

SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-302
DA Number	DA2021/2600
LGA	Northern Beaches Council
Proposed Development	Thirteen (13) lot subdivision, civil and creek line works and construction of integrated residential development including two (2) residential flat buildings containing thirty-four (34) apartments.
Street Address	43, 45, 49 Warriewood Road Warriewood
Applicant	Creative Planning Solutions Pty Ltd
Owner	Warriewood Developers Pty Ltd
Date of DA lodgement	14/01/2022
Number of Submissions	26
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP) State and Regional Development) 2014	Designated development and partly owned by Council with capital investment value over \$5 million Total Cost of the Development is <u>\$20,348,417</u>
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Building Sustainability Index: BASIX) • State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) • Pittwater Local Environmental Plan 2014 (PLEP 2014) • Pittwater 21 Development Control Plan (P21 DCP)
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Attachment 1 – Architectural Plans • Attachment 2 – Clause 4.6 request
Report by	Danielle Deegan – Consultant Planner at DM Planning
Report date	7 September 2022

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? **Yes**

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 **Yes**

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?	Yes
Special Infrastructure Contributions	
Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not Applicable
Conditions	
Have draft conditions been provided to the applicant for comment? <i>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</i>	No

Executive Summary

This report provides an assessment of a Development Application (DA) for the subdivision of land, civil works (creek and road) and the construction of two (2) residential flat buildings (RFBs) at 49 Warriewood Road (Lot 1 DP 349085); 45 Warriewood Road (Lot 2 DP 349085), and 43 Warriewood Road (Lot 2 DP 972209), Warriewood.

The subject site is zoned R3 Medium Density Residential under the provisions of Pittwater Local Environmental Plan 2014 (PLEP 2014), and the proposed development is permissible with consent.

The site is in the Warriewood Valley Release Area. The three properties are identified as Buffer Area 1f, Buffer Area 1g and Buffer Area 1h respectively on the PLEP 2014 Urban Release Area Map.

The proposal is 'designated development' under clause 2.7 of *State Environmental Planning Policy (Resilience and Hazards) 2021* as it is proposed on land that is identified as containing coastal wetlands.

The proposal is also 'integrated development' under section 100B of the Rural Fires Act and section 91 of the Water Management Act 2000.

The site contains areas of Swamp Sclerophyll Forest, an Endangered Ecological Community (EEC).

Several key prerequisites are required to be satisfied prior to the granting of consent and the following have not been satisfied:

- SEPP (Resilience & Hazards) – Chapter 2 Coastal Management
- SEPP (Resilience & Hazards) – Chapter 4 Remediation of land

Further, the proposed residential flat buildings do not comply with the 10.5m maximum building height development standard prescribed by clause 4.3(3) of PLEP 2014. The proposal has a maximum building height of 12.34m. The written variation request to the building height standard is not supported.

An appropriate stormwater management solution is fundamental to development throughout the Warriewood Valley Release Area, and even more so on a site that contains a water dependant EEC. However, the proposed development fails to adhere to the applicable planning controls of Pittwater 21 Development Control Plan (P21 DCP), specifically the Warriewood Valley Water Management Specification, and potential impacts upon the EEC are unqualified.

This assessment finds that the bulk, scale, built form and character of the proposed residential flat buildings is inconsistent with character requirements embodied in the applicable planning controls of P21 DCP, and the core principles of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65).

In addition, the applicant has not adequately demonstrated why an access driveway off Warriewood Road to the RFB's is not a feasible option. Although the access from Lorikeet Grove is anticipated by the Masterplan for residential lots, the access to the RFB's would be an 'access driveway' and the applicant is still required to demonstrate from a technical and engineering perspective, that it is not a feasible option.

Despite a request for additional information issued during the assessment process, concerns relating to water management, traffic management and contaminated land remain unresolved. Key information, including a draft plan of subdivision and details relating to the ongoing management of private infrastructure, also remain outstanding, despite subdivision being a key component of the application and high maintenance private infrastructure being proposed.

The development application is reported to the Sydney North Planning Panel (SNPP) in accordance with Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021, as the development has a capital investment value of more than \$5 million and the land is partly owned by Council. Whilst Council is responsible for the assessment of the DA, the SNPP is the consent authority.

Based on a detailed assessment against all relevant requirements, it is concluded that the proposal does not satisfy the applicable planning instruments and relevant planning controls.

Accordingly, it is recommended that the SNPP, as the determining authority, refuse this application for the reasons detailed within the "Recommendation" section of this report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the EP&A Act 1979 (as amended) 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 EP&A Act 1979, and the 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 provided by relevant Council / Government / Authority Officers on the proposal.

SITE DESCRIPTION

The subject properties are 49 Warriewood Road (Lot 1 DP 349085); 45 Warriewood Road (Lot 2 DP 349085), and 43 Warriewood Road (Lot 2 DP 972209), Warriewood.



Figure 1 – Site Map

Nos 49 and 45 Warriewood Road each contain a dilapidated dwelling house. Various outbuildings, rubbish, building materials and weed regrowth occupy the site. The numerous greenhouses that previously occupied the site have been demolished. No 43 Warriewood Road is an open drainage channel approximately 2m wide and is currently in Council ownership. The site is distinctly divided into two, in terms of both land use and vegetation. The northern (upper) part of the site has been generally cleared of native vegetation and contains some exotic vegetation surrounding the existing dwelling houses. This part of the site has been previously used as agricultural land and market gardens.

The southern (lower) portion of the site adjoining Narrabeen Creek contains remnant bushland with an Endangered Ecological Community (EEC) of Swamp Sclerophyll Forest on Coastal Floodplains. This portion of the site has generally been retained as existing however is also experiencing weed growth with remnant canopy cover.

As shown in Figure 2 below, the three lots are identified as Buffer Area 1f, Buffer Area 1g and Buffer Area 1h respectively on the PLEP 2014 Urban Release Area Map.



Figure 2 – Urban Release Area Map (source: PLEP 2014)

RELEVANT HISTORY and BACKGROUND

Pre-DA Lodgement Meeting

On 6 June 2019, a Pre-DA lodgement meeting (PLM2019/0109) was held with Council officers to discuss key issues associated with an alternative development proposal comprising of a 44-lot residential subdivision.

DA2020/1517

On 4 December 2020, DA2020/1517 for 'subdivision of 3 lots into 13 to include 1 super lot, 11 Torrens Title residential lots and 1 lot containing the creek line corridor, civil works & the construction of 2 residential flat buildings with 34 apartments and basement parking and pool' was lodged with Council.

On 25 June 2021, DA 2020/1517 was withdrawn.

Subject Application DA2021/2600

On 18 March 2022, a request for information (RFI) letter was sent to the applicant identifying a number of deficiencies in the application including traffic, building height, design, landscaping, flooding, stormwater and flood design, contamination and impacts on neighbours. The applicant was provided with three options:

1. Prepare and submit further supporting information addressing the issues; or
2. Request that the current proposal proceed to determination in its current form; or
3. Withdraw the application from Council

On 11 May 2022, a briefing meeting was held with the SNPP.

On Tuesday, 31 May 2022, Council staff held a meeting with the owner and the applicant's consultant team to discuss the issues raised in the RFI.

Following the meeting an amended Flood Report, Traffic Report and Landscape Report were provided to Council.

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for the subdivision of land, civil works (creek and road) and the construction of two (2) residential flat buildings.

Specifically, the proposed development comprises:

- A subdivision to create thirteen (13) lots;
- The construction of two (2) residential flat buildings on proposed Lot 12, containing a total of thirty-four (34) apartments with basement parking and associated services;
- Civil works, including water management facilities, utilities and the extension of Lorikeet Grove; and
- Landscaping including tree removal and weed removal.

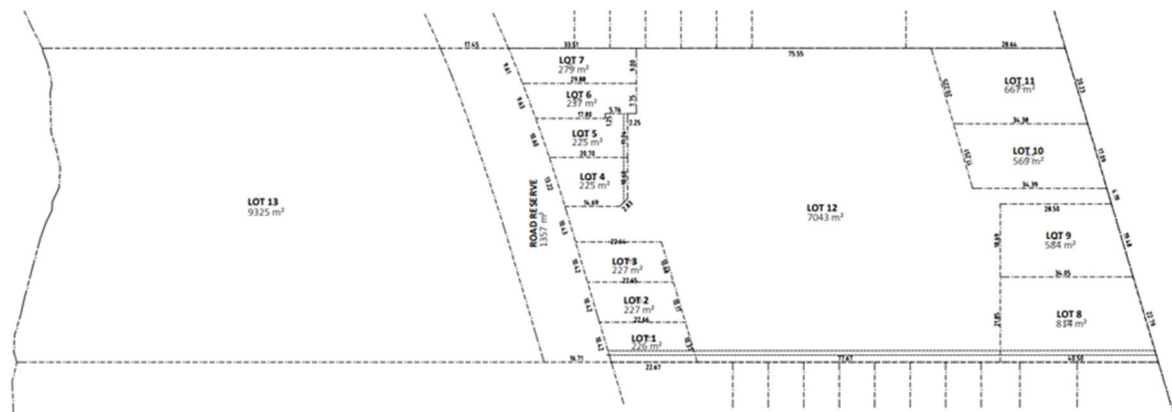
Further details of the proposal are provided below:

Subdivision

The proposal includes a thirteen (13) lot subdivision of the site. The subdivision will create:

- One (1) super lot with an area of 7,004m² containing the two (2) x residential flat buildings and associated works.
- Eleven (11) Torrens title residential lots with sizes varying from 225.6m² to 814m², and
- One (1) residual lot with an area of 9,325m², containing the creek line corridor.

No plan of subdivision has been provided with the development application, however a lot layout plan has been submitted which shows the indicative lot layout (see Figure 3 below).



The extension of Lorikeet Grove is excluded from the above lots and will be allocated to Council as a public road upon completion.

Residential Flat Buildings

The proposal includes the construction of two (2) three-storey residential flat buildings (RFBs) (identified as 'Block B' and 'Block C') each proposed RFBs contain seventeen (17) apartments, i.e., a total of thirty-four (34) apartments. Car parking and ancillary facilities are located in a basement level.

An extract of the site analysis plan for the residential development is shown in Figure 4 below.

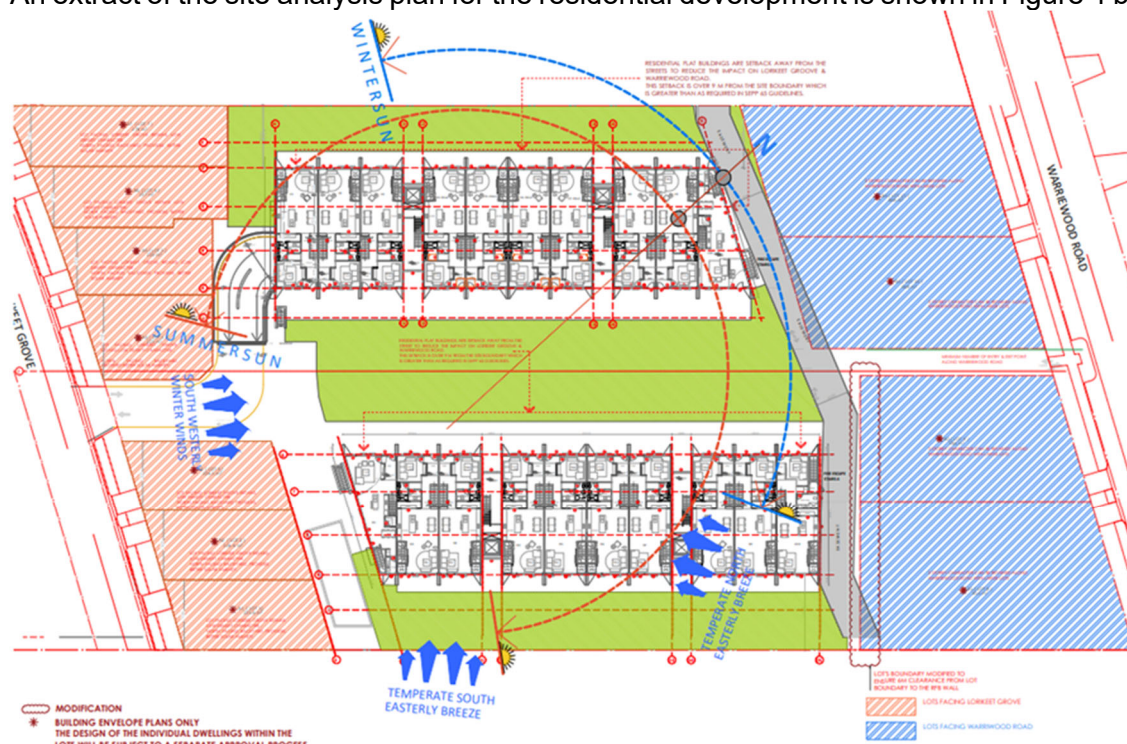


Figure 4 – Site analysis plan (source: Archidrome)

Level 1 and 2 of each RFB contains ten x two-storey 'terrace' style apartments. They are directly accessible from ground level and from the individual garages within the basement. Private open space areas for the terrace apartments is provided at ground level.

Level 3 of both RFBs contain seven (7) x single-level apartments, which are accessed via lobbies with stair and lift access to both ground floor communal areas and the basement level. Private open space for these apartments is provided as balconies.

Four (4) of the proposed apartments (Apartments C11, C12, D11 and D12) are adaptable.

Overall, the apartment mix comprises of twenty (20) x 4 bedroom apartments and fourteen (14) x 3 bedroom apartments.

The gross floor area of each apartment ranges from 168m² to 206m².

Communal facilities are provided between the two RFBs and include paved and landscaped areas, picnic facilities and a swimming pool. Pedestrian access is provided through the site to both Lorikeet Grove and Warriewood Road.

The proposed external materials and finishes include rendered masonry walls and brick veneer surfaces) in dark and neutral tones with ancillary metal finishes.

A photomontage of the proposed RFBs is shown in Figure 5 below.



Figure 5 - Photomontage of the proposed development (source: provided by the applicant)

Vehicle Access and car parking

Vehicular access and parking facilities (including visitor spaces) are provided within the basement level of the RFBs with vehicular access to the basement proposed from Lorikeet Grove.

A total of eighty-one (81) car parking spaces are provided comprising of two (2) car parking spaces per apartment (i.e., sixty-eight (68) residential spaces, including four (4) accessible spaces) and thirteen (13) visitor spaces, including two (2) accessible spaces.

The level 3 apartments have been allocated 'open' style car spaces while the terrace apartments have individually secured garages with direct access from each garage to the respective terrace apartment above.

Vehicular access to the Torrens title residential lots is provided via driveway crossovers from Warriewood Road and Lorikeet Grove (which will be included as part of the civil works).

Waste collection vehicles will access the site and collect bins from the enclosed bin collection area, which is located at the southern end of Block D.

Civil works

The proposed civil works include water collection and catchment facilities, centred around a large Onsite Stormwater Detention (OSD) system, located below the driveway, waste collection area and central common area.

An enclosed pipe is proposed to replace the existing drainage depression that currently drains stormwater from Warriewood Road to Narrabeen Creek via 43 Warriewood Road.

Runoff from Lorikeet Grove will be directed to an infiltration basin within the creek line reserve.

Additional civil works include earthworks, flood mitigation measures, vehicular access/parking facilities and construction of the section of Lorikeet Grove between the subdivisions at 41 and 53 Warriewood Road.

Landscaping works

A variety of landscaping treatments are proposed within the site. A range of trees and vegetation (including trees, plants, shrubs, ground covers and turfed areas) are proposed to be located within private open space and common areas. Street trees are also proposed to be planted within both the Warriewood Road and proposed Lorikeet Grove Road reserves.

Remediation works, to remove weed and exotic plant growth within the creek line corridor areas, are also proposed.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

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	Non-Applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan is applicable to this application.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	Non-Applicable
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p>The EPA Regulations 2021 requires the consent authority to consider the provisions of the Building Code of Australia. This matter can be addressed via a condition of consent should this application be approved.</p> <p>The EPA Regulations 2021 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter can be addressed via a</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>condition of consent should this application be approved.</p> <p>The EPA Regulations 2021 requires the submission of a Design Verification Statement from the designer at lodgement of the development application.</p> <p>A Design Verification Statement was submitted with the Development Application and has been signed by the project architect.</p>
<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>	<ul style="list-style-type: none"> i. The environmental impacts of the proposed development on the natural and built environment are addressed under the <i>Pittwater 21 DCP</i> section of this report. Several inconsistencies with the relevant controls have been identified which indicate the impact of the development on the natural and built environment is not acceptable. ii. The development will provide residential housing, therefore the proposed development will not have a detrimental social impact on the locality. 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</p>	<p>The site is suitable for residential development as the site is zoned for that purpose. However, the proposed RFBs are of excessive bulk and scale for site. Further, the proposed vehicular access to the basement car park is unsatisfactory.</p> <p>The proposal has also failed to demonstrate that the development is sensitively designed in response to the natural constraints of the site, specifically the presence of an EEC.</p> <p>Accordingly, the site cannot be considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>A total of 26 written submissions have been received.</p> <p>The issues raised in the submissions are addressed later in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>The planning controls contained within PLEP 2014 and the P21 DCP provide the community with a level of certainty as to the type, scale and intensity of future development, and the form and character of development that is in keeping with the future character envisaged for the locality.</p> <p>While the redevelopment of the site for medium density residential development is anticipated, in its current form, represents a scale of development that is excessive for the site and locality.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>This assessment finds the development to be inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and should be reduced to better reflect a sympathetic and sensitive scale of development in what is a low-density area.</p> <p>Consequently, the proposal is not considered to be in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights do not apply to this application.

BUSHFIRE PRONE LAND

The lower portion of the site is mapped as classified, containing the Category 2 Vegetation and Vegetation Buffer and therefore the provisions of Planning for Bush Fire Protection (PBP) apply.

The subject development includes subdivision and is therefore requires a bush fire safety authority under section 100B of the Rural Fires Act.

The application is supported with a Bush Fire Assessment Report which confirms that, subject to recommendations, the proposed development conforms with the provisions of PBF. The application was referred to the NSW Rural Fire Service who have not responded at the time of finalising this report.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 28/01/2022 to 25/02/2022 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 26 submissions The issues raised in the submissions include the following:

1. Traffic safety impacts to Bubalo Street and Lorikeet Drive.

A number of submissions raise concerns regarding the additional traffic generated by the proposed development on the quiet residential streets of Bubalo Street and Lorikeet Grove and the potential safety impacts.

Comment

This issue is addressed in detail in the referral section of this report. In summary, Council is not satisfied with the proposed vehicular access to the residential flat buildings from Lorikeet Grove.

2. Vehicular access Should be directly from Warriewood Road

Numerous submissions request that the proposed development should be accessed directly from Warriewood Road which is a local collector road and hence a more suitable access point than Lorikeet Grove.

Comment

This issue is addressed in detail in the referral section of this report. In summary, Council's Traffic Engineer is not satisfied the applicant has adequately demonstrated vehicle access off Warriewood Road for the residential flat buildings is not feasible and therefore does not support the current access arrangement from Lorikeet Grove.

3. The issues with the previous DA have not been addressed.

There have been little to no changes made to the withdrawn DA.

Comment:

The current scheme remains substantially the same as the earlier scheme

4. Excessive bulk and scale

A large number of submissions received have raised concern that the development is out of character with the surrounding density that and the bulk and scale of the development is not appropriate for the site. Concerns have also been raised regarding inadequate boundary setbacks resulting in unacceptable visual privacy impacts, overshadowing and amenity concerns.

Comment:

These issues are discussed in detail throughout this report. In summary, the assessment finds that the design of the proposed development is inconsistent with the character of the area, and the development in its current form is excessive in terms of bulk and scale. These issues are included as a reason for refusal.

5. Excessive building height

The proposal is non-compliant with the maximum 10.5m building height applicable to the site. At 12.34m the building is unnecessarily high resulting in amenity impacts to adjoining properties.

Comment:

As discussed in detail in the PLEP 2014 section of this report, the proposed variation to the building height development standard is not supported. Non-compliance with building height is included as a reason for refusal.

6. Location of bin room

There are concerns that the location of the bin room is unsuitable and will have detrimental impacts on the adjoining residential properties.

Comment:

The location of the bin room is acceptable.

7. No architectural plans are provided for the proposed Torrens title residential lots

Concerns are raised that development on the lots is not shown and also concerns regarding the small size of some.

Comment:

In the event of the approval of the subdivision, the future development of the Torrens title lots would be the subject of separate development applications.

8. Construction Traffic

Concerns are raised regarding the use of local streets by heavy construction traffic.

Comment:

In the event of an approval, a Construction Traffic Management Plan will be required as a condition of consent.

MEDIATION

No mediation has been requested by the objectors.

INTERNAL REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Support (subject to conditions)</p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development 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>
Environmental Health (Acid Sulphate)	<p>Support (subject to conditions)</p> <p>An updated Acid Sulfate Soil (ASS) assessment report was provided by the applicant. Review of this document revealed some limitations to the conclusion that "Physical observations and laboratory test results indicate that there are no actual acid sulphate soils (AASS) present at the site". It was found that:</p> <ul style="list-style-type: none">- "It is possible that acid sulphate soils may be encountered in excavation deeper than 2.0 metres in this area."- 2.0 m was the limit of investigations- Master Plans show that excavations are likely to exceed 3 m below ground level- Analysis shows that acidity of soils is increasing in strength proportionally with increased depth of investigation. <p>In summary, we recommend that precautionary measures are implemented during works, in accordance with ASSMAC guideline and the ASS report findings.</p>
Environmental Health (Contaminated Lands)	<p>Not supported</p> <p>Environmental Health have reviewed the Preliminary Site Investigation Report (PSI) by NG Child & Associates dated 16 November 2021. The PSI accepts the findings and recommendations outlined in the original PSI dated February 2020 however, there has been substantial activity on the site since the original PSI was completed. As such, the conclusions of the PSI are no longer valid. A new PSI is required in order to consider additional contaminants of</p>

Internal Referral Body	Comments
	<p>concern relative to the works completed. More extensive testing for asbestos may also be required.</p> <p>The site, which covers approximately 21,000 square metres, was fully covered by vegetation and built structures until an unknown date between 1 October 2020 and 7 December 2020. Between these two dates 19 x dilapidated sheds were demolished on the property (each approx. 28m in length x 4.5m) along with two or more small structures adjacent to the main residential buildings. All vegetation surrounding the sheds and residential buildings was cleared leaving approx. 12,420 square metres of the site exposed. Council has no records pertaining to the demolition of these buildings or clearing of any vegetation.</p> <p>On 25 January 2021, satellite images show excavators and stockpiles of sediment on the site. Further clearing had occurred. Satellite images captured in April 2021 and June 2021 show extensive use of the property for the storage of building materials and large sediment stockpiles. These stockpiles were not consistent in appearance with the exposed topsoil observed in previous images. Two, possibly three retention pits had been constructed and there was a narrow trench excavated through the middle of the property. By 11 August 2021, the site had been filled and levelled, and vegetation has been growing back ever since.</p> <p>The PSI acknowledges that “materials containing asbestos are likely to be present within the existing buildings and structures at the site. it is possible that minor quantities of other potentially hazardous or dangerous materials may be identified during any future demolition or construction works at the site”. Section 6.20.2 of the PSI outlines recommendations pertaining to the handling and disposal of hazardous and dangerous materials, including the development of an Unexpected Finds Protocol.</p> <p>Council has no information as to how or by whom the buildings were demolished, whether a hazardous materials survey was completed prior to demolition, or whether the recommendations outlined in the PSI were followed. Similarly, there is no information available as to where the materials were disposed of. The storage and use of fill of unknown origin on the site is also cause for concern.</p> <p>The Biodiversity Development Assessment Report by Cumberland Ecology dated 8 July 2021, states that parts of the land have undergone some levelling and fill to facilitate the extension of Lorikeet Grove in a Westerly direction. The report further states that these works were undertaken by Sydney Water in association with the project such that the road extension will allow access points to the development.</p> <p>Council has made preliminary enquiries with Sydney Water, however, have been unsuccessful in locating any staff with knowledge of these works to date. Further enquiries will be made. Environmental Health believes it is highly unlikely that Sydney Water would be responsible for demolition of the</p>

Internal Referral Body	Comments
	<p>buildings, or the full extent of works observed via satellite imagery.</p> <p>As acknowledged in the Biodiversity Development Assessment Report, the works described above have caused some loss of protected native vegetation at the rear of the site.</p> <p>The master set of plans indicate a car wash bay in the basement carpark however, no further information is provided by the applicant. This wash bay must drain via oil/chemical separators to sewer. A trade waste agreement with Sydney Water would be required and separators will need to be maintained on a regular basis.</p>
Environmental Health (Industrial)	<p>Support (subject to conditions)</p> <p>Residential development proposal includes subdivision of lots and subsequent construction of apartment buildings and house dwellings. We reviewed the aspects of amenity relating specifically to noise and offensive noise in the context of Protection of Environment Operations Act 1997.</p> <p>In that regard, health amenity impacts of this development require only the following control measure:</p> <ul style="list-style-type: none"> Noise barrier between the proposed subdivision on Lorikeet Groove and the apartments which form part of the proposed development. <p>This is to minimise the noise from:</p> <ul style="list-style-type: none"> Mechanical plant that is centralised underground, and exhausted near the waste collection area; and Waste collection noise. <p>Given the information available, Environmental Health have no objections to the proposal on the basis of noise generation and impacts on amenity.</p>
Environmental Health (unsewered lands)	<p>Support (subject to conditions)</p> <p>The land has a Sydney Water sewer main within the parcel, these lands are not unsewered.</p>
Landscape Officer	<p>Supported (subject to conditions)</p> <p>Amended Landscape Plans are submitted to address previous concerns and on review on the Amended Landscape Plans Revision C dated 11 July 2022, Landscape Referral raise no further concerns subject to conditions of consent. Additional street tree planting is provided along the Warriewood Road frontage, and the share path design is amended as an elevated boardwalk share path above the 20% AEP flood level ensuring preservation of surface water flows and the existing Ecological Endangered Community vegetation association.</p> <p>The Amended Landscape Plans provide hard and soft landscape proposals at a conceptual level and the</p>

Internal Referral Body	Comments
	<p>requirements for detailed hard and soft landscape plans shall be imposed for construction certificate approval.</p> <p>A detailed planting plan is provided for the Creek line Corridor, and this shall be approved at construction certificate stage based on a co-ordinated plan incorporating the requirements of the Biodiversity Management Plan including section 7 Revegetation Plan, and any requirements from Council's Natural Environmental Referral teams.</p> <p>The Amended Landscape Plans indicate the alignment of the Outer and Inner Creek Corridor. It is noted however that under the development application documents, no Subdivision Plan is submitted at the time of this referral, to indicate the lot.</p> <p>Should the application be approved the following tree removal of prescribed trees (i.e. protected by the DCP and seeking Council consent for removal) are required within the property boundaries as they are impacted by the development works: one Swamp Mahogany (tree 8), one Cooks Pine (tree 12), one Lacebark Tree (tree 15), and group of thirteen Swamp Oaks (tree group 16). Additionally, twelve exempt species are impacted by the works and required for removal (tree numbers 1 to 7 inclusive, 13, and 14 (Cypress), 11 (Silky Oak), 27 (Coral Tree), and 28 (group of Coral Trees), and these do not require Council consent. All other existing prescribed existing trees are proposed for retention and protection as recommended in the Arboricultural Impact Assessment.</p> <p>previous comments 02/05/2022: Lot 13 contains the Creek line Corridor riparian zone as one lot, however the Inner Creek Corridor (ie. public creek line corridor) is to be dedicated to Council. No Subdivision Plan is submitted to indicate the lot of this Inner Creek Corridor. The development application does not provide recognition of the integrated multiuse corridor creek line requirements as identified in the Warriewood Valley Landscape Masterplan and Design Guidelines (Public Domain) requiring a 25 metre 'public creek line corridor' along the watercourse.</p> <p>Council's Landscape Referral is assessed against the following Pittwater Development Control Plan objectives: C6.2 Natural Environment and Landscaping Principles; C6.4 The Road System and Pedestrian and Cyclist Network; and C6.7 Landscape Area (Sector, Buffer Area or Development Site). Additionally, the landscape objectives of the Warriewood Valley Landscape Masterplan and Design Guidelines (WVLMG), August 2018, the Warriewood Valley Roads Masterplan, August 2018, and the Apartment Design Guide are considered including: 3D Communal and public open space; 3E Deep Soil zones; 4O Landscape Design; and 4P Planting on Structures.</p> <p>Under control C6.2 - Natural Environment and Landscaping Principles Integration with Creek line Corridor and the Public Domain, the following outcome is to be achieved: the location of the pedestrian path/cycleway within the Outer Creek line Corridor above the 20% AEP flood level; extensive stands of</p>

Internal Referral Body	Comments
	<p>Casuarina glauca, and groves of Eucalyptus robusta with other native feature trees, indigenous understorey and ground covers, which are to comprise a minimum of 75% of the total creek line corridor area; and the landscaping treatment of the 25 metre wide Outer Creek line Corridor to appear as part of the public domain.</p> <p>The Landscaping Principles of control C6.2 are generally satisfied and no Landscape Referral concerns are raised.</p> <p>The Integration of the Creek line Corridor and the Public Domain under control C6.2 is generally satisfied with the following assessment. In review of the landscape proposal, and given the presence of the Endangered Ecological Community (EEC) within the creek line corridor, protection of the EEC shall be paramount and some of the provisions under this clause of Pittwater DCP will not be achievable. In this regard the Warriewood Valley Landscape Masterplan and Design Guidelines provisions for a 'public creek line corridor' including sharepath location, seating, viewing platforms, and passive recreation area etc, as shown on the Landscape Concept Masterplan within the 'private creek line corridor' (Outer Creek line Corridor) is appropriate and in accordance with the Warriewood Valley Landscape Masterplan and Design Guidelines objective under C-1, C-2, and C-3 where the location of the sharepath and thus other elements " ... is variable to ensure connectivity with existing sections of the path and vegetation conservation."</p> <p>The Landscape Plans include revegetation works within the EEC with appropriate locally native species and reference to the Biodiversity Management Plan prepared by Cumberland Ecology, and no issues are raised by Landscape Referral subject to co-ordination certification at construction certificate stage identifying agreement of the scope and staging of the works. As documented in the Landscape Plans, clause C6.2 is generally satisfied in terms of works within the creek line corridor, and assessment is also subject to review from Council's Bushland and Biodiversity Referral team.</p> <p>With the sharepath within the 'private creek line corridor', it is anticipated that a Section 88E public positive covenant is required to be included in any approval of the Subdivision Plan.</p> <p>The Landscaping of existing and proposed Public Road Reserves under control C6.2 is not satisfied with the current Landscape Plans, based on the civil design for car parking within the road reservation, unable to achieve the intent of the street tree planting requirements of the Warriewood Valley Landscape Masterplan and Design Guidelines, whereby the WVLMG under the Streetscape Guidelines S-1 Sub Arterial Street section requires the provision of share path and street tree planting within the road verge as either a continuous landscape strip for tree planting, or in combination with car parking spaces with the provision of 'islands' to accommodate street tree planting, and it is considered the quantity of street trees proposed is inadequate, and is identified in the</p>

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	<p>WVLMDG street trees are to be placed at 6-12 metre intervals. The landscape treatment along Lorikeet Grove within the road verge is acceptable and in accordance with the WVLMDG.</p> <p>The Communal Open Space Area under control C6.2 in terms of landscape outcome generally satisfies the requirements to achieve connection and utility of the communal open space area for the future residents of the development. The majority of communal open space area is occupied by deep soil with the exception of the central area utilised for carpark access, bicycle parking, garbage drop off and the car wash bay. The communal open space area is connected to the residential buildings and to Warriewood Road with a gate indicated at the entrance along Warriewood Road, assumed for security access.</p> <p>Under control C6.4 - Pedestrian and Cyclist Network, no concerns are raised by Landscape Referral, noting that the sharepath location as previously addressed in these comments is acceptable to preserve and enhance the Endangered Ecological Community (EEC), noting that the sharepath shall be located above the 20% AEP flood level for the specific site location and where required the sharepath shall incorporate raised boardwalk through impeded drainage zones, and this applies in this instance where the EEC is prone to occasionally flooding.</p> <p>An Arboricultural Impact Assessment is provided, and no Landscape Referral concerns are raised with regard to the recommendations.</p> <p>At this stage the development application is not supported by Landscape Referral with the issues relating to the Subdivision Plan as well as other concerns as raised: street tree planting to Warriewood Road; and sharepath design within flood prone area.</p>
NECC (Bushland and Biodiversity)	<p>Unsupported</p> <p>As the site is identified as coastal wetlands under Clause 2.7 of the State Environmental Planning Policy (Resilience and Hazards) 2021, the proposal is classified as designated development, requiring preparation of an Environmental Impact Statement (EIS). The Planning Secretary's Environmental Assessment Requirements (SEAR), dated 13 May 2020, required an assessment against the key issue of biodiversity as well as relevant environmental planning instruments. This includes:-</p> <p><u>State Environmental Planning Policy (Resilience and Hazards) 2021</u></p> <ul style="list-style-type: none"> • Clause 2.7 Development on certain land within coastal wetlands and littoral rainforests area • Clause 2.8 Development on land in proximity to coastal wetlands or littoral rainforest <p><u>State Environmental Planning Policy (Biodiversity and Conservation) 2021</u></p> <ul style="list-style-type: none"> • Clause 4.9 Development assessment process—no approved koala plan of management for land

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	<ul style="list-style-type: none"> • Clause 6.8 Land adjoining land zoned or reserved for public open space <u>Pittwater LEP 2014</u> • Clause 7.6 Biodiversity. <p>A finalised Biodiversity Development Assessment Report (BDAR) has been prepared by an assessor accredited in accordance with the Small Area Streamlined Assessment Module of the Biodiversity Assessment Method 2020 (BAM). PCT1795: Coastal flats Swamp Mahogany Forest in moderate condition was determined to occur on the majority of the southern portion of the site, and both the moderate and low condition areas correspond with the EEC Swamp sclerophyll forest on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions. Two Vegetation Zones were created for the PCT 1795 Mod (0.02ha) and Low (0.03) areas that will be cleared, with VI scores of 54.9 and 10.7 respectively. Other parts of the site are mapped as exotic vegetation and PCT 1795 Revegetation.</p> <p>No ecosystem credit species were removed from the Biodiversity Assessment Method calculator, however due to habitat constraints (lack of breeding habitat) all other candidate fauna species credit species predicted in the BAMC were excluded from further assessment. Additional survey for the Barking Owl was conducted due to previous survey results (Lesryk Environmental 2020) which included a record of a calling Barking Owl (<i>Ninox connivens</i>). Because of this previous record, the species was added to the list of candidate Species Credit Species within the BAMC. However following the additional survey work Cumberland have concluded that no breeding habitat for the Barking Owl is present within the subject land or wider study area, and therefore no species polygon or calculation of species credits for the Barking Owl is required.</p> <p>Prescribed Impacts have been assessed in relation to the wetland on the site and adjoining lands, as well as the 20 metre wetland buffer as required under the BAM. The wetland buffer on the subject site is largely cleared and has been previously disturbed, and impacts to the vegetation have already occurred. The development will occur within the wetland buffer, including excavation for the basement car park, the potential impacts to groundwater flows have been assessed (see below).</p> <p>Avoidance and minimisation measures focus on locating the development within lower quality areas of the site, retaining the majority of the EEC, and minimising impacts via a range of mitigation measures (BDAR Table 11), including implementation of a Biodiversity Management Plan for the retained wetland area. This will include the Inner and Outer creek line zones, although these zones are not mapped on the figures in the BMP.</p> <p>The Planning Secretary's Environmental Assessment Requirements (SEARs) for the project require the assessment of the development on groundwater dependent ecosystems,</p>

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	<p>as well as the hydrology of the wetland in relation to the ecological and hydrological function of the wetland, including drainage through the wetland. Particularly changes to the depth of standing water and any effects on survival of the wetland plants is to be assessed. The BDAR has included commentary in relation to clearing, water quality, ground water and has concluded that the proposed development will not significantly impact on the biophysical, hydrological and ecological integrity of the coastal wetland or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.</p> <p>However, issues are raised by other Council referral bodies indicating that the potential impacts on floodplain and stormwater management, and impact to flooding in the catchment, have not been sufficiently addressed. Based on this fact the potential impacts to the hydrology of the mapped wetland and associated groundwater dependent ecosystems may require additional assessment following any design amendments.</p> <p>The proposed development documentation references construction of a sewerage connection to the DN400 sewer carrier located within the mapped wetland area. This would impact upon the mapped wetland area if it was included, however an alternate connection to the newly constructed sewer adjoining Lorikeet Grove must be utilised instead.</p> <p>The development is not considered to have any impact on SAI entities. Residual impacts are related to the clearing of PCT 1795 in Moderate condition, and the offset obligation has been calculated as one credit. The submitted BDAR has addressed the majority of the Biodiversity matters identified within the SEARS (1457), as well as the previous comments from Council.</p> <p>The provision of the Bushland Management Plan is noted, and Council could condition some amendments to this Plan once the stormwater/flood/riparian designs are resolved and potential impacts to the wetland and groundwater dependent ecosystems clarified.</p> <p>Amendment to the BDAR may also be required if changes to the stormwater designs impact on additional land mapped as wetland and PCT 1795.</p>
NECC (Coast and Catchments)	<p>Support (subject to conditions)</p> <p>The DA proposes a thirteen (13) lot subdivision, civil and creek line works and construction of integrated residential development including two (2) residential flat buildings containing thirty-four (34) apartments.</p> <p>The application has been assessed in consideration of the relevant provisions of the Coastal Management Act 2016 and State Environmental Planning Policy (Coastal Management) 2018, however, no coastal relevant requirements were identified for the subject site in Pittwater LEP 2014 and Pittwater 21 DCP.</p>

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	<p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore the Coastal Management Act 2016 is applicable to the proposed development. The proposed development is considered to be consistent with the objects, as set out under Clause 3 of the Coastal Management Act 2016</p> <p>State Environmental Planning Policy (Coastal Management) 2018 The subject land has been included on the 'Coastal Wetlands and Littoral Rainforest Area' and 'Proximity to Coastal Wetlands or Littoral Rainforest Area' maps under State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Division 1 and Division 5 of the CM SEPP are applicable to this DA.</p> <p>Planner please note that requirements in regard to Division 1 Coastal wetlands and littoral rainforests area of the CM SEPP will need to be assessed by the Bushland & Biodiversity Team.</p> <p>On internal assessment and as assessed in the Environmental Impact Statement prepared by Creative Planning Solutions (August 2021) submitted in support of the DA, the proposal is considered to satisfy the relevant requirements under Division 5 of the CM SEPP. In regard to Clause 15 the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.</p>
NECC (Development Engineering)	<p>Not supported</p> <p>The proposed subdivision and apartment building development is not supported for the following reasons:</p> <p>1) Stormwater discharge adjacent to the environmentally sensitive coastal wetlands.</p> <p>The proposed discharge point for the 900mm RCP stormwater outlet pipe as detailed in the engineering plans is not satisfactory. The new 900mm stormwater line will essentially carry a flow of 3.4cumecs at the discharge point in a 1 % AEP event. The downstream impacts on the coastal wetland have not been addressed in terms of the impacts of the outlet flow. The engineering plans need amendments to demonstrate that there are no additional impacts on the coastal wetland and native vegetation. The outlet design is to use best stormwater flow management practice. The ecological report needs to correspondingly address the flow in terms of impacts on the downstream coastal wetland.</p> <p>2) Capture of upstream stormwater overland flows within Warriewood road.</p> <p>The stormwater management plan prepared by C and M Consulting engineers details the provision of a 900mm RCP stormwater line to be constructed within the existing drainage reserve traversing the site. The stormwater line is designed to cater for the 1 in 100 Year AEP upper</p>

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	<p>catchment flow that arrives at the site. This approach is supported however the designer is to demonstrate how the majority of the proposed 3.4m³/s flow is to enter the 900mm pipe via a combination of sag and on grade inlet pits within Warriewood Road. An additional 3.4m wide sag pit is to be installed on the northern kerbside of Warriewood Road as the majority of overland flow from the upstream catchment is contained within that half of the road carriageway. The outlet pipe from this pit is to be accordingly sized for the incoming stormwater flows.</p> <p>The engineering plans are to detail the proposed new RCP pipe and pit on the southern side of Warriewood Road, noting that Council's minimum pipe size is 375mm RCP.</p> <p>Long sections of the proposed stormwater lines are to be included on the engineering plans detailing the Hydraulic Grade Line, velocities and flows.</p> <p>3) The design engineer is to provide certification that the overland flow study was undertaken in accordance with Australian Rainfall and Runoff 2019 and Book 9 a guide to flood estimation in urban areas. Climate change provisions are also to be incorporated into the modelling. Additionally, the design engineer is to confirm that they are registered within the requirements NSW Design and Building Practitioners Act and Regulation.</p> <p>4) The checklist DA submission within appendix D of the Warriewood Valley Water management specification 2001 are to be completed and submitted with an amended engineering report.</p> <p>5) The design/engineering plans is demonstrated that a safe overland flow path can be provided over the proposed 900mm line assuming the applicable upstream pit blockage factors and a velocity depth analysis is to be provided. Additionally, a minimum of three cross-sections through the easement are to be provided adjacent to the apartment buildings detailing the 1% AEP Top Water Levels. All habitable floors are to have a flood planning level at a minimum of 500mm above the 1 % AEP TWL.</p> <p>6) The shared pedestrian footpath is to be detailed on the engineering plans showing the proposed connection to No 34 Lorikeet Grove (Lot 10 DP 270946) masterplan alignment.</p>
NECC (Riparian Lands and Creeks)	<p>Not Supported</p> <p>The EEC on 45-49 Warriewood Road relies on overbank flows from the creek and groundwater flows. No reshaping works is being proposed on the creek cross section to maintain the inundation regime.</p> <p>The Landscape Plans include revegetation works within the EEC, Council's Riparian referral team has no specific comments regarding the proposed vegetation management</p>

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	<p>strategy, subject to Bushland and Biodiversity Referral team and Landscape Officer comments.</p> <p>Additional information regarding the subdivision plan and western drainage channel management is to be supplied:</p> <ul style="list-style-type: none"> -The development application does not provide a Subdivision Plan to indicate the lot of the Inner Creek Corridor. -The western drainage channel junction to the riparian corridor and creek should be documented. <p>Due to the site sensitivity and type of development, the development application is to be referred to DPIE NRAR for controlled activity permit on waterfront land.</p> <p><i>*Planner Note – The application has been referred to NRAR for a controlled activity permit however a response has not been received at the time of writing this report.</i></p>
<p>NECC (Stormwater and Floodplain Engineering – Flood risk)</p>	<p>Not Supported</p> <p>The subject site is identified as being flood prone by Narrabeen Creek in addition to having an existing drainage reserve running through the site conveying overland flows. The existing drainage channel is proposed to be replaced with a 900mm diameter pipe designed to convey the 1% AEP flow from the eastern local upstream catchment.</p> <p>New floor levels within the development shall be at or above the Flood Planning Level. The adopted FPL for the site is 4.65 m AHD based on the 1% AEP post development (4.15 m AHD) flood level plus 0.5m freeboard. The FPL plus an allowance for climate change is 4.74 m AHD and the PMF level is 4.89 m AHD.</p> <p>The residential flat building is proposed to have a floor level of 6.22 m AHD which is above the FPL (including climate change). The driveway ramp to the basement is proposed to be 5.41 m AHD which is also above the FPL.</p> <p>In order to assess Control A1 in the Pittwater 21 DCP B3.11 Flood Prone Land the proposed 900mm stormwater pipe that will replace the existing open channel needs to be included in the TUFLOW model. This assessment should also include all existing and proposed drainage systems in the catchment.</p> <p>Long sections along the proposed 900mm stormwater pipe needs to be provided. Long sections must include the surface elevation, stormwater pipe and hydraulic grade line (HGL).</p> <p>The assessment needs to assess the worst case where there is a coincident local catchment and Narrabeen Creek event up to the PMF event.</p> <p>The Flood Management Report must demonstrate that there are no adverse impacts up to the PMF event.</p> <p>To meet control E1 and E3 it must also be demonstrated that flood- free evacuation above the PMF event is possible. We</p>

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	<p>understand that Lot 1 & 2 are not part of the subject DA however details on how they will meet control E1 and E3 is required. This maybe through a shelter in place control on the lots</p>
<p>NECC (Water Management)</p>	<p>Not Supported</p> <p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater. The submissions were considered.</p> <p>There are several relevant controls for water management and creek rehabilitation in the Warriewood Valley:</p> <ul style="list-style-type: none"> • Pittwater 21 DCP Appendix C6.1, C6.2, C6.7 and C6.8 • Warriewood Valley Water Management Specification (2001). <p>In general, the development application does not demonstrate how the water dependent ecosystem will be impacted and protected during the life of the project. Construction and operation stages should be assessed for potential impacts and mitigation measures proposed.</p> <p>The development application was submitted with discrete technical studies but the proposal is missing an integrated response for the water management and water dependent ecosystem.</p> <p>A Water Management Report following the WARRIEWOOD VALLEY URBAN LAND RELEASE WATER MANAGEMENT SPECIFICATION (2001) requirements must be submitted. The water management section (4.0) of the ENGINEERING REPORT (R02192 Rev C) is lacking details and presents some inconsistency (table 12, average rainfall year generating more flow than a wet year). The water quality section is generally oversimplified and requires additional details especially for the water quality modelling nodes setting and treatment chains (roads and proposed rain water tank reuse daily demand).</p> <p>Groundwater table and water dependent ecosystem</p> <p>The groundwater table levels are critical to the functioning of the wetland, the groundwater study is indicating groundwater depths between 0.3-0.5m below surface level on the upper section of the existing wetland and intersection with the proposed building basement is likely. The geotechnical study is also confirming the presence of the water table within the proposed infrastructure footprint.</p> <p>The proposal does not assess the project impacts on the water table and wetland.</p> <p>Due to the ecological sensitivity of the site, a groundwater monitoring program must be developed (prior, during and after</p>

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	<p>construction) to assess the groundwater level modifications and possible EEC impacts. The monitoring program should lead to an action plan to adjust for the flow coming from the site stormwater system.</p> <p>As per Pre lodgement meeting advice: Due to past use of the site for market gardening, particularly 49 Warriewood Road where there are large numbers of greenhouses, a groundwater contamination assessment is required. If contaminants are found above ANZECC guidelines, a groundwater management plan should be prepared.</p> <p>To undertake construction dewatering, the following approvals must be obtained from WaterNSW.</p> <ul style="list-style-type: none"> • water supply work approval • water access licence (WAL) - unless the project qualifies for an exemption, please refer to the exemption aquifer interference activities taking 3ML or less and exemption for excavation dewatering taking greater than 3ML WaterNSW fact sheets for more information • water use approval - <p>As part of the documentation a Geotechnical Investigation Reports to WaterNSW requirements is to be supplied.</p> <p>Stormwater quality system</p> <p>The proposed stormwater quality system is relying on an infiltration basin. The location of the proposed basin is acceptable.</p> <p>The engineering documentation is not demonstrating that the hydraulic and water quality sizing is adequate.</p> <p>While Council is supportive of an infiltration system, the proposed basin appears to be close to ground level. The effect of the high-water table on the infiltration rates needs to be modelled and the basin to be sized accordingly. Under the existing scenario the basin is at risk of not infiltrating enough flow with the consequent of activation of the safety weir. This may result in a large fraction of the runoff not receiving water quality treatment. Alternatively, a bioretention system could maintain the water quality objectives.</p> <p>The basin is only presenting a weir to control the outflow. The basin weir must remain a safety measure; Council is requiring a proper outlet including the use of a linear flow spreader to feed the wetland.</p> <p>Additional engineering details and the water quality model must be supplied to Council.</p> <p>The applicant proposes to install litter baskets in all surface inlet pits. Council do not recommend the use of any more than five baskets as they become very labour intensive to maintain</p>

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	<p>and can quickly block pits if not maintained, causing localised flooding. For this size development a gross pollutant trap similar to a CDS apartment is required.</p> <p>The outlet of the proposed new 900mm dia. pipe needs to be designed to maintain integrity of the basin embankments and be stable.</p> <p>The design should consider a sandstone rock armoured channel and a flow spreader/stilling basin to minimise the hydraulic impacts on the wetland.</p> <p>The design/ management of the drainage channel located downstream of the proposed 900mm dia. is to be provided.</p> <p>The Music model should follow Northern Beaches Music guidelines and be supplied to Council as a model file (.sqz) for review. The proposed infiltration basin is not detailed enough and the hydraulic sizing should be documented. The operation and maintenance manual is to be a standalone document and is to include all stormwater devices.</p>
Parks, reserves, beaches, foreshore	<p>Support (subject to conditions)</p> <p>The development application is for a thirteen (13) lot residential subdivision, civil works, creek line works, and the construction of integrated residential development including two (2) residential flat buildings containing thirty-four (34) apartments, tree removal and landscape works. The application includes development upon Lot 12 containing the two (2) residential flat buildings, whilst the other eleven (11) residential lots will remain undeveloped.</p> <p>The property adjoins Narrabeen Creek, and the creek line corridor is subject to the requirements of the Pittwater Development Control Plan objectives under C6.2 Natural Environment and Landscaping Principles. Landscape Plans and a Biodiversity Management Plan are submitted to preserve and enhance the existing Endangered Ecological Community (EEC), and Parks Reserves and Foreshores Referral raise no concerns as public access is proposed along the creek line corridor and the landscape character of the EEC is not impacted.</p>
Strategic and Place Planning (Development Contributions)	<p>Not supported</p> <p>The Warriewood Valley Development Contributions Plan (Amendment 16 Revision 3) 2018 applies to the land. The Contributions Plan provides the mechanism by which contributions can be levied on developments to fund the provision of public services and facilities that will be required to meet the needs of the future residents and workers of the Warriewood Valley Release Area.</p> <p>The SEE and supporting information reveals that the application comprises:</p> <p>A residential subdivision to create thirteen (13) lots, comprising</p> <ul style="list-style-type: none"> - Eleven (11) residential lots (identified as Lots 1-11) - One (1) super lot (identified as Lot 12),

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	<p>- One (1) residual lot containing the creek line corridor (identified as Lot 13)</p> <p>The construction of two (2) residential flat buildings on proposed Lot 12, containing a total of thirty-four (34) apartments with basement parking and associated services.</p> <p>Civil works, including water management facilities, utilities and an extension of Lorikeet Grove, and; Landscaping including tree removal and weed removal.</p> <p>It is noted that the residential development of Lots 1-11 will be the subject of a future DA(s).</p> <p>In regard to titling arrangements, the SEE states: "The super lot (Lot 12) is to be Strata Subdivided while the standalone lots (Lots 1-11) are to be Torrens Title."</p> <p>It is unclear whether the strata subdivision of the residential flat buildings are proposed as part of this application.</p> <p>Matters for consideration</p> <p><u>Dwelling yield</u> Clause 6.1 of the Pittwater LEP sets a dwelling yield for properties within the Warriewood Valley Release Area. The combined yields of the subject properties is a maximum of 45 dwellings and a minimum of 31 dwellings.</p> <p>DA2021/2600 proposes a total of 45 dwellings/residential lots, comprising 34 apartments and 11 residential lots.</p> <p><u>Subdivision</u> No plan of subdivision has been provided with the application. The engineering plans, prepared by C&M Consulting Engineers includes a Lot Layout Plan.</p> <p>The submitted Lot Layout Plan identifies Lot 13, 9,325m² in size. The SEE states that this lot contains the creek line corridor.</p> <p>The Contributions Plan and Control C6.1 of the DCP identify that the inner 25m creek corridor must be brought into public ownership.</p> <p>A plan of subdivision must be provided that identifies the inner 25m creek corridor as a separate lot, to be dedicated to Council. The 25m is to be measured from the rear property boundary.</p> <p><u>Creek corridor dedication and rehabilitation</u> As identified above, the Contributions Plan requires the dedication of the inner 25m creek corridor to Council for a reduction in the applicable monetary contribution. The Contributions Plan estimates that the creek corridor on the subject properties is 1,471m² in size. The exact area of land to be dedicated is subject to a final plan of subdivision. No plan</p>

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	<p>of subdivision has been provided identifying the inner creek corridor.</p> <p>A draft plan of subdivision must be submitted by the Applicant to facilitate a full assessment of the proposed development.</p> <p>The applicant proposes to undertake landscaping works within proposed Lot 13, including on the land that will presumably be within the inner 25m creek corridor. These landscaping works include bushland restoration and weed removal. These works are required prior to the dedication of the inner creek corridor to Council.</p> <p>Council's Landscape Architect should review the Landscape Plans to ensure proposed landscaping is appropriate.</p> <p>It is noted that the inner and outer creek line corridors have been incorrectly notated in the Applicant's Landscape Plans.</p> <p>The inner creek line corridor is the 25m measured from the rear property boundary.</p> <p>The application does not appear to include any plans that show pipe outlets in the inner creek corridor. Council's Creek Team should confirm that any proposed pipe outlets within the creek are appropriately located and positioned to ensure no erosion or scouring.</p> <p><u>Flooding</u> The Flood report, prepared by BMT and dated 18 May 2021, shows that the property is significantly impacted by the 1%AEP plus climate change event. Flood levels will impact a number of proposed residential lots to the north of Lorikeet Grove.</p> <p>Earthworks are proposed on the site including the land that will contain the extension of Lorikeet Grove. The Flood Report states that post-development: "All lots are above the flood planning level including an allowance for climate change (1% AEP + climate change + 0.5 metre freeboard) ...</p> <p>The fill requirements are defined by the alignment of Lorikeet Grove which result in a net loss of flood storage of approx. 6,600m³ to fill the lots between Lorikeet Grove and flood free land to the flood planning level. Compensatory works are not proposed in the floodplain due to ecological constraints.</p> <p>There are no significant impacts on surrounding properties for any event up to the PMF event under the existing or future climate scenarios."</p> <p>The DA does not propose to undertake reconstruction works in the inner creek corridor to contain the 1%AEP event. This appears to be consistent with advice from Council's Creek Team in the pre-lodgement notes.</p>

Internal Referral Body	Comments
	<p>Council's Flooding Team should confirm that the modelling outcomes are accurate and acceptable.</p> <p><u>Water management facilities</u> All water management facilities must be privately owned in perpetuity. The ownership and maintenance of these systems should be equitably split between the proposed residential developments that they service. It is unclear how the 11 Torrens Title lots will contribute to the maintenance of these facilities.</p> <p><u>Traffic</u> Item 5.5 in the traffic schedule of the Contributions Plan is shown in the vicinity of the development site's frontage to Warriewood Road. Item 5.5 is a bus bay and shelter. The DA proposes the half-road reconstruction of Warriewood Road however this does not include provision of a bus bay. Council's Traffic Engineer should confirm the preferred location and design of this bus bay.</p> <p><u>Shared path</u> The Contributions Plan identifies a future shared path connection through the subject sites, from the eastern boundary of 43 Warriewood Road to the western boundary of 49 Warriewood Road. This shared path is part of 'Item 2 - Shared path along Narrabeen Creek – Buffer 1a to 1l'. Approximately 85 linear metres of cycleway is located within the subject sites.</p> <p>The submitted Landscape Plans, prepared by Creative Landscape Solutions, identify a 2.5m wide shared path partly within the Lorieet Grove road reserve and partly within Lot 13. Council's Landscape Architect should review the alignment of the proposed shared path to confirm that it is acceptable and that it connects to the already constructed sections of cycleway on the previously developed adjacent properties.</p> <p>The Landscape Architect should also confirm that the cycleway is sited above the 20%AEP flood event.</p> <p>Council's Biodiversity Team should confirm that the proposed cycleway does not adversely impact existing vegetation including endangered ecological community.</p> <p>Council will require an easement for access and maintenance over the land that contains the section of shared path within Lot 13. This should be identified on the plan of subdivision.</p>
Traffic Engineer	<p>Not supported</p> <p><u>Secondary Review:</u> The applicant has not addressed the initial review recommendations regarding the access to the RFB component of the development. The applicant was requested to demonstrate that the basement access could not be achieved from the Warriewood Road frontage of the subject site. The access from Warriewood Road would not be consistent with the intent of the Warriewood Valley Masterplan based on the</p>

Internal Referral Body	Comments
	<p>number of dwellings that are contained on the site, however due to the volume generated it was needed to justify the impact on the local access road network to resolve the compliance with the Warriewood Valley Masterplan and the relevant DCP requirements.</p> <p>The application is not supported on the current information provided to address the concerns above. The conclusion below is still to be addressed.</p> <p><u>Initial Review</u></p> <p>The proposal has been reviewed against the requirements of the Warriewood Valley Roads Masterplan and whilst the access to the basement car park of the Residential Flat Building proposed from the Lorikeet Grove road corridor in the current form does not contravene the masterplan, it does increase the traffic flow along Lorikeet Grove and Bubalo Street impacting on overall capacity.</p> <p>The applicant needs to demonstrate that the access to the basement carpark cannot be achieved from Warriewood Road - with this classified as an access driveway and not an internal road for clarification of the master plan requirements.</p> <p>If the access is not feasible from the Warriewood Road frontage of the subject site then the applicant is to provide a suitable traffic management solution to reduce the traffic volumes on Bubalo Street. This could be achieved through the implementation of suitable traffic facilities at the intersection of Bubalo Street and Warriewood Road to limit turning movements.</p> <p>Proposal - Subdivision of 3 lots into 13 lots to include 1 super lot, 11 Torrens Title residential lots, and 1 lot containing the creek line corridor, civil works, and the construction of two residential flat buildings containing 34 dwellings including 4 adaptable housing, basement parking, swimming pool. at 43, 45, 49 Warriewood Road, Warriewood NSW 2102</p> <p>Traffic:</p> <ul style="list-style-type: none"> · Construction Traffic: A CTMP will be submitted once DA has been approved and Builder has been chosen, this will be conditioned. · Site surrounded by: <ul style="list-style-type: none"> - Warriewood Rd – Local collector road - Pheasant Place – Local road - Bubalo Street – Local road - Lorikeet Grove – Local road (future extension) Speed limit: 50km/h · Traffic generation: Based on TfNSW Guide for traffic generating developments... <ul style="list-style-type: none"> - Morning peak: 18 / hour (in & out combined) - Morning peak: 11 / hour (in & out combined) <p>The resulting traffic impact due to development's traffic generation is considered negligible</p> <p>External Referral -RMS</p>

Internal Referral Body	Comments
	<p>RMS has considered the proposed development and provided no objection.</p> <p>Public transport Bus stops are located 25 m away from the site along northern and southern sides of Warriewood Road. The Warriewood Valley Road Masterplan requires that bus bays are to be provided at all existing bus stops or in an alternate location however as no bus bays are located on the subject property frontage this requirement is not relevant to this DA</p> <p>Parking: The development consists of 34 dwellings including 4 Adaptable Housing · Required parking: As per the Pittwater DCP Parking Rate.... For: Multi-Dwelling Housing, Residential Flat Buildings, and Shop-Top Housing o 2 spaces/dwelling.... (two or more bedrooms dwelling) Therefore 2 X 30 = 60 spaces o 1 visitor parking / 3 dwelling (rounded up) Therefore 34 / 3 >> 12 spaces o Accessible parking - 3% of the number of parking required (included).</p> <p>Access - Access driveway complies with Australian Standard AS 2890. However, there is no separate access for cars and service vehicles. Considering the limitation of space and the fact that this is a residential development, combined access is considered satisfactory. - Exit/Entry is possible in a forward direction Swept paths - Swept path plots to/from the basement have been provided for B99 and Service Vehicle (Australian standards). The swept path for Service Vehicle (Australian Standard) has to be provided. - Internal swept paths for critical parking spaces (like corners, blind aisles, etc) have to be provided. Ensure the turning paths should satisfy for all parking spaces.</p> <p>Pedestrian and cyclist safety: The Traffic and parking impact report and plans indicate that footpaths are proposed along the full frontage of the site on Warriewood Road and on the northern side of Lorikeet Grove with a 2.5m shared pathway along the southern side of Lorikeet Grove connected to the pathway at the rear of 53 Warriewood Road. Further details will need to be provided for Roads Act approval prior to completion.</p> <p>Servicing: Waste collection is on-site at the ground floor level and entry/exit in the forward direction.</p> <p>Ongoing: All facilities should be maintained throughout the lifetime of the project.</p>

Internal Referral Body	Comments
	<p>Conclusion</p> <p>The applicant is not supported in the current form and the applicant needs to address the requested access from Warriewood Road matter and demonstrate this is not feasible. The compliance of the basement parking with the AS2890 requirements for the turning path assessment needs to be confirmed as part of the traffic report provided. If the primary access to the basement car park cannot be achieved from Warriewood Road, additional controls are required to limit the traffic volumes using Bubalo Street.</p>

EXTERNAL REFERRALS

External Referral Body	Comments
NSW Rural Fire Services (NSW RFS)	<p>The application was referred to the NSW RFS.</p> <p>No response has been received to date.</p>
Ausgrid	The application was referred to Ausgrid. They responded with 'decision not required'.
Aboriginal Heritage Office	<p>While there are no known sites recorded in the current development area, the area of the proposed development is considered as having moderate potential for unrecorded Aboriginal sites due to its position near a creek line and parcels of the proposed development area have not been previously disturbed.</p> <p>The Aboriginal Heritage Office recommends a Due Diligence Assessment be carried out for the land by a qualified consultant archaeologist. This would provide an assessment of any unrecorded or potential Aboriginal sites within the lot, and advice on potential (direct or indirect) impacts to any Aboriginal site.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>
Nominated Integrated Development – Natural Resources Access Regulator - Water Management Act 2000 (s91 Controlled Activity Approval for works within 40m of watercourse)	The application has been referred to the Natural Resource Access Regulator (NRAR) seeking general terms of approval for a S91 Controlled Activity Approval (Approval for works within 40m of watercourse). At the time of writing this assessment report, no response has been received from NRAR.
Integrated Development – Water NSW	The subject application was referred to Water NSW. No response has been received. However, Water NSW issued a

External Referral Body	Comments
	General Terms of Approval, dated 30 March 2021, in relation to the previous development application No DA2020/1517 for water supply work, described as a 80mm submersible pump.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, EPIs (State Environmental Planning Policies (SEPPs), and Local Environment Plans (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 EPIs (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)

State Environmental Planning Policy (Planning Systems) 2021

The proposal is categorised as a 'Council related development over \$5 million' under Schedule 6 of the above planning instrument. (See below).

Schedule 6 Regionally significant development

3 Council related development over \$5 million

Development that has a capital investment value of more than \$5 million if—

- (a) a council for the area in which the development is to be carried out is the applicant for development consent, or*
- (b) the council is the owner of any land on which the development is to be carried out, or*
- (c) the development is to be carried out by the council, or*
- (d) the council is a party to any agreement or arrangement relating to the development (other*

than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).

Northern Beaches Council are the owners of the drainage channel at 43 Warriewood Road (Lot 2 DP 972209). As such, the proposal is required to be determined by the Sydney North Planning Panel in accordance with section 4.7 of the EP&A Act.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 Coastal management

The site is located within the coastal wetlands area in accordance with the SEPP (Resilience and Hazards) 2021.

Clauses 10 of the SEPP (Resilience and Hazards) 2021 apply to this application and clause 10(4) requires that:

- (4) A consent authority must not grant consent for development referred to in subclause (1) unless the consent authority is satisfied that sufficient measures have been, or will be,*

taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.

Council's Bushland & Biodiversity Team have undertaken a review of the proposed impacts upon the biophysical, hydrological and ecological integrity of the coastal wetlands area located within the site. As a result of the unresolved flooding and stormwater management issues, Council Bushland and Biodiversity Team cannot be satisfied that sufficient measures have been taken to protect biophysical, hydrological and ecological integrity of the coastal wetlands.

Chapter 4 Remediation of land: Section 4.6 – Contamination and remediation to be considered in determining development application

The requirements of this SEPP apply to the subject site. In accordance with Section 4.6(1), the consent authority must consider if the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out; and if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The site upper portion of the site was formerly used for agricultural purposes

Council's Environmental Health have reviewed the Preliminary Site Investigation Report (PSI) by NG Child & Associates dated 16 November 2021. The PSI accepts the findings and recommendations outlined in the original PSI dated February 2020. However, given that there has been substantial activity on the site since the original PSI was completed, the conclusions of the PSI are no longer valid. An updated PSI is required in order to consider additional contaminants of concern relative to the works completed.

Until further evidence is presented to confirm that the site poses no risk of contamination the land is assessed as unsuitable for the residential land use proposed

State Environmental Planning Policy (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

Comment:

The proposal was referred to Ausgrid. They have raised no objections to the proposal.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2: Vegetation in non-rural areas

The proposed development is acceptable under this policy.

State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development (SEPP 65)

The development is required to comply with SEPP 65 and the associated Apartment Design Guide (ADG), which provides additional details and guidance for applying the nine design quality principles outlined in SEPP 65.

As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

As previously outlined within this report, Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a Design Verification Statement from the building designer at lodgement of the development application. This documentation has been submitted.

Clause 28 of SEPP 65 requires that, in determining a development application for consent to carry out development to which SEPP 65 applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

- a. *The advice (if any) obtained from the design review panel, and*
- b. *The design quality of the development when evaluated in accordance with the design quality principles, and*
- c. *The ADG.*

DESIGN REVIEW PANEL

On 24 March 2022, the Northern Beaches Council Design and Sustainability Advisory Panel (DSAP), considered the application at their meeting.

The notes from the DSAP Meeting are reproduced below:

General

The application proposes demolition works and subdivision of 3 lots into 13 lots to include 1 super lot, 11 Torrens Title residential lots and 1 lot containing the creek line corridor, civil works and the construction of two residential flat buildings containing 34 apartments including basement parking, swimming pool. It requires the removal of 47 trees (32 exempt).

A pre-lodgement meeting (PLM2019/0109) was held on 6 June 2019 in relation to development of the subject site. The concept plans raised significant issues with the proposal. The proposed development is substantially different to that presented at the PLM.

The project was presented to the Design + Sustainability Advisory Panel Meeting on March 25th, 2021. The Panel did not support the scheme as it was presented, and a series of detailed comments/recommendations were made.

The applicant/planner ran through a detailed list of changes undertaken in response to the comments, these changes were highlighted in both the planning report and clouded on the drawings. The Panel acknowledge these amendments, however, are of the view that the substantive issues relating to side setbacks, building bulk and site planning and fundamental issues with the mix of dwellings and resulting bulk have not been addressed.

Strategic context, urban context: surrounding area character

The number of dwellings are controlled with a density limit. The proposal seeks to maximise the size of the development by providing large apartments. While the Panel supports the provision of family sized apartments as an appropriate response to the demands of the area, no consideration has been given to the impact the substitution of larger for smaller apartments on bulk.

This is discussed in detail in the previous minutes and has not been addressed at all in the revised submission nor during the Panel presentation.

For this reason, the Panel repeats and provides further detail and rationale for its concerns.

Pittwater DCP Warriewood Valley Controls

• C6.8 Residential Subdivision Principles RFB require 10% studio, 10% 1 bed 10% 2 bed:

Residential Flat Buildings and Multi Dwelling Housing developments with 10 or more dwellings are to provide at least:

- 10% studio apartments/apartments;
- 10% 1-bedroom apartments/apartments; and
- 10% 2-bedroom apartments/apartments.

The Panel provided a detailed analysis of the proposal compared to a complying scheme. The applicant should refer to those notes and analysis, however in the interest of clarity the analysis is repeated with areas and mixes more precisely matching those in the proposal and accompanying documentation.

The table below shows how much greater the floor areas are compared to the minimum recommended by the ADG and greater even and increased allowance for what might be 'expected by the Northern Beaches market'.

	DCP mix	Units		ADG + "NBmarket"		total sqm	Proposal***			
		num	sqm	sqm	add 20%**		Mix	num	sqm	total sqm
Studio	10%	3.4	35	35	42	143				
1br	10%	3.4	50	35	42	143				
2br	10%	3.4	70	75	90	306				
3br*	29%	9.8	90	95	114	1,117	41%	14	125	1,750
4br*	41%	14	102	107	128.4	1,798	59%	20	206	4,120
						3,506				5,870
Total Units		34						34		167%

* adopts same split of 3 and 4 bedroom as proposal

** "Northern Beaches market - add another 20% for 'upmarket expectations'

*** refer to drawings and schedule in CPS "Assessment of Apartment Design Guide" p121

The point here is that compared to a proposal that allowed for a 20% increase in the minimum apartment sizes in the ADG to 'meet the expectation of the Northern Beaches market', and if the proposal complied with the mix of dwellings required by the DCP the proposal exceed the floor area by 67%.

No allowance has been made for the change in mix nor the excessive floor areas, as previously clearly identified as a matter of concern.

As noted previously:

This has a number of 'flow on effects' including building bulk, height, activation of the common area, possible setbacks and the extent of the footprint and landscaped area and car parking numbers.

Many if not all of the more detailed issues could be easily resolved if the scheme were redesigned to comply with the required dwelling mix.

Recommendations

- 1. The total floor area should be reduced to better align with the bulk that would result from a complying mix of dwellings.*
- 2. Recommendations are as per the previous comments and notes from the previous Design + Sustainability Advisory Panel Meeting on March 25th, 2021.*
- 3. Particular attention should be paid to the ends of the residential flat buildings. The awkward angular townhouses and the orientation of the upper-level apartments should be reconsidered, and the site setback concerns should be addressed by increased setback, rather than higher balustrades.*

Scale, built form and articulation

In accordance with the previous comments, the Panel believe that the current scheme is an overdevelopment of the site. The impact of the overall size of the build form is exacerbated by the regular and monolithic nature of the architecture. Refer to previous notes for a more detailed discussion.

The fundamental problem is the way the density control has been expressed and interpreted. Instead of a Floor Space Ratio that would have the effect of limiting the bulk of the building, the density has been expressed as a number of dwellings, presumably to achieve a certain urban density in the area overall according to various strategic planning imperatives.

Recommendations

- 4. Reduce the size of the development, particularly at each end. This will provide a more successful interface between the RFB and the Torrens Titled Lots.*
- 5. Provide a more varied and rich architectural treatment to the facades of the building. In particular the architect should investigate further ways to break up the length of the buildings with more articulation at the entry points and foyers. The oversized framed expression on the facades should also be reconsidered to break down the scale of the building.*

Access, vehicular movement and car parking

As per previous comments the carpark extends beyond the footprint of the building, thus reducing the amount of deep soil, particularly within the mews between the two RFB's. The recommendations are as per the previous Panel Comments. The panel is not convinced with the overall storage strategy for the development, and it would appear from the plans that there is oversized storage for some apartments at the expense of other apartments which have no storage.

Recommendations:

- 1. Redesign the carparking so that the carparking footprint is underneath the building footprint.*
- 2. Provide usable storage for each apartment/townhouse within the basement.*
- 3. Reorganise garbage and waste management and minimise amenity impacts (visual, noise, odour) on adjoining dwellings.*

Landscape

No discernible changes have been made to the landscape design. Previous comments still apply.

Sustainability

The Energy Efficient Design strategies in the Design Statement are very general, and not indicated on the drawings.

Recommendations:

- 1. The rainwater tank should be connected to landscaping and toilet flushing*
- 2. Investigations to electrify the gas hot water and cooking*
- 3. Make sure there is at least one bike parking space per apartment (in addition to the storage spaces for the terrace style dwellings)*

PANEL CONCLUSION

The Panel does not support the proposal in its current form which remains substantially the same as the earlier scheme.

A complete redesign is required.

The building bulk is far greater than anticipated by the controls and no justification has been provided.

No attempt has been made to reduce the bulk of the building or to comply with the required dwelling mix.

The scheme should be redesigned to improve the relationship between the residential flat building and the Torrens titled lots.

The basement should be redesigned for greater storage and to improve the deep soil planting. The architectural expression of the buildings exacerbates the scale and should be redesigned to provide a more domestic interface with the internal mews.

The applicant should provide more attention to the sustainability measures for this project.

The applicant should also refer to the detailed previous notes provided by the Panel.

DESIGN QUALITY PRINCIPLES

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 development in terms of built form is not sympathetic to the character of the

location or its interface with low density residential development within and adjoining the site. In this regard, the proposed dwelling mix is not appropriate for the site or its broader context.

While the proposal complies with the density limit, it has maximised the size of the apartments in the RFBs, by providing 3 and 4 bedroom apartments only. This results in a larger and bulkier development than that anticipated by the controls.

The architectural expression of the two RFBs is not in keeping with the existing and emerging character of the area.

The proposed vehicular access from Lorikeet Grove (instead of Warriewood Road) is inappropriate and does not respect the existing low scale residential character of the area.

Accordingly, it is considered that the proposal does not satisfy this principle.

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 proposal ignores the P21DCP requirement for a mix of dwelling typologies by providing only 3 and 4 bedroom apartments. This combined with very large lobbies and other shared spaces results in a bulky and repetitious building form.

As outlined in the DSAP Panel notes above, the excessive GFA of the proposed development results in about 140% of that, that could be expected in a scheme that satisfied the required apartment mix. This has a number of 'flow on effects' including excessive building bulk, height, activation of the common area, inadequate setbacks, an extended building footprint, shortfall in landscaped area and excessive car parking spaces.

The impact of the overall size of the built form is exacerbated by the regular and monolithic nature of the architecture and the monotonous treatment of the facades. The oversized framed expression on the facades are out of character and amplify the scale of the building.

Accordingly, the proposal does not satisfy this principle.

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 proposal complies with the density controls contained in PLEP2014. Accordingly, the proposal satisfies this principle.

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:

A BASIX certificate for the residential component of the development has been submitted with the application. The certificate confirms that the development is capable of achieving the water and energy targets and has obtained a pass for thermal comfort.

Accordingly, the proposal does satisfy this principle.

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:

Council's Landscape Officer has reviewed the comprehensive landscape scheme submitted with the application and is in support of the landscaping proposal.

Accordingly, the proposal does satisfy this principle.

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 proposed RFBs will result in overlooking of the existing and proposed, adjoining residential lots.

- Proposed apartments C13 and C15 overlook the adjoining properties rear yards of the existing dwellings in Pheasant Street.
- Proposed apartments C11, C12, C16, C17, D11, D12, D16, D17 overlook the private open spaces of the proposed Torrens title lots within the development.

The development has been assessed against the various amenity requirements of the Apartment Design Guideline (ADG), where it has been found that the development does not comply with some of the requirements. Within the RFBs not all apartments have access to sunlight or adequate private opens space areas.

Accordingly, the proposal does not satisfy this principle.

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 application is not accompanied by a formal Crime Risk Assessment as required by the ADG.

Generally, the development provides secure access which is separated from all vehicular access points. All apartments provide balconies and windows which provides passive surveillance over the adjoining public domain.

Accordingly, the proposal satisfies this principle.

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:

This principle essentially relates to design responding to the social context and needs of

the local community in terms of lifestyles, affordability and access to social facilities and optimising the provision of housing to suit the social mix and provide for the desired future community.

The provision of a residential development that only provides 3 and 4 bedroom apartments does not achieve a mix of apartment sizes. The desired outcome of providing a range of dwelling types to foster a diverse community is not achieved.

Accordingly, the proposal does not satisfy this principle.

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 proposed development adopts a regular and monolithic design, with little articulation at entry points and foyers. The oversized framed expression on the facades results in an excessively bulky appearance.

Accordingly, the proposal does not satisfy this principle.

APARTMENT DESIGN GUIDE

SEPP 65 also requires consideration of the ADG prepared by NSW Department of Planning and Environment in 2015. The ADG includes development controls and best practice benchmarks for achieving the design principles of SEPP 65.

The following table sets out the proposal's compliance with the ADG:

Criteria / Guideline	Comments
Part 3 Siting the Development	
Site Analysis Does the development relate well to its context and is it sited appropriately?	Inconsistent A context plan is provided to accompany the application. The building form does not reflect the current character as anticipated by the PLEP 2014 for the site. The proposed height, bulk and scale of the proposed RFBs is excessive and does not relate well to the context of the site.

Orientation Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Inconsistent Whilst the development responds to the streetscape, the design of the development does not optimise solar access to some of the apartments within the development												
Public Domain Interface 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?	Consistent The development satisfactory with regard to public domain interface, safety and security.												
Communal and Public Open Space Appropriate communal open space is to be provided as follows: <div><div>1.</div>Communal open space has a minimum area equal to 25% of the site (1,762m² based on the super lot area of 7.048m² <div>2.</div>Developments to 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).</div>	Inconsistent The proposed development provides 1359m ² (19.3% of the site) as communal open space within the development. The communal open space is at ground level between Block C and D. While deficient in area, it includes a range of amenities (including landscaped areas, a swimming pool, outdoor seating and BBQ areas). More than 50% of the communal open space receives direct solar access until after 12:00pm on June 21. The development is inconsistent with this requirement of the guide.												
Deep Soil Zones Deep soil zones are to meet the following minimum requirements: <table><tr><th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr><tr><td>Less than 6</td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650m² – 1,500m²</td><td>3m</td></tr><tr><td>Greater than 1,500m²</td><td>6m</td></tr><tr><td>Greater than 1,500m² with significant</td><td>6m</td></tr></table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 6	-	7%	650m ² – 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant	6m	Consistent A total of 1358.9m ² (19.4% of the site area) is deep soil zone.
Site area	Minimum dimensions	Deep soil zone (% of site area)											
Less than 6	-	7%											
650m ² – 1,500m ²	3m												
Greater than 1,500m ²	6m												
Greater than 1,500m ² with significant	6m												

existing tree cover															
Visual Privacy Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><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></table> <p>Note: 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	Inconsistent The proposal provides 4m setbacks to the northeast boundary. These non-complying setbacks will result in overlooking and detrimental visual impacts to the proposed Torrens title lots fronting Warriewood Road. The development is inconsistent with this requirement of the guide.
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													
Pedestrian Access and entries Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify? Large sites are to provide pedestrian links for access to streets and connection to destinations.			Consistent The development provides level pedestrian access to all floor levels from the basement car parking area.												
Vehicle Access Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?			Inconsistent The proposed vehicular access from Lorikeet Grove is not supported at present and Council's Traffic Engineer requires further information demonstrating why access from Warriewood Road is not a feasible option.												
Bicycle and Car Parking For development in the following locations: <ul style="list-style-type: none">On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or			Consistent The proposal complies with the car parking requirements of P21DCP.												

<ul style="list-style-type: none"> On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre. <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>	
Part 4 Designing the Building	
Amenity	
<p>Solar and Daylight Access</p> <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> 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; A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. 	<p>Inconsistent</p> <p>82.4% of the apartments will receive the required solar access, However, 4 apartments or 18.6% of the apartments will receive no solar access between 9am and 3pm in midwinter.</p>

<p>Natural Ventilation</p> <p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"> At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at 10 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; Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line. 	<p>Consistent</p> <p>All apartments are capable of cross ventilation.</p>												
<p>Ceiling Heights</p> <p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="231 965 839 1794"> <thead> <tr> <th colspan="2">Minimum ceiling height</th></tr> </thead> <tbody> <tr> <td>Habitable rooms</td><td>2.7m</td></tr> <tr> <td>Non-habitable</td><td>2.4m</td></tr> <tr> <td>For two 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>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>If located in mixed used areas</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> </tbody> </table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For two 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	2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.	If located in mixed used areas	2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.	<p>Consistent</p> <p>The floor to ceiling heights of the apartments within the development meet the minimum 2.7m as required by the ADG.</p>
Minimum ceiling height													
Habitable rooms	2.7m												
Non-habitable	2.4m												
For two 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.												
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If located in mixed used areas	2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.												
<p>Apartment Size and Layout</p> <p>Apartments are required to have the following minimum internal areas:</p> <table border="1" data-bbox="231 1939 839 2047"> <thead> <tr> <th>Apartment type</th><th>Minimum internal area</th></tr> </thead> <tbody> <tr> <td>Studio</td><td>35m²</td></tr> </tbody> </table>	Apartment type	Minimum internal area	Studio	35m ²	<p>Inconsistent</p> <p>All apartments exceed with the minimum area requirements for 3 and 4 bedroom apartments.</p>								
Apartment type	Minimum internal area												
Studio	35m ²												

1 bedroom	50m ²	The depths of living areas within some ground floor apartments (i.e. C2-9 and D2-9) are 8.3m from a window and therefore do not comply with the maximum habitable room depth of 8m from a window.
2 bedroom	70m ²	
3 bedroom	90m ²	
<p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> <p>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.</p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> <p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space). Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments; • 4m for 2 and 3 bedroom apartments <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>		<p>The development is inconsistent with this requirement of the guide.</p>

<p>Private Open Space and Balconies</p> <p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table> <p>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 15m² and a minimum depth of 3m.</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	<p>Inconsistent</p> <p>The minimum depth requirements will not be satisfied for some apartments.</p> <p>The development is inconsistent with this requirement of the guide.</p>
Dwelling Type	Minimum Area	Minimum Depth														
Studio apartments	4m ²	-														
1 bedroom apartments	8m ²	2m														
2 bedroom apartments	10m ²	2m														
3+ bedroom apartments	12m ²	2.4m														
<p>Common Circulation and Spaces</p> <p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p>Consistent</p> <p>The maximum number of dwellings off a circulation core is 4</p>															
<p>Storage</p> <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>4m²</td></tr><tr><td>1 bedroom apartments</td><td>6m²</td></tr><tr><td>2 bedroom apartments</td><td>8m²</td></tr><tr><td>3+ bedroom apartments</td><td>10m²</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 ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments	10m ²	<p>Consistent (subject to condition)</p> <p>The proposed building includes resident storage areas for all apartments within the building and as well as within the basement levels.</p> <p>In the event of an approval, a condition of consent could be imposed, to ensure the proposed storage areas are allocated in accordance with the size requirements of the ADG for the respective apartments.</p>					
Dwelling Type	Storage size volume															
Studio apartments	4m ²															
1 bedroom apartments	6m ²															
2 bedroom apartments	8m ²															
3+ bedroom apartments	10m ²															
<p>Acoustic Privacy</p> <p>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</p>	<p>Consistent</p> <p>All garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, private open spaces and circulation areas are located more than 3m away from bedrooms.</p>															
<p>Noise and Pollution</p> <p>Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.</p>	<p>Consistent</p>															
<p>Configuration</p>																

<p>Apartment Mix</p> <p>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.</p>	<p>Inconsistent</p> <p>The development only provides 3 and 4 bedroom apartments. There is a lack of variety in types of apartments offered in the development, with no studio, 1 or 2 bedroom apartments provided.</p> <p>The development is inconsistent with this requirement of the guide.</p>															
<p>Facades</p> <p>Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.</p>	<p>Inconsistent</p> <p>The facade treatment emphasises the bulk and scale of the proposed RFBs and is not in keeping with the streetscape or character of the area.</p> <p>The development is inconsistent with this requirement of the guide.</p>															
<p>Roof Design</p> <p>Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features.</p> <p>Test whether the roof space can be maximised for residential accommodation and open space.</p>	<p>Consistent</p> <p>The roof design is satisfactory.</p>															
<p>Landscape Design</p> <p>Was a landscape plan submitted and does it respond well to the existing site conditions and context.</p>	<p>Consistent</p> <p>Landscape plans have been submitted with the application, providing detailed plans for the landscape treatment. The landscape plans have been assessed by Council's Landscape Officer, who has found that the landscaping design is acceptable.</p>															
<p>Planting on Structure</p> <p>When planting on structures the following are recommended as minimum standards for a range of plant sizes:</p> <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>150m³</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>35m³</td><td>1,000mm</td><td>6m x 6m or equivalent</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 ³	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent	<p>Consistent</p> <p>Sufficient soil depths are provided.</p>
Plant type	Definition	Soil Volume	Soil Depth	Soil Area												
Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent												
Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent												

Small trees	6-8m high, up to 4m crown spread at maturity	9m ³	800mm	3.5m x 3.5m or equivalent	
Shrubs			500-600mm		
Ground Cover			300-450mm		
Turf			200mm		
Awning and Signage 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.					Not Applicable The DA does not propose any awning or signage and as such, this clause is not considered in the assessment of this application.
Performance					
Energy Efficiency Have the requirements in the BASIX certificate been shown in the submitted plans?					Consistent A BASIX certificate report has been prepared for the development. The BASIX certificate confirms that required targets for water, thermal comfort and energy efficiency will be met.
Water Management and Conservation Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?					Consistent Council's Development Engineers and not supportive of the of the proposed Water management.
Waste Management Supply waste management plans as part of the development application demonstrating safe and convenient collection and storage of waste and recycling.					Consistent Subject to condition
Building Maintenance Incorporates a design and material selection that ensures the longevity and sustainability of the building.					Consistent The application includes a Schedule of Materials and Finishes which ensures the longevity and sustainability of the building.

SEPP (Building Sustainability Index: BASIX) 2004

The application has been accompanied by a BASIX certificate that lists commitments by the applicant as to the manner in which the development will be carried out. The requirements outlined in the BASIX certificate have been satisfied in the design of the proposed development. Nonetheless, a condition could be imposed, should the application be worthy of approval to ensure such commitments are fulfilled during the construction of the development.

LOCAL ENVIRONMENTAL PLANS

PITTWATER LOCAL ENVIRONMENT PLAN 2014

The Pittwater Local Environmental Plan 2014 is applicable to the development.

Is the development permissible with consent?	Land Use Definition:	Permitted or Prohibited
	Subdivision of Land	Permissible with consent
	Residential flat building	Permissible with consent
After consideration of the merits of the proposal, is the development consistent with:		
Aims of the LEP?	No	
Zone objectives of the LEP?	Yes	

Principal Development Standards

Relevant Development Standard	Requirement	Proposed	Variation (%)	Compliance
Minimum subdivision lot size. The site is zoned within the Warriewood Urban Valley Release Area and is identified as Buffer 1F, 1G and 1H	Clause 6.1(3) of the PLEP allows not more than 45 dwellings or less than 31 dwellings	45	-	Yes
Clause 4.3 Height of Buildings	10.5m	12.34m	17.5%	No

Compliance Assessment Summary

Relevant Clauses	Compliance with Requirements
Part 1 Preliminary	
1.2 Aims of the Plan	No
Part 2 Permitted or prohibited development	
2.1 Land Use Zones	Yes
2.7 Demolition requires consent	Yes
Part 4 Principal development standards	
4.1 Minimum subdivision lot size	Yes
4.5A Density controls for certain residential accommodation	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	No
Part 5 Miscellaneous Provisions	
5.21 Flood planning	Yes
Part 6 Additional Local Provisions	
6.1 Warriewood Valley Release Area	No
Part 7 Additional provisions	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	No
7.6 Biodiversity protection	No

Relevant Clauses	Compliance with Requirements
7.10 Essential services	Yes

Detailed Assessment

Aims

The development is inconsistent with the aims of the Plan, as it relates to promoting development that is compatible with neighbouring development in terms of bulk, scale and appearance and use.

Zoning and permissibility

The site is zoned 'R3 Medium Density Residential' and residential flat buildings are permitted with consent.

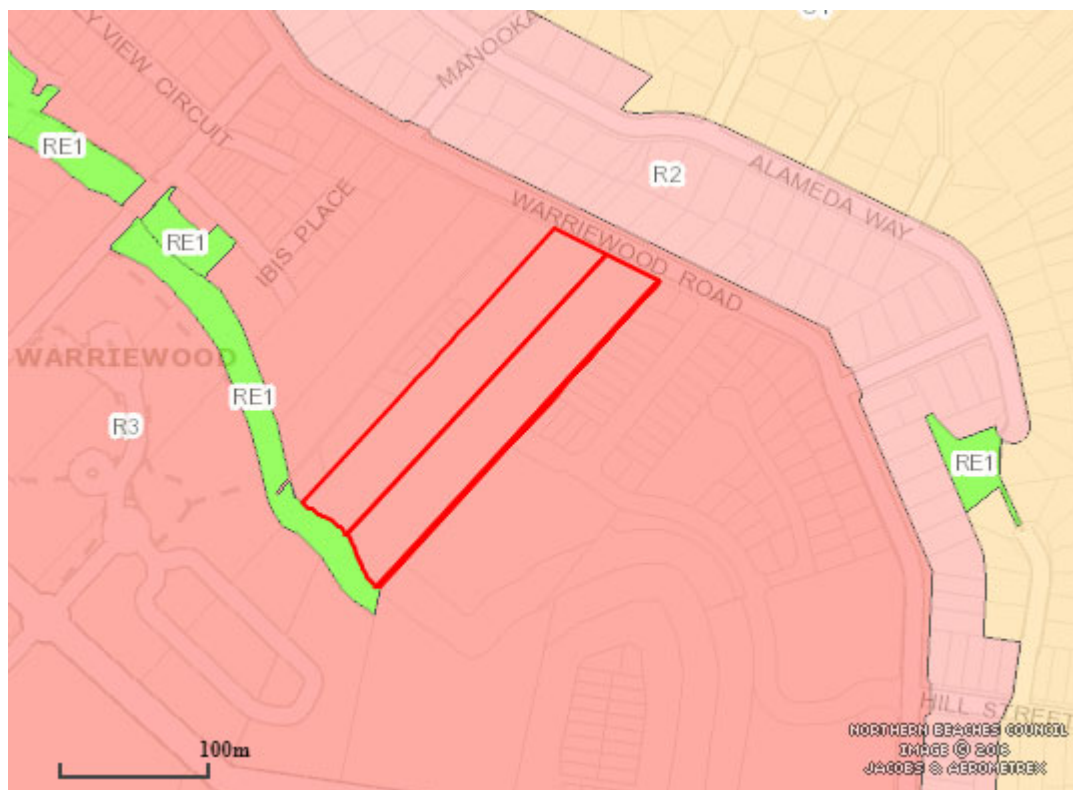


Figure 6 – Site zoning under PLEP 2014 (note: site boundaries shown in red)

Zone objectives

Clause 2.3(2) of the PLEP 2014 requires the consent authority to have regard to the zone objectives when determining a development application.

The objectives of the R3 zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.*

Comment

The proposal generally satisfies the objectives of providing housing in a medium density environment.

Clause 4.6 Exceptions to development standards

Description of non-compliance

Development standard:	Clause 4.3 Height of buildings
Requirement:	10.5m
Proposed:	12.34m (Block C) 11.61m (Block D)
Percentage variation requirement:	17.5% (Block C) 10.6% (Block D)

Assessment of request to vary a development standard

The following assessment of the variation to Clause 4.3 of PLEP 2014 has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

The height breaches are detailed as follows:

- Block C: maximum building height is 12.34m, representing a 1.84m (or a 17.5%) breach of the building height standard
- Block D: maximum building height is 11.61m, representing a 1.11m (or a 10.6%) breach of the building height standard

The breaching elements include parts of the upper floors, sections of the roofs, and four lift overruns (two per building).

Clause 4.6 Exceptions to development standards:

(1) *The objectives of this clause are as follows—*

- to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless—

(a) the consent authority is satisfied that—

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Planning Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) Assessment

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has not demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

As detailed below, the Applicant argues that sufficient environmental planning grounds exist to justify the height of buildings variation including the raising of ground levels towards the southern end of the site due to the flood hazard affecting the land.

However, the proposed floor level of 6.22m AHD is well above the required Flood Planning Level (FPL). The adopted FPL for the site is 4.65 m AHD based on the 1% AEP post development (4.15 m AHD) flood level plus 0.5m freeboard. The FPL plus an allowance for climate change is 4.74 m AHD and the PMF level is 4.89 m AHD.

The engineering plans submitted with the application (specifically engineering drawing 02192_021, the fill plan) shows fill beneath the building pads of each RFB. This will result in the finished ground levels of the site higher than the surrounding proposed lots. The RFBs are on raised 'pads' when compared to the other sites in the subdivision and therefore do not integrate with the topography of the overall site or greater context.

There are concerns that the RFBs, sitting on an isolated section of fill, will be unnecessarily high compared to the future developments on the unfilled remaining lots in proposed subdivision.

Consequently, the Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. *The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'*

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

Applicants Written Request

The applicant's written request argues, in part:

No impact on the surrounding area

As demonstrated by the EIS to which this variation request is attached, the proposed variations to the height standard will not have adverse or unreasonable impacts on

the amenity of the neighbouring properties and the public domain in terms of privacy impacts, reduced solar access, view loss and adverse streetscape impact. Any impacts associated with the tallest parts of the buildings are mitigated through increased setbacks.

Character of the built form

With regard to the significant size of the super lot (7,004m²) and the R3 Medium Density Residential zoning, the proposed building height is appropriate both for the site and the locality more broadly. Development within the surrounding area contains a variety of residential developments that include a number of RFBs with similar (if not greater) heights and scale to that being proposed by this application;

Aside from being consistent with the future character of the locality, approval of the development would be consistent with other similar approvals within the surrounding area as outlined above and will therefore not set an undesirable development precedent.

Visual impact of the variation

Only relatively small sections of the building breach the height standard, though once the subdivision works and associated changes to ground levels complete the visual appearance of the RFBs, they are structures that would otherwise comply with the height standard and would appear as such from both surrounding sites and the public domain.

The largest breaches of the standard are to be created by steps in the roof that are integrated into the overall design of the building. The lift overruns will be situated below the 'steps' in the roof and will be centralised within the recessed lobby areas (i.e. they will not be located at the peripheries of the building, and will not form dominant features when viewed from surrounding sites and the public domain). As such, elements which breach the height standard would have negligible (if any) visual impact.

Excavation limitations

Given the levels of the site, it would not be possible to excavate further into the land in order to attain compliance with the height standard; to do so would be contrary to the objectives of the building height standard (see below) and will likely have adverse outcomes with regard to the amenity of terrace units on lower levels and site drainage.

Height limitations associated with earthworks

As indicated above, the proposed variation to the building height standard is a consequence of factoring in the heights of both the RFBs and the earthworks associated with the proposed subdivision. Whilst it is necessary to incorporate both elements in accordance with the PLEP 2014 'building height' definition, to enforce the building height standard when earthworks are required to protect residential allotments from local flood hazards is unreasonable.

If the proposal were not 'integrated' development (i.e. the subdivision and subsequent residential development were subject to separate proposals), then a future proposal for residential development would be based upon the proposed ground levels of the subdivision; such development could therefore be constructed to the same RLs as that currently proposed without breaching the height standard (i.e. the 'existing ground level' of future residential development would be higher than current ground levels, therefore the height standard would permit future development to be the same height as that proposed by this application).

The variation sought by this written request is a result of proposing concurrent subdivision and residential development. Given that the staging of works and/or the lodgement of applications (i.e. one for subdivision/earthworks and another for the RFBs) would enable an identical outcome (in terms of building height), enforcing compliance with the standard in this instance is therefore both unnecessary and unreasonable.

The applicant's written request has not adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Firstly, the environmental planning ground that there are 'no impacts on the surrounding area' is not sufficient planning ground, rather, absence of unreasonable impacts is an expected outcome of a proposed development under the applicable planning controls.

The visual impact of the development is discussed elsewhere within this report and the proposal is considered to present a bulk, scale and building volume that is inconsistent with the surrounding context of emerging character of the area. Therefore, it is not agreed that the visual impact of the development has been limited in an appropriate way to rely on this as an environmental planning ground.

The environmental planning ground 'Limitations on the extent of excavation' is not adequately explained and therefore is not accepted.

As discussed in the above section, the engineering plans show isolated areas of fill beneath the building footprints, resulting in raised levels for the RFBs which do not appropriately relate to the wider site context. The floor levels proposed exceed the minimum flood planning levels and therefore, there is excess building height attributed to the raised floor levels. The environmental planning ground that the level of filling required causes the building height breach is not well founded and will result in the building being of greater height than the wider site context.

6.1 Warriewood Valley Release Area

Clause 6.1(3) of PLEP 2014 prescribes a dwelling yield for land within the Warriewood Valley Release Area. This dwelling yield is not a development standard that can be varied, but rather a threshold that must be met for the development to be permissible on the land. The subject site is located within Buffer Area 1F, 1G and 1H, with a nominated dwelling yield of "not more than 45 dwellings or less than 31 dwellings". The proposed residential development will provide 45 dwellings at the subject site, consistent with this dwelling yield, and as such, the proposal is permissible with consent.

Clause 6.1(4) prescribes that development consent must not be granted unless the consent authority is satisfied that the proposed development will not have any significant adverse impact upon opportunities for rehabilitation of aquatic and riparian vegetation, habitats and ecosystems within the creek line, water quality and flows within the creek line, and the stability of the bank within the creek line. Insufficient information has been provided to enable Council to be satisfied that the proposed development will not result in any adverse impacts upon the creek line.

7.2 Earthworks

The application was referred to Council's Environmental Health officer. As detailed in their referral response, they have reviewed the Preliminary Site Investigation Report (PSI) by NG Child & Associates dated 16 November 2021. They have advised that the PSI accepts the findings and recommendations outlined in the original PSI dated February 2020 however, there has been substantial activity on the site since the original PSI was completed. As such, the conclusions of the PSI are no longer valid. A new PSI is required in order to consider additional contaminants of concern relative to the works completed.

7.6 Biodiversity protection

The application was referred to Council's Biodiversity officer. As detailed in their referral response, they do not support the proposal due to a lack of information addressing the potential impacts on floodplain and stormwater management, and impact to flooding in the catchment.

DEVELOPMENT CONTROL PLANS

PITTWATER 21 DEVELOPMENT CONTROL PLAN

The Pittwater 21 Development Control Plan is applicable to the development.

Compliance Assessment Summary

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	No	No
B3.11 Flood Prone Land	No	No
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	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
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C6.1 Integrated Water Cycle Management	No	No
C6.2 Natural Environment and Landscape	Yes	Yes
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion		
C6.4 The Road System and Pedestrian Cycle Network	Yes	Yes
C6.5 Utilities, Services, and Infrastructure Provision	Yes	Yes
C6.7 Landscape Area Buffer	Yes	Yes
C6.8 Residential Development Subdivision Principles	No	No
C6.10 Additional Specifications for Development in Buffer Area 1a to 1m	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.5 Landscaped Area for Newly Created Individual Lots	Yes	Yes
D16.6 Front building lines	Yes	Yes
D16.7 Side and rear building lines	Yes	Yes
D16.8 Spatial Separation	Yes	Yes
D16.9 Solar access	Yes	Yes
D16.10 Private and Communal Open Space Areas	No	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
D16.14 Pets and companion animals	Yes	Yes

Clause B3.6 – Contaminated Land and Potentially Contaminated Land

The application was referred to Council's Environmental Health officer. As detailed in their referral response, they have reviewed the Preliminary Site Investigation Report (PSI) by NG Child & Associates dated 16 November 2021. They have advise that the PSI accepts the findings and recommendations outlined in the original PSI dated February 2020 however, there has been substantial activity on the site since the original PSI was completed. As such, the conclusions of the PSI are no longer valid. A new PSI is required in order to consider additional contaminants of concern relative to the works completed.

Clause B3.11 – Flood Prone Land

The application was referred to Council's Flood Engineers. As detailed in their referral response, insufficient information has been provided to confirm that the proposed development is consistent with the provisions of this control.

Clause C6.1 – Integrated Water Cycle Management

Clause C6.1 of P21 DCP prescribed specific controls relating to stormwater management, flooding, the creek line corridor, water quality, groundwater and greywater reuse, with reference to compliance with the Warriewood Valley Urban Land Release Water Management Specification (Water Management Specification).

The Water Management Specification is document that was created specifically for the redevelopment of Warriewood Valley to minimise the impacts of flooding on individual sites and downstream, to ensure that the aquatic ecology of the creek lines is preserved and enhanced, to provide a high quality creek line interface, and to require ecologically sustainable development outcomes. The Water Management Specification has been consistently enforced as the release area has been developed over time.

As outlined in the detailed referral responses from various divisions of Council, the application fails to meet the provisions of the Water Management Specification, as the application has not:

- adequately considered the effects of proposed stormwater drainage infrastructure on flooding,
- demonstrated that the proposed residential lots, specifically Lots 1 and 2, can be development to be safe from flooding,
- provided sufficient engineering detail to support the proposed stormwater management solution,
- detailed the intended ownership and maintenance requirements of the creek line corridor or proposed private infrastructure,
- demonstrated a suitable water quality treatment solution for the site, or
- appropriately considered the likely impacts upon the water dependant EEC.

As such, the proposal fails against the requirements of clause C6.1 of P21 DCP.

Section C6.8 Residential Development Subdivision Principles

Clause C6.8 requires that residential flat buildings with 10 or more dwellings are to provide at least:

- 10% studio apartments/apartments.
- 10% 1-bedroom apartments/apartments; and
- 10% 2-bedroom apartments/apartments.

The proposal does not include any studio, 1 bedroom or 2-bedroom apartments. Consequently, the outcome of the control “to provide a range of dwelling types to foster a diverse community” is not achieved.

Clause C6.8 also required consideration of titling arrangements and on-going maintenance responsibilities. In the absence of a plan of subdivision or any documentation relating to the on-going maintenance of proposed private infrastructure, compliance with this control is not achieved.

It is also noted that some of the plans demonstrate an intent for the proposed residential lots to incorporate zero lot lines. As outlined in clause C6.8 of P21 DCP, such detail is required to be shown on a draft plan of subdivision.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The application has demonstrated that 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.

POLICY CONTROLS

Warriewood Valley Development Contributions Plan 2022

The Warriewood Valley Development Contributions Plan applies to the site. The Plan requires the inner 25m creek corridor to be bought into public ownership. The application has not provided a plan of subdivision.

A plan of subdivision is required to identify the inner 25m creek corridor as a separate lot to be dedicated to Council. The 25m is to be measured from the rear boundary.

The subdivision plan also needs to detail requirements for creek corridor dedication and rehabilitation, water management facilities, traffic works and a shared path connection. These matters have not been adequately addressed by the applicant.

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 2014;
- Pittwater 21 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, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

Recommendation for refusal includes the following reasons (as per section 4.15 of the Act):

1. The application is not compliant with the respective environmental planning instruments applying to the site.
2. The proposed development does not comply with building height development standard of PLEP 2014.
3. The proposed development does not satisfy the provisions of P21DCP.
4. The application has not demonstrated the proposed residential development will have a satisfactory impact on the surrounding traffic network.
5. The application has not satisfactorily addressed contamination, flooding, water management or riparian corridor issues.
6. The application has failed to demonstrate that the development is sensitively designed in response to the natural constraints of the site, specifically the presence of an EEC.

RECOMMENDATION (REFUSAL)

THAT Sydney North Planning Panel, as the consent authority REFUSE Development Consent to Development Application No DA2021/2600 for the Subdivision of land, creek line works and the construction of two (2) residential flat buildings on land at Lot 1 DP 349085,49 Warriewood Road, WARRIEWOOD, Lot 2 DP 972209,43 Warriewood Road, WARRIEWOOD, Lot 2 DP 349085,45 Warriewood Road, WARRIEWOOD, for the reasons outlined in Attachment 1.

ATTACHMENT 1

1. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and Associated Apartment Design Guide (ADG)

The proposed development should not be approved in its current form as it fails the principles of SEPP 65 insofar as they apply to context and neighbourhood character, built form & scale, amenity, housing diversity and social interaction, and aesthetics.

Particulars:

- a) The proposed building is not compatible with the context of the site that currently contemplates a bulk and scale significantly less than that proposed.
- b) The development does not provide an appropriate dwelling mix.
- c) The proposal is inconsistent with a number of the requirements as contained in the ADG referenced in SEPP 65

2. State Environmental Planning Policy (Resilience and Hazards) 2021

The proposed development is unsatisfactory in respect to Section 4.15 of the EPA Act, as the application is found to be inconsistent with the provisions of SEPP (Resilience and Hazards) 2021.

Particulars:

- a) Insufficient information has been submitted to demonstrate that the land will be suitable in its current state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out.
- b) There has been substantial activity on the site since the original Preliminary Site Investigation (PSI) was completed. As such, the conclusions of the PSI are no longer valid. A new PSI is required in order to consider additional contaminants of concern relative to the works completed. More extensive testing for asbestos may also be required.
- c) Insufficient information has been submitted for Council to be satisfied that appropriate measures have been taken to protect or enhance the biophysical, hydrological and ecological integrity of the coastal wetlands area, as required under Part 2.7 SEPP (Resilience and Hazards) 2021.

3. Pittwater Local Environmental Plan (PLEP 2014)

The proposed development is unsatisfactory in respect to Section 4.15 (1) (a) (i) of the EPA Act, as the application is found to be inconsistent with the provisions of PLEP 2014.

Particulars:

- a) The development is inconsistent with the aims of the Plan, as it relates to promoting development that is compatible with neighbouring development in terms of bulk, scale and appearance and use.

- b) The proposed development does not comply with the 10.5m maximum building height development standard prescribed by clause 4.3(3) of PLEP 2014. The proposal involves a maximum building height of 12.34m.
- c) The clause 4.6 written request to vary the building height standard is not supported.
- d) Insufficient information has been provided to enable Council to be satisfied that the proposed development will not result in any adverse impacts upon the environment, adverse impact upon opportunities for rehabilitation of aquatic and riparian vegetation, habitats and ecosystems within the creek line, water quality and flows within the creek line, and the stability of the bank within the creek line, as required by Clause 6.1(4) of PLEP 2014.

4. Non-compliance with Pittwater 21 Development Control Plan (P21DCP)

Particulars:

- a) The proposed development fails to comply with key objectives of P21DCP.
- b) The proposed development fails to comply with the following clauses of P21DCP 2014:
 - Section C6.8 - Residential Development Subdivision Principles
 - Clause B3.6 – Contaminated Land and Potentially Contaminated Land
 - Clause B3.11 – Flood Prone Land
 - Clause C6.1 – Integrated Water Cycle Management
 - Clause C6.8 – Residential Development Subdivision Principles
 - Clause D16.1 Character as viewed from a public place

5. The Warriewood Valley Development Contributions Plan (Amendment 16 Revision 3) 2018

The proposal does not adequately demonstrate compliance with the Warriewood Valley Contributions Plan which requires that the inner 25m creek corridor be dedicated, as a separate lot, to Council. The Contributions Plan and Control C6.1 of the P21DCP identify that the inner 25m creek corridor must be brought into public ownership.

The Contributions Plan estimates that the creek corridor on the subject properties is 1,471m² in size. The exact area of land to be dedicated is subject to a final plan of subdivision. No plan of subdivision has been provided.

The plan of subdivision is also required to show an easement for access and maintenance over the land that contains the section of shared path within Lot 13.

6. Vehicular access to the basement carpark

The application has not demonstrated that basement access cannot be achieved from the Warriewood Road frontage of the site. Given the number of dwellings that are proposed for the site, and the potential traffic volumes generated, the impact on the local access road network has not been adequately addressed.

7. Endangered Ecological Community (EEC)

The proposal has failed to demonstrate that the development is sensitively designed in response to the natural constraints of the site, specifically the presence of an EEC (Swamp Sclerophyll Forest).