <p>Amend Condition F5(f) -</p> <p>Add Condition C37 - Building Code of Australia Fire Safety Requirements</p> <p>Add Condition C38- Access and Facilities for Persons with Disabilities</p> <p>Add Condition C39 - Waste and Recycling Requirements</p> <p>Add Condition C40 - Erosion and Sediment Control Plan</p> <p>Add Condition C41 - Amended Stormwater Management Plans</p> <p>Add Condition D24- Installation and Maintenance of Sediment and Erosion Controls</p> <p>Add Condition D25 - Waste/Recycling Requirements (Waste Plan Submitted)</p> <p>Add Condition D26 - Waste/Recycling Requirements (Materials)</p> <p>Add Condition E26 - Fire Safety Measures</p> <p>Add Condition E27- Garbage and Recycling Facilities</p> <p>Add Condition E28 - Waste and Recycling Facilities Certificate of Compliance</p> <p>Add Condition E29- Waste and Recycling Compliance Documentation</p> <p>Add Condition E30- Positive Covenant for Council and Contractor Indemnity</p> <p>Add Condition E31 - Authorisation of Legal Documentation Required for Waste Services</p>

		<p>Add Condition E32 - Swimming Pool Requirements</p> <p>Add Condition (Ongoing)- Presentation of Waste and Recycling Bings for Collection</p> <p>Add Condition (Ongoing) - Use of Street Level Waste Service Bay</p> <p>(Note: Conditions from court approval do not have titles)</p>
PAN-323210 MOD2023/0201	31 August 2023	<p>Modification of Development Consent N0440/15 granted for the construction of a residential development, comprising 81 dwellings</p> <p>Add Condition A1D - Modification of Consent 2 - Approved Plans and supporting Documentation</p> <p>Add Condition A9 - Compliance with Other Department, Authority or Service Requirements</p> <p>Delete Condition B41</p> <p>Add Condition C33- Amendment of Landscape Plan</p> <p>Add Condition C34 - Adherence to Natural Environment Consent Conditions</p> <p>Add Condition C35 - Fencing</p> <p>Add Condition C36 - Amendments to the approved plans</p> <p>Add Condition D22 - Wildlife Protection</p> <p>Add Condition D23 - Protection of Habitat Features</p> <p>Add Condition E24 - No Weeds Imported on to the Site</p> <p>Add Condition E25 - Priority Weed Removal and Management</p>
PAN-194267 MOD2022/0070	20 September 2022	<p>Modification of Development Consent N0440/15 granted for the construction of a residential development, comprising 81 dwellings</p> <p>Add Condition 1C - Approved Plans and supporting Documentation</p> <p>Amend Condition B21 - Visitor Parking</p> <p>Amend Condition B28 - Rooftop Mechanical Systems</p> <p>Add Condition B45.1 - Maintenance of Asset Protection Zones</p> <p>Amend Condition B67 - Apartment Mix</p> <p>Add Condition B73 - Parking Enclosure</p> <p>Amend Condition C8 - Construction Traffic Management Plan</p> <p>Add Condition D21 - Staff and Contractor Parking</p> <p>Add Condition E22 - Acoustic Review</p> <p>Add Condition E23 - Clearing Asset Protection Zones</p>
PAN-156910 MOD2021/0816	24 February 2022	<p>Modification of Development Consent N0440/15 granted for the construction of a residential development, comprising 81 dwellings</p> <p>Delete Condition A1</p> <p>Add Condition A1C</p> <p>Delete Condition B72</p> <p>Delete Condition B73</p> <p>Delete Condition B74</p>

		Delete Condition B75 Amend Condition C4 Amend Condition C6 Amend Condition C7 Amend Condition C8 Amend Condition C9 Amend Condition C10 Amend Condition C15 Amend Condition C17 Amend Condition C18 Amend Condition C19 Amend Condition C20 Amend Condition C22 Amend Condition E1 Amend Condition E2 Amend Condition E3 Amend Condition E4 Amend Condition E5 Amend Condition E6 Amend Condition E9 Amend Condition E13 Amend Condition F4 Add Condition F1 Add Condition F2 Add Condition F3
MOD2018/0566	13 December 2018	Modification of Development Consent N0440/15 granted for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping.  Add Condition A1B - Modification of Consent -- Approved Plans and supporting Documentation
MOD2018/0019	10 June 2018	Modification of Development Consent N0440/15 granted for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping.  Add Condition 1A - Modification of Consent -- Approved Plans and supporting Documentation Add Condition B72 Add Condition B73 Add Condition B74 Add Condition B75 Amend Condition C9 Amend Condition E18 Amend Condition E19 Delete Condition F1 Delete Condition F2 Delete Condition F3 Add Condition F4 Add Condition F5

N0440/15/S96/1	9 April 2018	<p>Modification of Development Consent N0440/15 granted for the subdivision of land and the construction of a residential development incorporating 81 dwellings and associated civil works and landscaping.</p> <p>Delete Condition A1 Amend Condition B1 Delete Condition B36 Amend Condition B43 Delete Condition B44 Amend Condition B45 Add Condition B69 Add Condition B70 Add Condition B71 Amend Condition C7 Amend Condition C9 Delete Condition C29 Delete Condition C30 Delete Condition E17 Amend Condition E21 Amend Condition F2</p>
N0440/15	3 May 2017	Construction of a residential development, comprising 81 dwellings (including an existing dwelling) at 8 Forest Road, Warriewood (Lot 1 DP 5055) (the site).

### **Modified conditions**

#### **A. Add Condition No. A1E - Modification of Consent 3 - Approved Plans and supporting Documentation to read as follows:**

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

<b>Approved Plans</b>				
<b>Plan Number</b>	<b>Revision Number</b>	<b>Plan Title</b>	<b>Drawn By</b>	<b>Date of Plan</b>
A001	Rev 13	Preliminary Site Plan	ADS Architects	8 August 2024
A099.1	Rev 12	Floor Plans - Basement 1 - East	ADS Architects	8 August 2024
A100.1	Rev 19	Floor Plans - Ground Floor Plan - East	ADS Architects	8 August 2024
A100.2	Rev 19	Floor Plans - Ground Floor Plan - West	ADS Architects	8 August 2024
A101.1	Rev 11	Floor Plans - Level 1 - East	ADS Architects	7 May 2024
A102.1	Rev 11	Floor Plans - Level 2 - East	ADS Architects	7 May 2024
A103.1	Rev 09	Floor Plans - Roof Level -	ADS Architects	30 April 2024

		East		
A103.2	Rev 09	Floor Plans - Roof Level - West	ADS Architects	30 April 2024
A300	Rev 09	Elevations Building A and B	ADS Architects	7 May 2024
A301	Rev 11	Elevations Building C and D	ADS Architects	7 May 2024
A302	Rev 11	Elevations Townhouses	ADS Architects	7 May 2024
A350	Rev 03	Gym and Pool Ground Floor Plan 1/2	ADS Architects	7 May 2024
A351	Rev 03	Gym and Pool Ground Floor Plan 2/2	ADS Architects	7 May 2024
A352	Rev 03	Gym and Pool Roof Plan	ADS Architects	7 May 2024
A353	Rev 03	Gym and Pool Elevations	ADS Architects	7 May 2024
A354	Rev 03	Gym and Pool Sections	ADS Architects	7 May 2024
-	-	FF&E Schedule	ADS Architects	30 April 2024
L-01	Rev U	Landscape Master Plan	Site Design + Studios	1 July 2024
L-02	Rev U	Existing Trees Plan	Site Design + Studios	1 July 2024
L-03	Rev U	Ground Floor East Landscape Plan	Site Design + Studios	1 July 2024
L-04	Rev U	Ground Floor West Landscape Plan	Site Design + Studios	1 July 2024
L-05	Rev U	Riparian Planting	Site Design + Studios	1 July 2024
L-06	Rev U	Sections	Site Design + Studios	1 July 2024
L-07	Rev U	Sections	Site Design + Studios	1 July 2024
L-08	Rev U	Sections	Site Design + Studios	1 July 2024
L-09	Rev U	Typical Details and Notes	Site Design + Studios	1 July 2024
C5.01	Issue 3	Road set-out plan	Kliatro	September 2023
C5.11	Issue 1	Road Long Section - Access Road	Kliatro	September 2023
C5.21	Issue 1	Road Cross Section - Access Road	Kliatro	September 2023
C5.22	Issue 3	Road Cross Section - Ring Road Sheet 1	Kliatro	September 2023
C5.23	Issue 3	Road Cross Section - Ring Road Sheet 1	Kliatro	September 2023
C4.01	2	General Arrangement Plan - Sheet 1	Kliatro	17 June 2024
C4.02	4	General Arrangement Plan - Sheet 2	Kliatro	17 June 2024
C6.01	2	Stormwater Layout Plan - Sheet 1	Kliatro	17 June 2024
C6.02	4	Stormwater Layout Plan - Sheet 1	Kliatro	17 June 2024

C6.06	2	Stormwater Drainage Details - Sheet 1	Kliatro	17 June 2024
C6.07	2	Stormwater Drainage Details - Sheet 1	Kliatro	1 February 2024
C6.11	3	Bioretention Basin Plan - Sheet 1	Kliatro	17 June 2024
C6.12	2	Bioretention Basin Plan - Sheet 2	Kliatro	17 June 2024
C6.13	1	Bioretention Basin Sections - Sheet 1	Kliatro	3 November 2023
C6.14	1	Bioretention Basin Sections - Sheet 1	Kliatro	3 November 2023
C6.21	3	Stormwater Catchment Plan - Sheet 1	Kliatro	17 June 2024
C6.22	3	Stormwater Catchment Plan - Sheet 1	Kliatro	17 June 2024
C6.41	3	Trunk Drainage Longitudinal Section	Kliatro	17 June 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Building Code of Australia Assessment Report	1	BCP	4 April 2024
BASIX Certificate No. 669006M_09	9	Efficient Living Pty Ltd	7 November 2023
BASIX Certificate No. 668084M_10	10	Efficient Living Pty Ltd	2 November 2023
Operational Waste Management Plan	C	Elephants Foot Consulting	20 June 2024
Bushfire threat assessment	-	AEP	25 June 2024
Traffic and Parking Review	-	MLA Transport Planning	1 July 2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

## **B. Add Condition A9- Compliance with Other Department, Authority or Service Requirements -**

**to read as follows:**

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

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	N/A
Rural Fire Service	RFS Referral Response	6 August 2024
Department of Planning and Environment	Reference: IDAS-2024-10350	19 June 2024

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

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

**C. Amend Condition B20 - to read as follows:**

Each dwelling **except one bedroom apartment 04** must have two parking spaces, dedicated on title.

**D. Amend Condition B37 - to read as follows:**

The minimum ceiling height of all habitable rooms (as defined by the Apartment Design Guidelines), including living areas, dining rooms, studies, bedrooms and kitchens, **but excluding required bulkheads**, is to be 2.7m.

**E. Amend Condition B63- to read as follows:**

In accordance with section 88B of the 'Conveyancing Act 1919' a suitable instrument shall be placed on the relevant lots to specify the sizing of the rainwater tanks within each of the apartment buildings and townhouses and the requirement to provide a connection to each apartment and townhouse from the rainwater tanks for the purposes of irrigating **common landscaped areas only**.

**F. Amend Condition B66- to read as follows:**

The existing dwelling to be retained must **have provision for future connection** to town water and sewer".

**G. Amend number of Condition C33- Amendments of Landscape Plans - to read as follows:**

**C33(a)- Amendments of Landscape Plans**

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

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

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

Reason: To maintain and replace habitat on the site.

#### **H. Amend Condition E22 -Acoustic Review - to read as follows:**

Prior to the issue of an Occupation Certificate, an acoustic review of the rooftop mechanical plant shall be carried out by a suitably qualified person to ensure compliance under the provisions of the Protection of the Environment Operations Act 1997. Details demonstrating compliance shall be issued to the certifier prior to the issue of **the relevant** Occupation Certificate.

Reason: To ensure adequate acoustic amenity is afforded to future occupiers

#### **I. Amend Condition F2(k)- to read as follows:**

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

- a. A copy of the Section 73 Compliance Certificate issued under the provisions of the Sydney Water Act, 1994;
- b. Copies of the Subdivision Plans (original plus 6 copies);
- c. The Certifying Authority's Compliance Certificates. Each component of the works as outlined above are 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. Certification is to include:
  - i. Certification to Council, by an experienced civil engineer who is listed on the National Engineers Register (NER) NER maintained by Engineers Australia, that all roads, drainage and other civil engineering works have been carried out and completed in accordance with the engineering plans and specifications required under the Conditions of this Consent.
  - ii. All appropriate infrastructure as outlined in the Conditions of Consent and approved Construction Certificate plans and specifications has been provided to service the proposed lots including roads, drainage facilities, landscaping, water management facilities, civil engineering works and services.
  - iii. the construction of the water management system has been supervised and certified by person(s) with appropriate experience and expertise in Civil/Environmental Engineering / Environmental Science, Hydrology and Hydraulics, and must be listed on the National Engineers Register (NER) maintained by Engineers Australia.
  - iv. Works associated with the water management system have been completed in accordance with information required under the conditions of this consent (including the deferred commencement conditions) and have been installed to the manufacturers' specification (where applicable). Certification is to be provided in accordance with the Warriewood Valley Water Management Specification (February 2001);
- d. Security deposit of a value to be determined by Council is to be made to ensure rectification of any defects during the maintenance period.
- e. Creation of appropriate easements where service lines or drainage lines pass through private property other than the lot which they benefit.
- f. Certification of appropriate easements to provide legal access over the 8m wide internal road for all owners/occupants of 4 Forest Road and the Community Title estate previously known 6 Forest Road (all dwellings in Bert Close, Valley Place and Hillview Crescent).
- g. Evidence of the payment of s94 contributions.
- h. The creation of a s88B instrument relating to relevant lots requiring the ongoing provision of the APZs.
- i. The creation of a s88B instrument, that is to be carried onto the title of any future dwellings on the site, to advise that vehicular access via Jubilee Avenue will be closed once vehicular access to Forest Road becomes available.
- j. The creation of a s88B instrument relating to the Flood Emergency Response Plan
- k. The creation of a s88B instrument relating to the rainwater tanks within the apartment buildings and

townhouses and the requirement to provide to connect each apartment and townhouse to the rainwater tanks for **irrigating common landscape areas only**.

l. Notification to Council, certified by an appropriately qualified Water Engineer, of any properties to be notated under Section 149(2) Planning Certificates and specifying the applicable flood categories as set out in the Flood Risk Management Policy for Development in Pittwater (Pittwater 21 DCP Appendix 8).

m. A Certificate by a qualified Engineer or Architect confirming that all driveways have been constructed in accordance with the approved plans and Council's Pittwater 21 DCP.

n. 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 locations, pipe sizes and types, pit sizes and types, subsoil drains, debris control structures;
- Water quality devices, creek line corridors (where relevant);
- Significant landscaping.

o. The Community Management Statement incorporating the following:

- i. Maintenance requirements and responsibilities of the owners of the development or its Community Association for all water management facilities related to the development site including the rainwater tanks, stormwater quality improvement devices (bioretention basins), stormwater filters/pit baskets, the onsite detention basins, and private stormwater drainage, in accordance with manufacturer's specifications;
- ii. Maintenance requirements and responsibilities of the owners of the development or its Community Association for the private road;
- iii. Maintenance requirements and responsibilities of the owners of the development or its Community Association for the access driveway and bridge from Jubilee Avenue in accordance with condition B68;
- iv. Maintenance requirements and responsibilities for all garden areas including the outer creekline corridor.

#### **J. Amend Condition F5(k) - to read as follows:**

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

(a) A copy of any necessary Section 73 Compliance Certificate issued under the provisions of the Sydney Water Act, 1994;

(b) Copies of the Subdivision Plans,

(c) The Certifying Authority's Compliance Certificates in relation to the relevant stage. Each component of the works as outlined above are 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. Certification is to include:

- (i) Certification to Council, by an experienced civil engineer who is listed on the National Engineers Register (NER) NER maintained by Engineers Australia, that all drainage, roadworks and other civil engineering works have been carried out and completed in accordance with the engineering plans and specifications required under the Conditions of this Consent.
- (ii) All appropriate infrastructure as outlined in the Conditions of Consent and approved Construction Certificate plans and specifications has been provided to service the proposed lots.
- (iii) The construction of the water management system has been supervised and certified by person(s) with appropriate experience and expertise in Civil/Environmental Engineering/Environmental Science,

Hydrology and Hydraulics, and must be listed on the National Engineers Register (NER) maintained by Engineers Australia.

(iv) Works associated with the water management system have been completed in accordance with information required under the conditions of this consent (including the deferred commencement conditions) and have been installed to the manufacturers' specification (where applicable).

Certification is to be provided in accordance with the Warriewood Valley Water Management Specification (February 2001);

(d) Security deposit of a value to be determined by Council is to be made to ensure rectification of any defects during the maintenance period.

(e) The creation of a s88B instrument to advise that vehicular access via Jubilee Avenue will be closed once vehicular access to Forest Road becomes available.

(f) The creation of a s88B instrument relating to the rainwater tanks within the apartment buildings and townhouses and the requirement to provide to connect each apartment and townhouse to the rainwater tanks for the purposes of irrigating **common landscaped areas only**

(g) Works-As-Executed plans for all structures or facilities which will be dedicated to Council or which are located within drainage easements/public road reserves 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 (where relevant):

(i) Boundary layout;

(ii) Kerb and gutter, road pavement, footpaths, traffic devices, retaining walls;

(iii) Signage (including type and wording), line marking;

(iv) Easements, survey numbers and marks, reduced levels and co-ordinates;

(v) Water quality devices, creek line corridors (where relevant);

(vi) Significant landscaping.

(h) A Certificate by a qualified Engineer or Architect confirming that all driveways have been constructed in accordance with the approved plans and Council's Pittwater 21 DCP.

(i) Certification from a suitably qualified Landscape Architect that the works shown on the approved Landscape Plans have been completed, and demonstrated evidence that the Landscape Architect has been engaged for the associated 24 month minimum maintenance period, and for at least 12 months from the date of issuance of the Final Occupation Certificate.

(j) Certification from a suitably qualified ecologist that the works prescribed by the approved VMP have been implemented, and will continue to be implemented for the associated 24 month minimum maintenance period, and for at least 12 months from the date of issuance of the Final Occupation Certificate.

(k) An updated Water Management report shall be prepared in accordance with the requirements of the Water Management Specification (2001) and the conditions of this consent and include a completed checklist from the WMS (2001) to be signed by an engineer that is listed on the National Engineers Register maintained by Engineers Australia. The updated report shall be submitted to the Principal Certifying Authority.

(l) Confirmation from Council that the inner creekline corridor has been reasonably maintained and has not been damaged or polluted as a result of construction associated with resultant stages.

#### **K. Add Condition C37 - Building Code of Australia Fire Safety Requirements - to read as follows:**

The Building Code of Australia fire safety requirements for the building as detailed and recommended in the BCA Assessment Report prepared by Building Code Professionals Pty Ltd, dated 4/4/2024, Rev 1, including any required Performance Reviews, are to be considered as part of the assessment for any Construction Certificate. Details demonstrating compliance are to be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

**L. Add Condition C38 - Access and Facilities for Persons with Disabilities - to read as follows:**

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. In this regard the Access Compliance Assessment Report prepared by AE&D Group dated 8/2/2024, Report No, 12451, Rev 00, is to be taken into consideration as part of the Construction Certificate assessment. Details are to be provided to the Certifying Authority prior to the issue of a Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

**M. Add Condition C39 - Building Code of Australia Fire Safety Requirements - to read as follows:**

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifier prior to the issue of any Construction Certificate.

If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

**N. Add Condition C40 - Erosion and Sediment Control Plan - to read as follows:**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

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

Reason: Protection of the receiving environment.

**O. Add Condition C41 - Amended Stormwater Management Plans - to read as follows:**

The Development is to be undertaken in accordance with the following Civil Engineering Drawings (Stormwater Management ) prepared by Warren Smith Consulting Engineers :

C4.01, C4.02, C6.01, C6.02, C6.06, C6.07, C6.11, C6.12, C6.13, C6.14, C6.21, C6.22 and C6.41.

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

Reason: To ensure water is managed appropriately and in accordance with the requirements of the Warriewood Valley Water Management Specification and Pittwater 21 DCP.

**P. Add Condition D24 - Installation and Maintenance of Sediment and Erosion Controls - to read as follows:**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

**Q. Add Condition D25 - Waste/Recycling Requirements (Waste Plan Submitted) - to read as follows:**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

**R. Add Condition D26 - Waste/Recycling Requirements (Materials) - to read as follows:**

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

**S. Add Condition E26 - Fire Safety Matters - to read as follows:**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**T. Add Condition E27 - Garbage and Recycling Facilities - to read as follows:**

All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

**U. Add Condition E28 - Waste and Recycling Facilities Certificate of Compliance - to read as follows:**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

**V. Add Condition E29 - Waste/Recycling Compliance Documentation - to read as follows:**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

**W. Add Condition E30- Positive Covenant for Council and Contractor Indemnity - to read as follows:**

A positive covenant shall be created on the title of the land prior to the issue of an Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

**X. Add Condition E31- Authorisation of Legal Documentation Required for Waste Services - to**

**read as follows:**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of an Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. A Compliance Certificate, issued by the Certifying Authority, shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

**Y. Add Condition E32 - Swimming Pool Requirements - to read as follows:**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating 'YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the Division of Local Government.

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

Reason: To protect human life.

**Z. Add Condition - Presentation of Waste and Recycling Bins for Collection - to read as follows:**

- Bins are to be available for collection from the street level waste service bay between 6.00am and 6.00pm on the scheduled day of collection.
- It is the responsibility of the owners' corporation to transfer the waste and recycling bins between the resident use bin rooms (three locations) and the street level waste service bay.
- The bins must be stacked in the waste service bay in a manner that allows collection staff unimpeded access to each material type separately.
- Bins are to be transferred from the resident use bin rooms to the street level waste service bay no earlier than 4.00pm on the day prior to the scheduled day of collection.
- Bins are to be transferred from the street level waste service bay to the resident use bin rooms as soon as possible after collection but no later than the evening of the day of collection.

Reason: To allow for efficient servicing of the waste and recycling bins.

**Z(i). Add Condition- Use of Street Level Waste Service Bay - to read as follows:**

The street level waste service bay is only to be used for the presentation of bins and bulky goods for collection.

It is not to be used for the storage of any goods and other materials at any time.

The street level bin holding bay is not to be used for the permanent storage of garbage and recycling bins.

Reason: To ensure the appropriate presentation of bins and bulky goods for collection. To ensure access to bins and bulky goods by collection staff is not obstructed.