



Pre-lodgement Meeting Notes

Application No:	PLM2023/0153
Meeting Date:	16 January 2024
Property Address:	4-6 Niangala Close BELROSE
Proposal:	The construction of additional floorspace on the roof top of the Belrose Super Centre.
Attendees for Council:	Daniel Milliken, Manager Development Advisory Services Anne-Marie Young, Principal Planner Adam Croft, Principal Planner Dominic Chung, Urban Designer James Brocklebank, Transport Engineer

General Comments/Limitations of these Notes

These notes have been prepared by Council's Development Advisory Services Team on the basis of information provided by the applicant and a consultation meeting with Council staff. Council provides this service for guidance purposes only.

These notes are an account of the advice on the specific issues nominated by the Applicant and the discussions and conclusions reached at the meeting.

These notes are not a complete set of planning and related comments for the proposed development. Matters discussed and comments offered by Council will in no way fetter Council's discretion as the Consent Authority.

A determination can only be made following the lodgement and full assessment of the application.

In addition to the comments made within these Notes, it is a requirement of the applicant to address the relevant areas of legislation, including (but not limited to) any State Environmental Planning Policy (SEPP) and any applicable sections of the **Warringah Local Environmental Plan 2011 and Warringah Development Control Plan 2011**, within the supporting documentation including a Statement of Environmental Effects, Modification Report or Review of Determination Report.

You are advised to carefully review these notes and if specific concern have been raised or non-compliances that cannot be supported, you are strongly advised to review your proposal and consider amendments to the design of your development prior to the lodgement of any development application.



SPECIFIC ISSUES RAISED BY APPLICANT FOR DISCUSSION

Response to Matters Raised by the Applicant

The Applicant has requested that Council provide details as to what may be supported in a future development application considering matters such as setback and visual impact.

BACKGROUND

There is an extensive history on the site as summarised below:

On 11 May 2004, **DA2001/1615** approved the construction of a bulky goods retail outlet, shops, restaurants, conservation of bushland and associated parking.

On 27 February 2006, **2001/1615Mod 1** approved an additional 124 car parking spaces on the rooftop, ramping, lighting and an increase to the parapet.

On 18 February 2010, **MOD2009/0030** approved the modification of condition No. 39 of consent to increase the gross floor area of the shop's component of the Development from 1,000m² to 2,500m².

On 1 July 2015, **DA2014/1369** approved alterations and additions including addition of a storeroom at Level 1, 2290m² of retail floor space, corridor, plant room and goods lift at Level 2.

On 26 July 2018, **DA2018/1254** approved alterations and additions to the existing Level 2 of the bulky goods retail centre.

On 17 November 2022, **DA2022/1869** was lodged for the alterations and additions to the existing bulky goods retail centre. Specifically, the proposal involves a 1468m² addition at level 2 (roof level) of the existing building. Reconfigure level 2 of the building into 6 tenancies ranging from 42m² to 1700m², for use as specialised retail premises. Two new signage zones are also proposed at the south-eastern corner of the building. On 11 April 2023, the Applicant submitted the VIA and amended Clause 4.6 Variation Statement. On 17 April 2023, the Applicant submitted an amended Traffic and Parking Report and on 19 May 2023, the Applicant submitted an EIA and amended architectural plans. The amended plans included:

- Deletion of 2.4m eastern eave overhang
 - 470mm reduction in the overall building height.
 - Addition of planter boxes at south-eastern corner of level 2.
 - Relocation of signage zones at south-eastern corner from level 2 to level 1.
 - Revised configuration of new level 2 tenancies.
 - While not clearly annotated on the amended plan set, it is understood that there is an approximate 1m reduction in the length of the addition at the western elevation.

A NBLPP assessment report was prepared recommending the refusal of the application for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.3 Height of Buildings and Clause 4.6 Exceptions to Development Standards of the Warringah Local Environmental Plan 2011.



Specifically, the proposal is not compatible with the height and scale of surrounding and nearby development, the proposed building height breach would result in excessive visual impact as viewed from the surrounding public domain, the proposed development is not considered to minimise its visual impact on the scenic quality of the surrounding bush environment, and the proposal fails to manage and mitigate the visual impact of the additions when viewed from the surrounding road network and National Park. In this regard, the proposal is inconsistent with the underlying objectives of WLEP Clause 4.3 Height of Buildings.

Further, the applicant's written request under Clause 4.6 of MLEP has not adequately demonstrated that compliance with the standards is unreasonable or unnecessary, that there are sufficient environmental planning grounds to justify the contraventions or that the proposed development will be in the public interest.

2. *Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.*

Specifically, the proposal is contrary to the relevant requirements of the WLEP and WDCP and would result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community.

3. *Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of State Environmental Planning Policy (Industry and Employment) 2021.*
4. *Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.*
5. *Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause Zone B7 Business Park of the Warringah Local Environmental Plan 2011.*
6. *Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B14 Main Roads Setback of the Warringah Development Control Plan.*

Specifically, the non-compliant setback to Forest Way contributes to the proposal's excessive bulk and visual impact when viewed from the surrounding road network and public domain.

7. *Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D9 Building Bulk of the Warringah Development Control Plan.*

Specifically, the proposed variations to the building height development standard and the front setback, in combination with the adequate articulation of the built, fail to achieve a reasonable level of building bulk and scale.

8. *Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D23 Signs of the Warringah Development Control Plan.*



On 18 July 2023, DA2022/1869 was withdrawn.

The subject PLM (plans and Clause 4.6 variation) are identical to the development proposed in DA2022/1869. It is recommended that the Applicant review the development assessment report for DA2022/1869 and address the issues raised in the report which remain valid.

STATE ENVIRONMENTAL PLANNING POLICY

SEPP (Transport and Infrastructure) 2021

Section 2.118 - Development with frontage to classified road states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Response: Any future application will be referred to Transport for NSW for consideration.

State Environmental Planning Policy (SEPP) (Industry and Employment) 2021

Chapter 3 Advertising and signage

3.11 Matters for consideration

(1) A consent authority (other than in a case to which subsection (2) applies) must not grant consent to an application to display an advertisement to which this Chapter applies unless the advertisement or the advertising structure, as the case requires—

(a) is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and

(b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 5 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and

(c) satisfies any other relevant requirements of this Chapter.

Schedule 5 Assessment criteria

1 Character of the area

2 Special areas



- 3 Views and vistas
- 4 Streetscape, setting or landscape
- 5 Site and building
- 6 Associated devices and logos with advertisements and advertising structures
- 7 Illumination
- 8 Safety

Response: The proposed signage is excessive and adds to visual clutter to the prominent corner of the building. The signage has adverse impacts on the streetscape / public domain and is incompatible with the character of the area. Accordingly, the proposed signage is not considered to be of a scale and design suitable for the locality.

WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011 (WLEP 2011)

WLEP 2011 can be viewed at <https://www.legislation.nsw.gov.au/view/html/inforce/current/epi-2011-0649>

Part 2 - Zoning and Permissibility	
<p>Definition of proposed development: (ref. WLEP 2011 Dictionary)</p>	<p>specialised retail premises <i>means a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity, that requires—</i></p> <p>(a) a large area for handling, display or storage, or</p> <p>(b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,</p> <p><i>but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale, hire or display of other goods referred to in this definition.</i></p> <p><i>Note—</i></p> <p><i>Examples of goods that may be sold at specialised retail premises include automotive parts and accessories, household appliances and fittings, furniture, homewares, office equipment, outdoor and recreation equipment, pet supplies and party supplies.</i></p> <p><i>Specialised retail premises are a type of retail premises</i></p>
<p>Zone:</p>	<p>E3 Productivity Support</p> <p>The NSW employment zones reforms came into force on 26 April 2023. These reforms will result in this property changing from a B7 zone to an E3 zone. The proposed use of the site remains permissible pursuant to the additional permitted uses applicable to the site under Clause 2.5 and Schedule 1 (Area 3) of the WLEP, see below:</p> <p><i>3 Use of certain land at corner of Mona Vale Road and Forest Way, Belrose</i></p>



	<p>(1) This clause applies to land at the corner of Mona Vale Road and Forest Way, Belrose, shown as "Area 3" on the Additional Permitted Uses Map.</p> <p>(2) Development for the purposes of specialised retail premises, business premises (with a gross floor area not exceeding 2,500m²), function centres, hotel or motel accommodation, pubs and shops (with a gross floor area not exceeding 2,500m²) is permitted with consent.</p> <p>(3) Hotel or motel accommodation and pubs referred to in subclause (2) must include at least one room for the holding of conferences, functions and similar events.</p> <p><u>Objectives of E3 zone</u></p> <ul style="list-style-type: none"> • To provide a range of facilities and services, light industries, warehouses and offices. • To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres. • To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity. • To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones. • To provide opportunities for new and emerging light industries. • To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site. • To create a pedestrian environment that is safe, active and interesting. • To create employment environments of high visual quality that relate favourably in architectural and landscape treatment to neighbouring land uses and to the natural environment. • To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of adjoining or nearby residential land uses.
<p>Permitted with Consent or Prohibited:</p>	<p>Yes, under WLEP Schedule 1 Additional Permitted Uses</p>
<p><u>Response:</u> Any future application shall demonstrate that the proposal meets the objectives of the zone.</p>	

Clause 4.6 - Exceptions to Development Standards

Clause 4.6 enables the applicant to request a variation to the applicable Development Standards listed under Part 4 of the LEP pursuant to the objectives of the relevant Standard and zone and in accordance with the principles established by the NSW Land and Environment Court.

A request to vary a development Standard is not a guarantee that the variation would be supported as this needs to be considered by Council in terms of context, impact and public interest and whether the request demonstrates sufficient environmental planning grounds for the variation.



Part 4 - Principal Development Standards			
Standard	Permitted	Proposed	Compliance
Height of Buildings	11.0m	Exhaust duct: 22.7m	No 11.7m (106.3%) breach
		Roof: 21m	No 10m (90.9%) breach
Objectives	<p>(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,</p> <p>(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,</p> <p>(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,</p> <p>(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities</p>		
<p><u>Response:</u> The existing building is already higher and bulkier than surrounding developments within the business park. It is considered that the site has already been developed to, or close to, its maximum potential, noting the significant existing breaches of the building height development standard, site coverage and setback controls as described in Council's Assessment Report.</p> <p>If any additional built form is to be supported, it firstly must be positioned such that it fully complies with the applicable built form controls and cannot be readily perceived from the surrounding public domain. The location of any addition/s should be guided by further visual impact analysis.</p> <p>Secondly, any further breach of the building height standard must be supported by a comprehensive Clause 4.6 written request. While demonstrating consistency with the height objectives may be achieved through appropriately located and designed additions, formulating environmental planning grounds that are sufficient will be challenging given the volume of the existing building above the building height control and the likely extent of the variation proposed. Refer also to the comments from Council's Urban Designer below.</p>			

WARRINGAH DEVELOPMENT CONTROL PLAN 2011 (WDCP 2011)

WDCP 2011 can be viewed at

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/pages/plan/book.aspx?exhibit=DCP>

The following notes the identified non-compliant areas of the proposal only.

Control	Permitted	Proposed
B14 Main Roads Setback	Forest Way: 30m	27.7m 2.3m (7.7%) breach
<p><u>Response:</u> The proposal would not enhance the aesthetic quality of Forest Way, from which the existing E3 zone presents as a commercial buildings within a landscaped setting.</p>		



Conversely, the proposed additions are of a height and scale that is incompatible with nearby developments and the surrounding bushland character.

The proposal is therefore inconsistent with the control and objective 2 of the control.

<p>D9 Building Bulk</p>	<p><i>Requirements</i></p> <ol style="list-style-type: none"> 1. <i>Side and rear setbacks are to be progressively increased as wall height increases.</i> 2. <i>Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.</i> 3. <i>On sloping land, the height and bulk of development (particularly on the downhill side) is to be minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. In particular: The amount of fill is not to exceed one metre in depth. Fill is not to spread beyond the footprint of the building. Excavation of the landform is to be minimised.</i> 4. <i>Building height and scale needs to relate to topography and site conditions.</i> 5. <i>Orientate development to address the street.</i> 6. <i>Use colour, materials and surface treatment to reduce building bulk.</i> 7. <i>Landscape plantings are to be provided to reduce the visual bulk of new building and works.</i> 8. <i>Articulate walls to reduce building mass.</i> 	
<p>Response: The proposed design is unsatisfactory in minimising the visual perception of the new built form and grossly exceeds the height anticipated under the building height control for the site and locality. Furthermore, the proposed additions are non-compliant with the required front setback to Forest Way and do not incorporate articulation of the Level 2 wall planes to provide adequate visual relief. Noting the existing building's non-compliance with height and setbacks the proposed use of colours, materials and planter boxes are not considered sufficient to minimise the visual bulk of the development in this case.</p> <p>Importantly, in the context of this site, the existing stepping of the built form from north to south and toward the most visually prominent part of the site (Garigal Road and corner of Forest Way), is a good urban design characteristic of the current development, and to lose this critical design quality will be detrimental to the streetscape and deleterious to the broader objective of ensuring a high quality business park environment.</p> <p>Accordingly, the proposal is assessed as non-compliant with Requirements (1), (2) & (8) of the control and is also inconsistent with the objectives of the control.</p>		
<p>D23 Signs</p>	<ol style="list-style-type: none"> 1. <i>Signs are to be sited and designed so that they do not adversely impact on the amenity of the streetscape and the surrounding locality. In particular, signs are not to dominate or obscure other signs or result in visual clutter.</i> 2. <i>Signs are to be compatible with the design, scale and architectural character of the building or site on</i> 	<p>Two new signage zones are proposed at level 1 southern and eastern elevations with the following dimensions:</p> <ul style="list-style-type: none"> - South - 45m² (9m L x 5m H)



	<i>which they are to be placed.</i>	- East - 32.5m ² (6.5m L x 5m H)
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Response: The proliferation of signage at the south-eastern corner of the building (existing and proposed) is considered to result in visual clutter that would adversely impact the streetscape. The proposed signage zones are not considered to be suitably designed and located and will result in adverse visual impacts upon the streetscape and public domain. The proposal is inconsistent with the requirements and objectives of the zone. The building signage proposal should consider harmonizing the various retailers' individual signs as a well composed and unified building façade treatment. Signage should be integrated into the building design and respond to the scale, proportion and detailing of the development.

Specialist Advice
Transport Engineer
<p>The PLM proposal adds 1422m² of additional retail floor space which would require additional parking to support the generated parking demand. Rather than adding extra parking the developer proposes to achieve the extra floor area by removing existing parking. If the proposal remains unchanged or similar to that lodged with DA2022/1869 a traffic report similar to that provided with DA to justify the reduction in parking will be required to support an increase in floor area.</p> <p>Traffic Generation impacts, Loading and Servicing arrangements for the new tenancies and access arrangements and height clearance to and from the Loading Bay(s) will need to be demonstrated by swept path and long section plots.</p>
Environmental Health Officer
<p>No concerns from an industrial point of view in relation to noise an acoustic report is not required given the location and surrounding businesses.</p>
Urban Designer
<p>The Site is subject to a maximum building height of 11m. The development proposes a maximum building height of up to 19m. The proposal seeks to include additional built form over the 11m approved height and below the 19.27m as per the existing built form.</p> <p>Clause 4.3 of WLEP2011 identifies the following objectives:</p> <ul style="list-style-type: none"> <i>(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,</i> <i>(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,</i> <i>(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,</i> <i>(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities</i> <p>1. The proposal needs to minimise the bulk and scale of the built form as it steps down the slope especially when viewed from the south-eastern and south-western corners. To respond to the context of the surrounding developments, the proposal should work with the site slope in the form of a terracing built form- separate volumes to step down to the street in response to the site slope and the height of neighbouring buildings.</p>



Specialist Advice

2. The proposal should provide a better relationship of the retail spaces and shopfront address to the roof carpark area improving amenity to the shoppers using landscape planting and a variety of finishes.

3. The building signage proposal should consider harmonizing the various retailers' individual signs as a well composed and unified building façade treatment. Signage should be integrated into the building design and respond to the scale, proportion and detailing of the development.

***Note:** To avoid repetition the comments from Council's Development Assessment Planner are incorporated into the body of this report.

Documentation to accompany the Development Application

- Lodge Application via NSW Planning Portal
- Statement of Environmental Effects
- Clause 4.6 Variation
- Scaled and dimensioned plans:
 - Site Plan;
 - Floor Plans;
 - Elevations; and
 - Long and Cross Sections demonstrating proposed height as measured to existing excavated level.
- Certified Shadow Diagrams (depicting shadows cast at 9am, Noon and 3pm on 21 June).
- Cost of works estimate/ Quote
- Survey Plan (Boundary Identification Survey)
- Site Analysis Plan
- Demolition Plan
- Waste Management Plan (Construction & Demolition)
- Loading and Servicing arrangements for the new tenancies and access arrangements and height clearance to and from the Loading Bay(s) will need to be demonstrated by swept path and long section plots
- Erosion and Sediment Control Plan / Soil and Water Management Plan
- Stormwater Management Plan / Stormwater Plans and On-site Stormwater Detention (OSD) Checklist
- View loss assessment
- Signage details
- Traffic and Parking Report
- Flood Report
- Bushfire Report
- BCA Report
- Access Report
- Fire Safety Schedule

IMPORTANT NOTE FOR DA LODGEMENT

Please refer to the Development Application Lodgement Requirements on Council's website (link details below) for further detail on the above list of plans, reports, survey and certificates.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/development-application-da-modification-or-review-determination/2060-da-modification-lodgement-requirements-mar21.pdf>



The lodgement requirements will be used by Council in the review of the application after it is lodged through the NSW Planning Portal to verify that all requirements have been met for the type of application/development.

Concluding Comments

These notes are in response to a pre-lodgement meeting held on 16 January 2024 to discuss alterations and additions to the Belrose Super Centre at 4 - 6 Niangla Close, Belrose. The notes reference the plans prepared by Buchan dated 3 May 2023. As discussed above, there is no change to the proposal considered under DA2022/1869 and the issues discussed in the detailed assessment report, which is available on Council's website, remain valid.

To summarise, the building sits in a prominent, elevated corner position on the entry to the business park. The existing building already exceeds the height limit and main road setback and is higher and bulkier than any surrounding development.

If any additional built form is to be supported, it must be positioned to fully comply with the built form controls and not be seen from the surrounding public domain. A view loss assessment is required to demonstrate that there is no visual impact because of the addition from any public space. To achieve this, it may be necessary to reduce the amount of proposed new floor space and redistribute it to a smaller area away from the eastern and northern boundaries. Consideration shall also be given to using space within the existing car park for retail.

In addition, any breach of the building height standard must be supported by a comprehensive Clause 4.6 variation which demonstrates consistency with the height objectives. Council raises concerns with the challenges of providing sufficient environmental planning grounds to justify the breach given the volume of the existing building above the building height control and the likely extent of the variation proposed.

Question on these Notes?

Should you have any questions or wish to seek clarification of any matters raised in these Notes, please contact the member of the Development Advisory Services Team at Council referred to on the front page of these Notes.