



northern
beaches
council

PRELODGE MENT ADVICE

Application No: PLM2019/0180

Meeting Date: 19 September 2019

Property Address: 199 & 207 Forest Way, Belrose

Proposal: Modification of Development Consent No. DA2018/1332 to delete Condition No. 2 and relocate the position of Building D and the stormwater detention basins.

Attendees for Council
Anna Williams – Manager, Development Assessment
Lashta Haidari – Principal Planner
Anthony Powe – Landscape Advisor
Robert Blackall – Senior Environmental Officer
Robert Barbuto – Principal Engineer – Major Development
David Hellot – Senior Environmental officer – Catchments

Attendees for applicant:
Karen Armstrong
Scott Mackay
Daniel West
Stuart Mcnnies
Rick Andrew

General Comments/Limitations of these Notes

These notes have been prepared by Council on the basis of information provided by the applicant and a consultation meeting with Council staff. Council provides this service for guidance purposes only. These notes are an account of the specific issues discussed and conclusions reached at the pre-lodgement meeting. These notes are not a complete set of planning and related comments for the proposed development. Matters discussed and comments offered by Council will in no way fetter Council's discretion as the Consent Authority. A determination can only be made following the lodgement and full assessment of the development application.

In addition to the comments made within these notes, it is a requirement of the applicant to address ALL relevant pieces of legislation including (but not limited to) any SEPP and any applicable clauses of the Warringah LEP 2011, Warringah LEP 2000 and Warringah DCP 2011 within the supporting documentation of a development application including the Statement of Environmental Effects.

You are advised to carefully review these notes. If there is an area of concern or non-compliance that cannot be supported by Council, you are strongly advised to review and reconsider the appropriateness of the design of your development for your site and the adverse impacts that may arise as a result of your development prior to the lodgement of any development application.



'The fundamentals'	
Definition of proposed development: (ref. WLEP 2000 Dictionary)	Housing for older people or people with disabilities means residential accommodation which is or is intended to be used permanently as housing for the accommodation of older people or people with disabilities, whether or not it is also used to accommodate people who live with older people or people with disabilities, or staff who are employed to assist in the administration of and provision of services to such housing. Housing for older people or people with disabilities may consist of a residential care facility, a hostel or a grouping of 2 or more self-contained dwellings, or a combination of these, but does not include a hospital or a group home.
Locality:	B2 Oxford Falls Valley
Category of Development:	Category 2 – as determined by Sydney North Planning Panel

Desired Future Character
The Desired Future Character Statement for this locality is as follows: <i>"The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.</i> <i>Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.</i> <i>The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.</i> <i>A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.</i> <i>Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained."</i> The proposed development involves the retention of Building D, which was deleted due to the environmental impact. Concerns previously held regarding the impacts of Building D and are still held. In this regard, the extent of intensive development already accommodated across the site and proposed intensification over already developed areas, the area below the escarpment should be retained and rehabilitated to preserve and enhance the natural features of the site in keeping with the planning controls. Therefore, as previously advised the Location of Building is inconsistent with the DFC.

Built Form Control

No changes are proposed to the approved built form control.



Referral Body Comments	
Development Engineering	1. The stormwater drainage management statement proposes to provide onsite detention via underground tanks which is acceptable, however the tanks are to be designed to be in a common area which is accessible for maintenance and routine inspections. 2. A Drains model is to be prepared for the site stormwater and on site stormwater detention design.(OSD) 3. Stormwater Drainage/OSD is to be in accordance with Councils "Water Management Policy"
Natural Environment Unit (Riparian & Water Management)	The comments below are about the PLM2019/0180 - 199 & 207 Forest Way, Belrose. The submitted documentation package was assessed with particular attention to: • the master set, • riparian statement stormwater • and design strategy report The following comments are provided for further discussion at the PLM. The new proposal is a modification of the approved DA proposal. In relation to waterways and riparian the proposed project includes the addition of building D, the replacement of the two basins by a channel (approximately 48m in length). A stormwater detention tank is proposed upstream in the stormwater network including filter cartridge for water quality. A gross pollutant trap is proposed prior the stormwater discharge in the proposed channel downstream. It is noted that the building D is directly on top of approximately 32m of water channel. The proposal is impacting 40% of the total channel length of the approved DA proposal and will limit the opportunities to reinstate the area in the future. The Warringah Council Policy No. PL 740 Waterways Protection of Waterways and Riparian Land Policy main principle (3.1 a) state that waterways and



Referral Body Comments	
	riparian land shall be maintained and enhanced to the greatest extent as possible. It is also stated that "piped and channelized watercourses shall be reinstated to more natural forms where possible. Please note the following: • Building D is not conforming with Policy No. PL 740 • The channel is too be designed in such a way that the integrity of the watercourse and its riparian corridor is restored or rehabilitated In summary the approved DA proposal is offering an acceptable outcome for the protection of waterway and riparian land by offering a diversity of water dependant ecosystem, the proposed modification is directly reducing the length and area of water dependant ecosystem and riparian corridor.
Natural Environment Unit (Biodiversity)	For the purposes of the PLM meeting I have reviewed the following information:- • Pre-DA Meeting Plans • Letter Ethos Urban dated 21 August 2019 • Bushfire hazard information in the letter from Building Code & Bushfire Hazard Solutions Pty Limited dated 12 August 2019, and • Ecological Statement by Keystone Ecological (no date). The following comments are provided for further discussion at the PLM. <i>Letter Ethos Urban dated 21 August 2019</i> 3.2 Stormwater Impact Comment: The Stormwater management system proposed for the modification should be considered whether or not the modification including Building D is approved. An improved environmental outcome from the opportunity to rehabilitate land and establish a new upper catchment riparian system in the location of the approved stormwater ponds should also be incorporated, and extended upstream for an additional 32 metres, in place of Building D. 3.3 Ecological and Aboricultural Impact The overall balance of tree retentions/removals under the three scenarios presented is similar, with the modified proposal retaining 2 more trees of



Referral Body Comments	
	significance. However, it is possible that establishment of an inner protection area APZ may result in additional tree removals. The statements such as “Retains more existing bushland and natural ground” and “Configuration of the retained bushland and rehabilitated areas will be consolidated” demonstrates the important habitats that are present within the eastern and south-eastern portions of the site. These native vegetation and fauna species habitats have been historically reduced to a minor portion of the overall site (<10%) from the retirement village development, and the will be further impacted by the inclusion of Building D. 3.5 Bushfire Impact <i>Statement: - The position of Building D is not what triggered the need for the APZ.</i> Comment: The APZ was not supported by Biodiversity, however was included in NSW RFS GTAs 17 October 2018. Building D is closer to hazard on adjoining properties to the east, and may not comply with the objective of Planning for Bushfire Protection. This was despite their Pre-lodgement advice that the development should be no closer to the bush fire hazard. Previous comments from Biodiversity, in relation to the inclusion of Building D and the requirements of Planning for Bushfire Protection 2006, were as follows. “While the proposed APZ on Lot 207 has been justified by the applicant as it will achieve a better bush fire safety outcome for the overall village, Planning for Bushfire Protection also requires that an infill Special Fire Protection Purpose development is located no closer to the hazard. This is re-iterated in the new PBP which states that “new buildings should be located as far from the hazard as possible and should not be extended towards or situated closer to the hazard than the existing buildings.” This hazard exists as native vegetation (Forest), both on site and within adjoining lots less than 100 metres to the east and south-east. This is confirmed in the BDAR which states that “The site is impacted by the potential for bushfire hazard from the connected vegetation along Snake Creek that has the potential to act as a ‘fire-run’. Therefore, the building lines must observe the required setbacks.”



Referral Body Comments

In addition, I believe that the bush fire hazard assessment has incorrectly applied the vegetation structure and effective slope to the east of the development in calculating separation distances and BAL ratings. It appears that the existing development already relies upon an APZ within an adjoining allotment to the south, and any further reliance on APZs to the east that would extend off site must be avoided.

The new building would be located closer to the hazard, is within the Flamezone, and therefore does not satisfy the objectives of PBP.”

On this basis, Building D should not be supported.

Ecology Report (Keystone Ecological).

The changes in tree retention/removal identified is generally agreed with. Information in the table on Page 6 regarding trees to be removed for the stormwater ponds does not provide an accurate picture, as six of the 13 trees to be removed are exotic species, and these would be removed as part of the rehabilitation works under the approved DA (Trees 56, 72 – 76).

In addition, the requirement to establish an Inner Protection Area may require additional trees to be removed under the modified proposal, and these have not been considered as part of the overall impact (see additional comments below).

It is generally agreed that the biodiversity offsets conditioned under the approved DA as a result of both direct and indirect impacts would not change significantly as a result of the modification, and the BDAR submitted was based on a design that included Building D. Any improvement to biodiversity values including weed control and bushland rehabilitation proposed by the modification would also not be significantly greater as a result of the proposed modification. A Bushland Management Plan would be required as part of the modification, as was conditioned for the approved development.

However direct and indirect operational impacts from the development will increase, including increased building footprints, increased human presence, edge effects, increased noise, increased light spill, ongoing loss of native species richness and cover from APZ maintenance, increased impact to fauna habitats and wildlife corridors will have a negative impact on the



Referral Body Comments	
	remaining remnant native vegetation and fauna habitats, and these should be avoided and minimised. Modifications to a development consent must address the original and proposed impacts. The BDAR must also consider any measures already taken to avoid, minimise or offset biodiversity impacts for the original development. Bushfire Hazard Assessment (Building Code & Bushfire Hazard Solutions) With regard to the APZs, it was always understood that Building D was not the trigger for the entire village to be managed as an Inner Protection Area. The creation of an APZ across the entire lot was never supported by Bushland & Biodiversity due to the impacts to native vegetation, flora and fauna species, their habitats, and the fauna wildlife corridor. The proposal was not in accordance with the WLEP 2000 controls, especially clause 58 Protection of existing flora. The requirement for the APZ has been imposed by the NSW RFS, and was included in the GTAs for DA2018/1332. The latest letter (Building Code & Bushfire Hazard Solutions Pty Limited dated 12 August 2019) states that <i>"It has been noted that under the proposed scheme, which includes removing the two new stormwater detention basins, there is an opportunity to retain more trees in their approved location than in the footprint of proposed Building D"</i>. As previously identified, a 'Forest' hazard is identified to the east within the adjoining lot. Under the new proposal, the retention of additional trees will provide a direct fire path to the façade of Building D. The façade of Building D will be approximately 24.5 metres from the boundary, and it is likely that additional vegetation will require removal to satisfy the requirement to manage the site as an IPA. The impact to this vegetation has not been fully addressed by the additional information submitted with the modification application. This is confirmed by the statement below that includes the word 'probably'. The ecology report addresses bush fire APZ as well and states that <i>"After close inspection of the plan and consultation with the bushfire expert Mr Stuart</i>



Referral Body Comments	
	McMonnies, the APZ can <u>probably</u> be implemented with the following additional actions only: • selective pruning of canopy in tree 55 (<i>Eucalyptus piperita</i>) and tree 58 (<i>Angophora costata</i>). The selective pruning will minimise the risk of fire spread through the canopy. • removal tree 59 (<i>Allocasuarina littoralis</i>). The drooping fine branches of <i>Allocasuarina</i> act like a wick between ground fuels and the canopy, so the removal of tree 59 is essential in this location." As stated above, I believe that the bush fire hazard assessment incorrectly applied the vegetation structure and effective slope within and to the east of Building D, and this effected the separation distances and BAL ratings calculated. As Building D will be located closer to the hazard than the existing development, its inclusion is not in accordance with the objectives of Planning for Bushfire Protection 2006 and the original advice of the NSW RFS. Building design, especially the roof design and large areas of glazing facing the hazard are problematic, and a design review of Building D is required (if it was approved) to ensure the safety of the building, the residents and emergency services workers. Conclusion Elements of the submitted modification may result in an improved environmental outcome, namely inclusion of an OSD tank and rehabilitation of the riparian zone/flow path. The potential for additional impacts to native vegetation and tree removals in order to establish an inner protection area have not been fully quantified, and additional direct and indirect impacts to native vegetation and fauna habitat are likely with the re-inclusion of building D and additional rehabilitation works. As highlighted this includes additional operational impacts within the areas of remaining native vegetation on the site. In summary, the modification as submitted does not remove the previous contentions in relation to Clause 56 Retaining distinctive environmental features and Clause 58 Protection of existing flora of the WLEP 2000, namely that The applicant was originally advised that the proposal should avoid impacts to remnant native bushland,



Referral Body Comments	
	however the application submitted does not avoid or minimise direct and indirect impacts to native vegetation and habitat, including habitat for species recorded on site that have a high biodiversity risk weighting as identified by the Biodiversity Assessment Methodology (BAM). For this reason, the inclusion of Building D as part of the development proposal is not supported. This includes impacts of the building footprint, prescribed impacts (caves, crevices and cliffs), the need to re-locate the existing stormwater management structures, and the creation and ongoing management of APZs. Finally, Building D will be located closer to the hazard than the existing development, and its inclusion is not in accordance with the objectives of Planning for Bushfire Protection 2006 and the original advice of the NSW RFS, and should not be supported from a bush fire risk perspective.
Landscape Officer	The proposed relocation of the detention basins and reinstatement of a more natural flow path in the location of the previously approved detention basins enables retention of additional trees and the opportunity to create a more natural landscape setting. This is considered a positive outcome from a landscape perspective. The proposal to construct Building D over the existing detention basins still raises issues of removal of significant trees (Trees 27 and 33) and potential impacts on rock outcrops. Detailed design should address retention of natural features in terms of the design and location of building itself and its curtilage treatments.

Other Relevant Environmental Planning Instruments / Council Policies
You are advised of the following (but not limited to all) Council's policies available at www.warringah.nsw.gov.au: • Applications for Development - Policy for the handling of unclear, non conforming, insufficient and Amended applications: PDS-POL 140 • Stormwater drainage for low level properties PDS-POL 135 • Building over or adjacent to constructed Council drainage systems and easements: PAS-PL 130 • Common vehicular access to multiple properties: LAP-PL 310 • Development Applications relating to trading hours under the Liquor Act 1982: LAP-PL 610



Other Relevant Environmental Planning Instruments / Council Policies

- Onsite stormwater detention rainwater reuse policy for single residential dwellings: PAS-PL 100
- Vehicle access to all roadside development: LAP-PL 315

Required Documentation

- All information required to be submitted under Schedule 1 of the Environmental Planning and Assessment Regulation 2000.
- All information as required on the Development Application form checklist
- Site Survey (prepared by a registered Surveyor)
- Statement of Environmental Effects
- Preliminary geo-technical report
- Bushfire Report
- Building Code of Australia report
- Arborist Report
- Shadow diagrams for Building D
- Landscape Plan
- Waste Management Plan
- Stormwater Management Plans
- Flora and Fauna Assessment (subject to recommendations in the bushfire report)
- Waterway Impact Statement (subject to the riparian waterway comments below)

Concluding Comments

These notes address the discussions at the pre-lodgement meeting held on 9 September 2019 for the modification of Development consent to reinstate Building D.

The proposed development is Category 2 development under WLEP 2000 as established by the Sydney North Planning Panel, therefore, the development must be consistent with the Desired Future Character of the B2 Oxford Falls Valley locality. In this regard, the development, in its current form, does not satisfy the requirement of the DFC due to the environmental impact associated with the location of Building D. Therefore, the proposal is not considered to pass the test of consistency.

Based upon the above comments you are advised that the proposal, as presented at the meeting, is not supported and it is recommended that an alternative location within the site be investigated to locate Building D.

Other Matters

- **Requirement to Submit Correct, Clear and Accurate Information at Lodgement**

You are advised, that if an application Unclear, Nonconforming, provides Insufficient information or if Council requests additional information in accordance with Clause 54 of the EPA Regulations 2000 and it is not provided within the specified time frame – your application may be rejected or refused without notice.

The time to discuss and amend your design is prior to lodgement of your Development Application, as there will be no opportunity to do so during the assessment process

- **Privacy and Personal Information**



Other Matters

You are advised that Council is legally obliged to make Development Applications and supporting documents available for public inspection – see section 12 of the Local Government Act 1993. We do this at the Customer Service Centre and by placing copies of the applications and supporting documents on the Council website.

Should this proposal result in a development application being lodged these notes will form part of the development application documentation that will appear on Council's website – DA's online. www.warringah.nsw.gov.au

- **Monitoring DA progress after lodgement**

Once lodged you can monitor the progress of your application through Council's website – DA's online. www.warringah.nsw.gov.au