



Pre-lodgement Meeting Notes

Application No: PLM2022/0178
Meeting Date: 24 January 2023
Property Address: 1, 5, 5a & 7 Gladys Avenue FRENCHS FOREST
Proposal: Development Application Prelodgement Meeting
Attendees for Council: Anne-Marie Young - Principal Planner
Adam Susko – Principal Planner
Dan Milliken – Manager DAS
Steve Findlay – Manager North Team
James Brocklebank – Transport Engineer
Ray Creer – Waste Management Unit
Robert Platt – Development Contributions
Shivani Tapas – Strategic Planning

General Comments/Limitations of these Notes

These notes have been prepared by Council's Development Advisory Services Team based on 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 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

Background – The original PLM proposal for demolition of existing dwellings on No.1, 5, 5a & 7 Gladys Avenue with consolidation of the lots and construction of a 33 unit multi—dwelling housing development with basement parking was presented to DSAP on 27 October 2022. On the 12 December Council received amended plans that responded to the issues raised by DSAP. The plans include:

- A reduction of car parking from 61 spaces to 46
- An increase in the setback of the basement and an increase in landscape open space (LOS)
- Reduction in yield from 33 town houses to 30
- An increased front setback.

The amended package is supported with legal advice in response to clause 8.6 and 8.7 of the WLEP.

The applicant has requested feedback on whether the amended plans address the issues raised by DSAP and whether they address any other concern raised by Council’s referral Officers.

Please note, to avoid repetition the comments from Council’s Development Assessment Officer are included in the WLEP and WDCP discussion.

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	
Definition of proposed development: (ref. WLEP 2011 Dictionary)	Multi-dwelling housing (townhouses)
Zone:	R3 Medium Density Residential
Permitted with Consent or Prohibited:	Permitted

Part 4			
Standard	Permitted	Proposed	Compliance
4.3 Height of Building (HoB)	13.0m	13m	Insufficient information to confirm
4.4 Floor Space Ratio (FSR)	1.1 max 3,523sqm	The applicant contents that the GFA is compliant. 3,321sqm	*Insufficient information to confirm

* The FSRs calcs do not included private stairwells within each unit which may push the FSR to exceed the maximum permitted. There are no sections to confirm height compliance.

Building Height

Part 8.5(4) of the WLEP 2011 requires that a proposal must be reviewed by Council’s DSAP before any consent is granted, as the building is three-storeys in height. Sub-clause(4)(b) requires that the consent authority considers the findings of the panel.



The Warringah LEP 2011 provides the following definitions:

Attic means any habitable space, but not a separate dwelling, contained wholly within a roof above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like.

Storey means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include—

- (a) a space that contains only a lift shaft, stairway or meter room, or*
- (b) a mezzanine, or*
- (c) an attic.*

Comment:

The application is not accompanied by any sections or elevations to assist in consideration of this matter. Reliance is therefore placed on the floor plans and three-dimensional diagrams.

Level 2 of the building contains a bedroom and bathroom for most townhouses. Dormer elements are proposed on the inner-facing edge of these townhouses, and it is assumed that these are essential to achieve adequate FFL-CL heights, natural light and ventilation. These dormers are therefore imperative to the successful amenity of the development.

The dormers extend for the majority of the length of all buildings (i.e., 50m of the 55m length of the southern block, and 35m of the 47m length of the eastern block). The ratio of these elements commensurate to the greater roof face, and the essentialness of these elements to the success of the design results in these dormer elements not being a minor element and therefore Level 2 constitutes as a storey.

The building is therefore three (3) storeys high and any future DA will be required to be presented to DSAP.

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 8 Frenches Forest Precinct

Clause 8.3 Objectives of Development

- (a) to facilitate development in accordance with the objectives and principles of the Frenches Forest 2041 Place Strategy,*
- (b) to promote design excellence in relation to buildings, open space and public domain areas,*
- (c) to ensure a balance between the provision of high quality housing and a mix of retail, business, employment, civic, cultural and recreational facilities,*



- (d) *to accommodate additional employment opportunities, service functions and space for business,*
- (e) *to ensure development positively contributes to the visual quality and pedestrian comfort of the public domain and provides a seamless integration between public and private spaces,*
- (f) *to ensure development is designed with consideration of transport infrastructure,*
- (g) *to ensure development is sustainable and contributes to reducing greenhouse gas emissions,*
- (h) *to ensure high quality landscaped open space.*

Clause 8.5 Design Excellence – Sites F, G and I

Development consent must not be granted unless the consent authority considers that the development exhibits design excellence.

(3) In considering whether the development exhibits design excellence, the consent authority must consider the following

(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,

(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,

(c) whether the development detrimentally impacts on view corridors,

(d) how the development addresses the following matters—

(i) the suitability of the land for development,

(ii) existing and proposed uses and use mix,

(iii) heritage issues and streetscape constraints,

(iv) the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

(v) bulk, massing and modulation of buildings,

(vi) street frontage heights,

(vii) environmental impacts including overshadowing, wind and reflectivity,

(viii) the achievement of the principles of ecologically sustainable development,

(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,

(x) the impact on, and proposed improvements to, the public domain,

(xi) the quality and integration of landscape design.

(4) Development consent must not be granted to development in relation to a building that is, or will, be higher than 12 metres or 3 storeys, or both, unless—



- (a) a design review panel has reviewed the development, and
- (b) the consent authority considers the findings of the panel.

Comment:

The proposal fails to exhibit design excellence for the reasons detailed below. As noted above, the development is three storeys and any future DA will require consideration by DSAP.

Clause 8.6 Minimum Site Area

For site G (the subject site), a minimum site area of 1,400sqm must be provided if any multi dwelling housing, RFB or shop top housing is to be provided.

Comment

The subject site meets the minimum site area requirement. The application however will result in the isolation of 3 Gladys Avenue, Frenchs Forest which has an area less than 1,400sqm.

The applicant has lodged a letter of legal opinion to accompany the revised pre-lodgement scheme which considers that cl. 8.6 (and 8.7 as below) are development standards and may be varied in particular circumstances.

For the purpose of these notes this advice will be accepted, however, please note that this position may change if legal advice to the contrary is obtained.

The applicant has provided a schematic plan of how a residential flat building could be developed on the site in accordance with cl. 5.2.6 guidance. The applicant has also provided an email from a real estate agent which recounts a telephone conversation and verbal offer for the purchase of 3 Gladys Avenue.

The documents submitted with the pre-lodgement application are not adequate with regards to the established *NSW Land and Environment Court planning principle of Karavellas v Sutherland Shire Council [2004] NSWLEC 251*. The test posed in that case would need to be satisfied in any future development application, in addition to well-founded cl. 4.6 Variation Requests for cls. 8.6 and 8.7.

The applicant is strongly encouraged to continuing efforts to amalgamate with, or concurrently develop with 3 Gladys Avenue, as such will result in a superior planning, architectural and urban design outcome, and would likely result in a better dwelling yield and ultimate return.

Clause 8.6 (and 8.7) are devoid of specific Objectives and therefore a Clause 4.6 Variation Request would be tested against the objectives of cl. 4.6 and cl. 8.3.

It is a very poor planning outcome to not amalgamate the to-be-isolated 3 Gladys Avenue, Frenchs Forest. The development potential of both sites would not be fully realised by way of either a small size, or an awkward shape.

In summary, Council maintains that the isolation of the site is a poor and unacceptable outcome. The applicant is strongly encouraged to continuing efforts to amalgamate with, or concurrently develop with 3 Gladys Avenue, as such will result in a superior planning, architectural and urban design outcome, and would likely result in a better dwelling yield and ultimate return. Evidence of attempted amalgamation is required to be submitted to support any future DA and if site amalgamation cannot be achieved further schematic drawings are required to demonstrate how No 3 can be redeveloped to achieve compliance. It is recommended that any future development of No. 3 should include a link to the basement car parking on the subject site to minimise streetscape impacts.



Clause 8.7 Minimum Street Frontages

For Site G (the subject site), a minimum street frontage of 30m is to be provided for the purpose of shop top housing or RFB development.

Comment:

The proposal is for 'multi-dwelling housing' which is not listed in this clause. This is assumed to be because the western boundary from No. 1 Gladys Avenue is only 21.3m.

No. 3 Gladys Avenue (not a part of the site) has a street width of 24.5m and would also be rendered undevelopable (for shop top housing or RFB) by the isolation caused by the proposal.

Clause 8.10 Power Lines

Power lines are to be underground.

Comment:

The frontage of the site is to be free from any structures to allow compliance with this control.

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.

Part G9 Frenchs Forest Town Centre
5.2 Precinct 05 Frenchs Forest Road West Neighbourhood
Control G9 (2) Desired Future Character Statement
Proposed
G9 (2) Desired Future Character (DFC) Statement requires: <i>Frenchs Forest is an urban forest, with green streets and new open space, making a feature of the forest that has always shaped the site's story.</i> <i>Frenchs Forest will provide character and great places; it will foster health and connected communities, attract families and encourage new business. It will set the benchmark for health and wellness, liveability and prosperity in a new urban centre.</i>
The precinct is to provide a contextually appropriate interface to surround low density residential with medium rise apartments to 6 storeys and allows for mixed used buildings at ground floor.
<u>Comment:</u> The proposal is three storeys with no commercial use. Due to landscape issues, including the removal of 64 trees and issues with the density of the development, the proposal fails to respond to the DFC of the Frenchs Forest that seeks to respect and feature <i>forest</i> character of the locality.
5.2.3 Building setbacks (Front setbacks)
<u>Requirement:</u> <i>Front setback 6.5m to be landscaped and free of any structures, basements, car parking or site facilities, other than driveways, mail boxes, garbage storage areas and fences</i>



Part G9 Frenchs Forest Town Centre

5.2 Precinct 05 Frenchs Forest Road West Neighbourhood

Comment: The building footprint and basement generally comply with the 6.5m front setback requirement. There are two garbage rooms that sit within the front setback, which are permitted, however, the design is unacceptable from a planning perspective, particularly to the west where the entire building frontage is dominated by a bin room. An alternate design for the site frontage is required.

5.2.3 Building setbacks Side and rear setbacks

Requirement: *Development adjacent to the R2 Low Density Residential and RE1 Public Recreation Zone must provide a minimum setback of 6m from the side or rear property boundary for the first 2 storeys. Development above 2 storeys is to be set back within a 45-degree angle, projected from a height of 2 storeys*

Comment: The subject site is not wholly opposite to or adjoining the R2 land or RE1 land and therefore the question of defining 'adjacent' arises. No. 5 and 7 Gladys Avenue is located directly adjacent to a R2 zone.

Considering the decision of *Bignold J in Marpet Enterprises v Eurobodalla Shire Council [2000] NSWLEC 159*, at paras 26-28:

26. Concerning the word "adjacent", as the Privy Council observed in *Mayor of Wellington v Mayor of Lower Hutt (1904) AC 773*:

Adjacent is not a word to which a precise and uniform meaning is attached by ordinary usage. It is not confined to places adjoining and it includes places close to or near.

27. Considerations of context and statutory purpose in the present case justify adopting as the meaning of the expression "adjacent to" — *lying near to, close or neighbouring.*

28. Applying that adopted meaning to the facts of the present case leads me to the ultimate finding that the property on which the proposed brothel is to be located is relevantly "adjacent to" the Bay Roller World premises, that being "a place frequented by children" within the meaning of cl 31(1)(b) of the LEP.

The site (in its whole) is therefore adjacent to the R2 zone, and thus **6m side and rear setback requirement applies**. The external wall of the development has a 4.3m side setback to the south and east and is therefore inconsistent with 6m minimum requirement.

Furthermore, a 6m separation is consistent with the Design Criteria in 3F Privacy of the *Apartment Design Guide*. The difficulties in achieving compliance with the control is due to the site isolation issue rather than the control requirement itself. The proposal as presented raises concerns in relation to amenity impacts to neighbours including a loss of privacy due to insufficient side and rear setbacks.

5.2.4 Street wall and upper floor setbacks

Relevant requirements:

3. *Developing fronting Gladys Avenue shall have the fourth floor set back at least 3m from the street wall.*

4. *Despite Requirement 3, any portion of a building within 12m of R2 Low Density Residential zoned land must be no more than 2 storeys.*



<p>Part G9 Frenchs Forest Town Centre</p> <p>5.2 Precinct 05 Frenchs Forest Road West Neighbourhood</p>
<p><u>Comment:</u> The third storey is not considered to be a contained within the roof, therefore, the proposal is inconsistent with this requirement.</p>
<p>5.2.5 (1) Buildings shall be located to front of address the street</p>
<p><u>Comment:</u> The proposed site layout does not appropriately ‘front’ or ‘address’ the street – rather flank edges of the building face the street.</p>
<p>5.2.6 Site Consolidation</p>
<p><u>Comment:</u> The proposal fails to provide for consolidation with No. 3 Gladys Avenue.</p>
<p>5.2.7 Materials and finishes</p>
<p><u>Comment:</u> It is recommended that each block has its own identify / architecture to reduce the visual impact of the isolated block at No. 3 and to contribute positively to the streetscape.</p>
<p>5.2.8 Landscaped Area</p>
<ol style="list-style-type: none"> 1. For all residential flat building developments, landscaped area is to be at least 45% of the site area. 2. Development must retain and protect any significant trees on the site and adjoining sites. Any tree removal will require offset planting at a ratio of 2 to 1. 3. Canopy trees must be planted within the front setback of residential flat buildings. 4. Building setbacks are to be landscaped and generally free of any structures, basements, car parking or site facilities other than driveways, mail boxes, garbage storage areas and fences. 5. Communal open space shall be located to minimise impact on adjoining neighbours’ amenity including privacy and noise.
<p><u>Comment:</u> The control only refers to ‘Residential Flat Building Developments’ requiring a landscaped area of at least 45%. Remains silent on the ratio for any other type of development. It is recommended that 45% be provided to be consistent with other new developments in the R3 zone. It is appreciated that the quantity of LOS has been increased in the amended proposal, however, the landscaped area is reduced once the pathways at ground level are incorporated and is likely to be reduced further once structural elements to support the basement are shown on the plans, refer to landscape comments. The applicant needs to demonstrate compliance with 45% as areas less than 2m in width cannot be included in the calculation.</p> <p>The Applicant notes that there is ‘insufficient area to accommodate offset planting at a ratio of 2:1’. The submitted Arboricultural information indicates at least 64 trees will need to be removed to accommodate the development footprint, this is not supported.</p> <p>Building setbacks to the eastern side boundaries is dominated by basement (2m setback to boundaries). This is not supported.</p>
<p>G9 (8) Sustainability</p>
<p><u>Requirement:</u></p> <p>5.2 Incorporate green roof and green façade / wall elements to reduce heat loads on internal spaces.</p> <p>8. Development shall use building materials, fittings and finishes that:</p> <p>8.1 Have been recycled, are recyclable or reusable;</p>



Part G9 Frenchs Forest Town Centre

5.2 Precinct 05 Frenchs Forest Road West Neighbourhood

8.2 Are made from or incorporate recycled materials that contain lower embodied energy to reduce energy use and the environmental footprint;

8.3 Have been certified as sustainable or 'environmentally friendly' by a recognised third party certification scheme and;

8.4 Use non-toxic source origin materials to improve the quality of the indoor environment especially the health, comfort and productivity of building occupants.

If recycled material cannot be used, justification must be included in the Waste Management Plan. Financial costs will not be accepted as appropriate justification.

Comment: A green roof has not been provided and there are no details on sustainability measures or building materials.

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Transport Engineer

Parking

The development site lies on land subject to the Warringah DCP and is subject to the parking controls for the Frenchs Forest Town Centre which specify maximum rates for car parking and minimum rates for parking facilities for more sustainable transport modes (car share, electric vehicle, motorcycle and bicycle parking). The prelodgement plans suggest that there will be 25 x 3 bedroom units and 4 x 2 bedroom units & 1 x 1 bedroom unit. This would mean that the maximum residential parking required as per DCP Section G9 part 6 is 42.1 residential spaces and 3 visitor parking spaces.

The revised prelodgement plans show 39 residential parking spaces and 3 visitor spaces which is compliant with the DCP maximums. The prelodgement plans show 4 "shared" parking spaces which, if these were to be allocated for use by car share vehicles would be compliant with the DCP minimum, 8 motorcycle parking spaces are shown which is less than the 15 required under the DCP and 20 residential bicycle parking spaces and 7 visitor bike spaces are shown (less than the 60 residential and 8 visitor spaces required as minimums). No electric vehicle charging spaces or car wash bays are shown when the DCP requires a minimum of 2 charging bays and 1 wash bay. No accessible parking bays have been shown, a minimum of two of the 42 residential/visitor spaces should be designated for accessible parking and designed as per the requirements of AS2890.6. The motorcycle, bicycle, accessible and electric vehicle parking minimums must be met.

In terms of the car share spaces, these should not be located behind a roller shutter to ensure that they are publicly accessible. Details of any arrangements made with a car share provider regarding the establishment of off-street car share pods should be detailed at DA stage. Ideally visitor parking should also be located forward of any roller shutter or, if not, an intercom system and signage for visitors should be provided to ensure visitors are aware of the location and access arrangements to visitor spaces.

No information regarding the off-street parking arrangements for couriers, delivery and service vehicles has been provided as required by part C3 of the DCP. Arrangements to cater for the off-street parking of such vehicles should be outlined and shown on the plans.

Carpark design

Some basement carparking level dimensions have been provided. All parking spaces and parking aisles should be dimensioned to verify that they are sized in accordance with AS2890.1



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requirements. Aisles must be a minimum of 5.8m to allow for 3-point turn access to and from spaces by a B85 vehicle but ideally 6.2m in width to cater for movements by larger vehicles.

Parking spaces for TH01 will require an end aisle extension of at least 1m and will need to be no less than 2.7m wide to allow for access. Swept path plots for B85 vehicle entering and exiting constrained spaces such as those for TH01, TH11, TH27 are required.

Vehicle Access

The driveway and vehicle crossing are shown at 6.1m in width this width should be sufficient, however, it is noted that the driveway is poorly located being on a tight bend which gives poor approach sight distance to and from vehicles approaching from the north. The driveway should be relocated to the frontage of either No. 1 or No. 7 Gladys Avenue to maximise sight distance for entering and exiting traffic. If this is not able to be achieved adequate sightlines to approaching traffic for vehicles entering and exiting the driveway as per AS/NZS 2890.1 clause 3.2.4(a) must be demonstrated.

Given the narrow width of Gladys Avenue swept path plots for a B99 vehicle passing a B85 vehicle should be provided to confirm that entry to and egress from the driveway is feasible without impacting upon parking on the opposite side of the street.

A long section of the driveway from the kerb alignment to the basement carpark will be required to verify that grades are consistent with AS2890.1 requirements.

Kerb and Gutter construction.

All existing redundant driveways will need to be removed and replaced with kerb and gutter. As Gladys Avenue is currently constructed with roll kerb vehicles have a tendency to park illegally partly or fully on the nature strip. Given the intensification of development proposed and the potential for vehicles parked on the nature strip to prevent pedestrian access and impede sight lines for vehicles entering and exiting property or proceeding along Gladys Avenue the roll kerb shall be replaced with standard 150mm high kerb and gutter along the full frontage of the development site including the frontage of No. 3 Gladys Avenue. A 1.5m wide footpath shall also be provided along the frontage of the development (including the frontage of No.3) as there is no existing footpath in Gladys Ave.

Amended plans providing detail addressing the above concerns accompanied by a parking and traffic impact report will be required for lodgement with the DA.

Waste Officer

Waste Collection Location

Waste, for both bins and bulky goods, will be collected from within the property with the truck parked on Gladys Avenue.

As this is a multiple occupancy proposal, Council will provide a "wheel out / wheel in" service for the bins. The owners corporation / building occupants are not to place the bins at the kerbside outside the building for collection.

Bin allocation

Council will provide the following waste and recycling bins:

- 10 x 240 litre garbage bins
- 8 x 240 litre paper recycle bins.



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- 6 x 240 litre container recycle bins.
- 8 x 240 litre vegetation bins (1 bin per 200sq m landscape area).

Total 32 x 240 litre bins to be accommodated.

Bin Storage

The applicant has provided two bin bays at street level.

Both bin bays comply with Councils location requirements.

Both bin bays are to be enlarged to accommodate the required number of bins.

The bin bay closest to Frenchs Forest Rd West is to accommodate 14 x 240 litre bins.

The bin bay closest to the end of Gladys Ave is to accommodate 18 x 240 litre bins.

Both bin bays require a roof with a minimum ceiling clearance of 2.1 metres.

Both bin bays either drain to the sewer or into the garden – not to any stormwater system.

Access to Street Level Bin Bays

- Access to the bin storage room must be within 6.5 metres of the property boundary with the street.
- Service access for Council waste collection staff must be via a pathway that is separate to the vehicular driveway.
- Service access pathway is to have a flat, smooth non-slip surface with a maximum gradient of 1 in 8 and contain no steps.
- Service pathway is to be a minimum of 1200mm wide.

Any doors fitted on the waste storage area and access pathway must be:

- Able to be latched in an open position for servicing without obstructing access to, and manoeuvring of, bins.
- Unobstructed by any locks and security devices. Any doors requiring to be secured must be fitted with a timer lock programmed to be unlocked from 6.00am to 6.00pm on the scheduled day of collection.
- Be a minimum 1200mm wide.
- Openable in an outward direction only and away from the direction of travel between the bin storage room to the street.

Please note that the current doors do not meet these requirements.

Bulky Goods Room

It is noted that a bulky goods storage room has been provided in the basement.

The bulky goods room is required to have a minimum floor area of 6 sq metres and a minimum ceiling clearance of 2.1 metres.

The room is to be of a usable shape – currently a quadrant.

A 1200mm wide door that opens outwards is required.

Street Level Bulky Goods Presentation Area

A bulky goods presentation area is required at ground level adjacent to the front property boundary.

Access requirements for the bulky goods presentation are identical to the bin storage bay.



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It was suggested that the presentation area be placed adjacent to the driveway immediately above the basement bulky goods room. This is acceptable to Council.

Development Engineer

Access:

1. The internal driveway access grades, parking layout, number of driveways and driveway crossing widths must be addressed by Council's Traffic Engineers.
2. The driveway crossing will be assessed once the application is lodged. A long section and cross sections for the proposed driveway are to be included in the submission. The driveway crossings are to be in accordance with Council's Vehicular Crossing profile which is available in Council's web page.

<https://www.northernbeaches.nsw.gov.au/planning-development/permits-and-certification/driveway-and-vehicle-crossings>

3. Provision of footpath 1.5m wide along entire frontage of site in Gladys Avenue and 3 Gladys Avenue. The new footpath is to be aligned to retain all significant footpath trees. Additionally, the footpath will need to be constructed to provide a connection to the existing footpath in Frenchs Forest Road.

The construction of the concrete footpath will require a Section 138 Roads act approval prior to the issue of the construction certificate. The location of the footpath, minimising impacts on the existing tree roots can be assessed then by Council in conjunction with an arborists report.

4. Redundant vehicle crossing along frontage of site is to be reinstated to conventional kerb and gutter.

Stormwater:

1. The method of stormwater disposal is to be in accordance with Council's Water Management for Development Policy. The policy is available in Council's web page.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/policies-register/water-management/water-management-development-policy/water-management-development-policy-aug2020.pdf>

2. The proposed development will require on-site stormwater detention (OSD) in accordance with Council's OSD technical specification. The pre-developed site discharge (PSD) is to be calculated using a fraction impervious area of 0% i.e. the state of nature condition for all design storms up to and including the 1 in 100 year storm event. The applicant's consultant is to use the 'Drains' hydraulic model to design the system and provide the calculations with the submission to Council. The OSD tank is to be located in an open area that will permit 24-hour access".
3. Connecting to existing street pit at cul-de-sac of Gladys Avenue...a downstream hydraulic capacity calculation is to be provided demonstrating that the stormwater site discharge will have no impacts on downstream properties. The downstream Council drainage line may need to be upgraded if there is insufficient hydraulic capacity and or there are impacts on downstream properties.

Development Contributions

Any future development within the "Frenchs Forest Place" will be levied for development contributions as well as affordable housing.



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1. The land is under the adopted Frenchs Forest Contributions Plan and has a residential contribution rate per dwelling.

https://files.northernbeaches.nsw.gov.au/sites/default/files/Frenchs_Forest_Town_Centre_Contributions_Plan_2022.PDF

For development contributions, the applicable residential contribution rate is based on the date the development consent is issued.

2. For affordable housing, I refer you to Council's adopted Affordable Housing Contributions Scheme <https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Common/Output/LoadGenWebDoc.ashx?id=HBWUDC3VbglV0A60ki4OEg%3D%3D> in particular Section 2 of this Scheme. The property is in Frenchs Forest "Area A" requiring a contribution of 10% of the total gross floor area of the residential development.

Council prefers the dedication of affordable housing dwellings. The affordable housing dwellings are to be identified on the DA plans, and the nomination of affordable housing dwellings will be considered with the DA assessment. If there is any residual contribution, this may require payment of monetary contribution on the outstanding balance.

Landscape Officer

The proposed development property is located within Part 8 Frenchs Forest Precinct of the Warringah Local Environmental Plan 2011 (WLEP) and Part G9 Frenchs Forest Town Centre of the Warringah Development Control Plan 2011 (DCP).

The landscape component of the development proposal shall be planned to satisfy the following WLEP clause:

8.3 (h) to ensure high quality landscaped open space, and

8.5 (3) (xi) design excellence applies in terms of the quality and integration of landscape design.

Under WDCP, the proposed development property is within Precinct 05 Frenchs Forest Road West Neighbourhood Centre, and the following requirements shall be demonstrated as part of the landscape proposals:

- Gladys Avenue front setback of 6.5m to be landscaped and free of any structures and basements to satisfy clause 5.2.3 Building setbacks. The updated Plans generally provide the 6.5 metre front setback however in areas the setback may require an increase to preserve high retention existing tree as indicated on the accompanying sketch to satisfy WLEP and WDCP landscape outcome requirements, including trees 7, 8, 9, 14, 25, 30, 31, 32, 33 and 34 that are impacted by the basement proposal of the updated Plans.
- Existing trees shall be retained, and new tree planting shall be proposed within deep soil areas to satisfy clause 5.2.8 Landscaped Area and minimise impacts to adjoining neighbours. Many high retention value trees existing that are impacted by the updated Plans basement arrangement including trees 7, 8, 9, 10, 11, 12, 14, 15, 24, 25, 30, 31, 32, 33, 34, 40, 51, 52, and 58, and an analysis overlay should be submitted where the site planning is firstly based on the retention of such trees especially those along boundaries as these are easily accommodated in any site planning arrangement, to maintain the treed landscape character that is also the desired future desired character of the locality,



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- At least 45% of the property is to be landscaped area satisfy clause 5.2.8 Landscaped Area. It is noted that landscaped areas are located into either deep soil or upon on slab structure.
- Concern is raised that the calculation includes all the outdoor area beyond the building envelope and includes courtyard areas front and back of the building envelope that will realistically being hard paved terraces for entertainment, such that the overall landscaped area with be reduced, contrary to the definition of 'landscaped area' in WLEP: a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.
- Based on the above the southern 'courtyards' and pedestrian path solution is likely to result in no landscape planting of an adequate height to assist with privacy to adjoining lots and relief of the built form.

Note: Landscaped area must be at least 2 metres in width and at ground level, whilst the minimum soil depth on structure that can be calculated as landscaped area is 1 metre (and 2 metres in width).

- Concern is raised that the deep soil areas to all other boundaries except the front setback are generally providing the minimum 2 metre width and are linear in form such that the width limitation will only support shrub planting and possibly with good management small trees of low height.

Landscape Referral concerns

- No analysis of which existing trees of high retention value should be retained in the first instance, as a guide for site planning of basement of built form,
- Accuracy of the landscaped area calculation when courtyard design solutions are included in the scheme,
- No indication to retain existing trees within the front setback,
- Deep soil areas limited in width to 2 metres reduced landscape outcome to only shrub planting and limited small trees,

Strategic Planning

Overall form, massing of the conceptual building form

- Strategic and Place Planning support the comments provided by the DSAP Briefing Report.
- The overall form, massing and conceptual building form is constrained by the irregular site amalgamation pattern and isolation of the lot at 3 Gladys Avenue.

The position and location of the proposed development footprint

- As above.

The existing and proposed landscape outcome

- Strategic and Place Planning support the view that a minimum 45% of landscaped area is to be provided to be consistent with other new developments in the R3 zone.

Identification of any other relevant matters from Council's perspective

- Affordable housing requirements refer to clause 6.11 of Warringah LEP 2011, which requires a minimum 10% of gross floor area to be dedicated to Council as affordable housing in accordance with Council's Affordable Housing Contributions Scheme.

Refer to Council's Affordable Housing Contributions Scheme, Section 2, 2.2 Dedication of Dwellings:

- Generally, the contribution is to be provided via the dedication of dwellings – build and dedicate free of charge to the Council, the required affordable housing dwellings in order



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to achieve the objectives of this plan. Each dwelling is to have a gross floor area of not less than 50 square metres and be incorporated within the proposed development. Where a dedication of affordable housing dwellings is required, the development application must:

- state the amount of affordable housing floor area to be dedicated, and any residual amount for which a monetary contribution is required;
- clearly identify on the plans the affordable rental dwellings proposed to be dedicated;
- demonstrate the appropriateness of the dwellings proposed for dedication, the location, size and quality of the affordable housing dwellings are to be to the satisfaction of Council. If they are not to satisfaction, Council may require changes to the development application, or that the contribution be made by way of an equivalent monetary contribution; and
- demonstrate the accountable total floor space of the development that was used to calculate the contribution.

Note: The area to be dedicated as affordable housing is gross floor area i.e. does not include balconies, car spaces, storage and common circulation areas. There are to be no 'savings' or 'credit' for floor space that already exists on the site, even if the building is being adapted and reused.

Section 2, 2.3 Equivalent Monetary Contribution:

- If the percentage of accountable total floor space results in an area which equates to less than 50 square metres, or where Council otherwise considers it appropriate to achieve a better affordable housing outcome, a monetary contribution equivalent to the market value of the dwellings that would otherwise be required will be sought as condition of development consent. In some cases, a contribution may comprise a combination of dedication and monetary contribution.
- Section 7.11 Development Contributions – A s7.11 contribution applies.
- SIC levy – A SIC levy applies. Advice required from Department of Planning and Environment (<https://www.planningportal.nsw.gov.au/special-infrastructure-contributions-online-service>) or SIContributions@planning.nsw.gov.au

Planning Controls

- Clause 4.6 variation – compliance with the FSR is noted. Please refer to clause 4.6(8)(ba) of Warringah LEP 2011 which states that the FSR is unable to be varied under clause 4.6.
- The minimum site area and site frontage requirements in clauses 8.6 and 8.7 of WLEP 2011 intend to act as a lot consolidation requirement. Site isolation of 3 Gladys Avenue is a fundamental issue with this application. The comments provided by the DSAP Briefing Report in relation to site isolation are supported.
- If 3 Gladys Avenue were to be redeveloped for residential flat buildings, it would be unable to meet minimum site area and site frontage requirements. If 3 Gladys Avenue were to be redeveloped as multi-dwelling housing, it would be unable to meet the minimum site frontage requirement.
- The Applicant suggests that 7 multi-dwelling houses would be capable at 3 Gladys Avenue, but no feasibility evidence has been provided to support this. This evidence would also need to consider contribution requirements such as affordable housing, SIC levy and s7.11 contributions.
- The site frontage is not easily identifiable and only makes up a small proportion of the site. Refer to Part G9, Control 5.2.6, Requirement 2 of WDCP 2011 which requires a street frontage. Blank walls fronting Gladys Avenue at Nos. 5, 5A & 7 is not a good urban design outcome and possibly presents CPTED issues?
- Side setbacks – support the view that a 6m setback is required for 5, 5A and 7 Gladys Avenue facing Gladys Avenue as per the DSAP report. 3.5m is not enough. The 0.9m



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setback to Nos. 9 & 98 Gladys Ave – does the ADG apply here? The Applicant notes that the ADG doesn't apply as the third storey is considered an 'attic'?

- Design excellence – refer to clause 8.5 of Warringah LEP 2011 and comments from DSAP.
- Schedule 1 Additional Permitted Uses – Area 24 does not apply to the subject site (it only applies to some lots fronting Frenchs Forest Road West)

Documentation to accompany the Development Application

- Lodge Application via NSW Planning Portal
- Statement of Environmental Effects, shall include the following matters:
 - Environmental Planning & Assessment Regulation 2021 – clause 35A Additional requirements for development applications in Frenchs Forest Precinct
 - Sustainability measures proposed with reference to Part G9, Control 8 of WDCP 2011 and Control 6 Parking
- Details to address the site isolation issue at 3 Gladys Avenue, see comments above.
- Scaled and dimensioned architectural plans:
 - Site Plan;
 - Floor Plans;
 - Elevations; and
 - Sections.
- The plan shall include the following details:
 - Affordable housing dedication (if physical dwellings are to be provided)
 - Parking should indicate spaces proposed for car share, electric vehicles, motorcycle parking, bicycle parking, parking for people with disabilities, car wash bay, storage facilities, with regard to Part G9, Control 6 of WDCP 2011
 - Number of parking spaces, noting the maximum parking rates
 - Waste collection areas, servicing/loading areas
 - Where relevant, sustainability measures
- Landscape Plan showing
 - Compliance with landscaped area, which forms part of the desired future character for the broader Frenchs Forest Precinct, as outlined in the Frenchs Forest 2041 Place Strategy
- Arboricultural Impact Assessment.
- Certified Shadow Diagrams (depicting shadows cast at 9am, Noon and 3pm on 21 June).
- QS Cost of works estimate/ Quote
- Survey Plan (Boundary Identification Survey)
- Site Analysis Plan
- Demolition Plan
- Excavation and fill Plan
- Geotechnical Report
- Waste Management Plan (Construction & Demolition)
- Driveway Design Plan (long and cross section)
- Erosion and Sediment Control Plan / Soil and Water Management Plan
- Stormwater Management Plan / Stormwater Plans and On-site Stormwater Detention (OSD) Checklist
- Traffic Impact Assessment

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 24 January 2023 to discuss demolition of existing dwellings on No.1, 5, 5a & 7 Gladys Avenue with consolidation of the lots and construction of a 30 unit multi—dwelling housing development with basement parking.

The notes reference the plans prepared by Walsh Architects dated 7 December 2022.

The amended plans address issues in terms of excessive car parking in the original scheme and the increased setback of the basement and development helps provide for some additional landscape open space, although it is noted that the Applicants calculation are not accurate.

The amended proposal fails to address the primary issues with the development in respect of site isolation to No. 3 Gladys. Issues also remain outstanding in relation to the breach of the site-specific planning controls in respect of side and rear setbacks, tree loss, landscape open space (as calculated in accordance with the definition of LOS in the WDCP), streetscape and character. The proposal also requires revision to address the servicing needs of the development and issues raised by Council's Transport Engineer, Development Engineer and Waste Officer.

In summary, the proposal, as amended, does not fully address the issues raised by DSAP and it remains inconsistent with the site-specific recently adopted planning controls. The proposal is not supported in its current form, and it is strongly recommended that the issues detailed in this report be address prior to the submission of any development application.

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.