



Pre-lodgement Meeting Notes

Application No:	PLM2022/0054
Meeting Date:	21 April 2022
Property Address:	8 Forest Road and 120 Mona Vale Road WARRIEWOOD
Proposal:	Construction of a road connecting 120 Mona Vale road and 8 Forest Road
Attendees for Council:	Jordan Davies – Principal Town Planner Dan Milliken – Acting Manager Development Assessments Liza Corboda – Strategic Planning Manager Robert Blackall – Senior Biodiversity Officer David Hellot – Senior Environmental Officer Coast and Catchments
Attendees for applicant:	Sam Mustaca – Applicant Representative Roy Mustaca – Owner/Applicant Representative Greg Boston – Consultant Town Planner

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 Pittwater Local Environmental Plan 2014 and Pittwater 21 Development Control Plan, 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.



BACKGROUND AND SPECIFIC ISSUES RAISED BY APPLICANT FOR DISCUSSION

Background

The proposal to construct a road between 120 Mona Vale Road and 8 Forest Road is to facilitate vehicular access and a new public road connection to the site at 120 Mona Vale Road. The land at 120 Mona Vale Road was rezoned in 2014 to R2 Low Density Residential and C4 Environmental Living, along with a minimum lot size of between 500sqm and 2000sqm, the rezoning allows for residential development under the Pittwater LEP 2014.

A previous 'concept development application' N0330/16 (or 'staged DA') was submitted to Council in 2016 for 120 Mona Vale Road that sought concept approval for residential development comprising of the '*Subdivision to create 62 residential allotments and construction of dwellings on each lot, demolition of existing structures and construction of associated infrastructure/ civil works (including works to Boundary Street road reserve) and landscaping*'. A concept development application was submitted in response to Clause 6.2(2) PLEP 2014 which requires that "*Development consent must not be granted for development on land identified as "Clause 6.2" on the Urban Release Area Map unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land*". Under Clause 4.23 EP&A Act 1979, a concept development application (or commonly known as a 'staged DA') can be made to satisfy this obligation of the PLEP 2014 provided the concept development application contains the information required to be included in the DCP. Clause 6.2(3) sets out the information to be contained within the DCP. Of importance, the DCP requires (a) *a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing, including the final design and construction of the required road access*'

The previous development application N0330/16 was considered by the NSW Land and Environment Court as a Class 1 Application (deemed refusal). The application N0330/16 nominated the vehicle access to 120 Mona Vale Road via an existing Right of Way through 10 Jubilee Avenue (owned by Uniting Church of Australia), connecting the site to Jubilee Avenue. At present, this ROW is the only vehicular access to the properties fronting Boundary Road which includes 120 Mona Vale Road. The ROW through 10 Jubilee Avenue has specific terms which only allow for the present number of dwellings upon 120 Mona Vale Road utilise it. The proposed development would significantly increase the number of dwellings and vehicles using the ROW, inconsistent with the existing terms of the ROW.

In consideration of the Class 1 Appeal, the Court was not satisfied the application had demonstrated suitable vehicular access via the ROW will be made available or adequate arrangements had been made for vehicular access, as required under Clause 7.10 PLEP 2014. Similarly, the court found the application did not satisfy Clause 6.2 in making provision for the necessary infrastructure (road access) to the development. The appeal was dismissed and the application was refused.

It is understood that at present, there is a separate S88K proceedings in the Supreme Court in relation to vehicular access through 10 Jubilee Avenue.

Proposal

The proposal submitted under this PLM is for an access road that connects the formed section of Boundary Road to Forest Road, commencing at 120 Mona Vale Road, within a portion of an unformed section of Boundary Road and through the development site at 8 Forest Road then connecting to Forest Road. The applicant has provided concept road alignment consisting of one (1) page of information. Whilst it is appreciated this is for discussion purposes, the information provided is very limited and therefore Council can only provide advice in response



to the extent of information provided.

Based on the topography of the land, it is anticipated significant cutting/filling of the land and a bridge crossing of Narrabeen Creek would be required to construct the access road (although not shown on the plan submitted).

Summary of Advice/Issues Raised by Council

Below is a summary of the key issues that Council sees with the proposal to construct the road.

- 1) The purpose of the road is to facilitate access to a future residential development. The applicant must detail the traffic volume that the road is required to cater for. In this regard, Council's advice is for the applicant to submit a 'concept development application' (under Div 4.4 EP&A Act 1979) which details the construction of the road and the matters to be considered under Clause 6.2 PLEP 2014. This is also because the proposed works are likely to extend into land identified on the [Urban Release Area Map](#) which would trigger Clause 6.2 PLEP 2014.
- 2) The proposed works would traverse land identified on the NSW Government's Biodiversity Values Map and works are likely to result in a significant impact to biodiversity, noting there may be further impacts as a result of the bridge construction and requirements of Planning for Bushfire Protection. Council's Biodiversity Team raise significant concerns regarding the proposal, do not consider that it will avoid and minimise impacts to Biodiversity, and are concerned that the development will create further fragmentation of the Riparian Corridor within Narrabeen Creek. Council's Biodiversity Team do not support the proposal, however, they have provided a list of documentation to accompany any development application that is submitted.
- 3) Council's Traffic Engineers have raised concern regarding the ability for the proposal to satisfy the road geometry requirements given the difficult topography of the land and see this as a significant issue to overcome. See their detailed comments later in this report.
- 4) Council's heritage officer does not support the alignment of the road in respect to the impact upon the existing farmhouse on 8 Forest Road, see the detailed comments later in this report.
- 5) Council's advice to the applicant is that should a development application be submitted, the applicant must demonstrate that all other viable options for road access to the site have been extensively exhausted prior to this option being considered by Council. This includes demonstrating to Council that the various routes that involve a public road connection to Jubilee Avenue, through the properties to the east of the site, have been exhaustively investigated.

The proposed road access is not the preferred outcome for Council from an environmental perspective given this includes a crossing through a Riparian Corridor and will likely result in a high level of tree removal, excavation, damage to rock outcrops, and fragmentation of the bushland/riparian corridor. Furthermore, concern is raised regarding the applicant achieving road geometry in accordance with the necessary standards to cater for the required traffic volume of the future development, whilst minimising impact on the natural environment.

- 6) Each of the relevant referral departments in Council have provided their comments below in these notes as well as a list of documentation that must accompany the application should the applicant submit a DA to Council.



PITTWATER LOCAL ENVIRONMENTAL PLAN 2014 (PLEP 2014)

PLEP 2014 can be viewed at <https://www.legislation.nsw.gov.au/view/html/inforce/current/epi-2014-0320>

Part 2 - Zoning and Permissibility	
Definition of proposed development: (ref. PLEP 2014 Dictionary)	“Roads”
Zone:	The road would likely extend across R2 Low Density Residential, R3 Medium Density Residential, RU2 Rural Landscape and C2 Environmental Conservation zoned land
Permitted with Consent or Prohibited:	“Roads” are permitted with consent in the above zones

PITTWATER 21 DEVELOPMENT CONTROL PLAN (P21DCP)

P21DCP can be viewed at <https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Pages/Plan/Book.aspx?exhibit=P21DCP>

Specialist Advice
<p><u>Biodiversity</u></p> <p>Council’s Biodiversity team have reviewed the submitted plan for construction of a roadway within the unformed road reserves of Boundary Street, Forest Road and adjoining Lots in Warriewood. These pre-lodgement comments include consideration of impacts in the context of the site including the RU2 and C2 zoned portions of the unformed road reserves, the Narrabeen Creek catchment/riparian corridor and the directly adjoining Ingleside Chase Reserve. In summary, the biodiversity team do not support the construction of a new roadway across Narrabeen Creek in this location due to the scale of likely impacts to biodiversity values and inconsistency with relevant planning controls.</p> <p>Whilst it is acknowledged that the proposal is in early planning stages, the site plan submitted with the pre-lodgement application does not sufficiently detail all likely design and construction requirements, and the associated extent of direct impacts (e.g. construction /engineering requirements, excavation/cutting, creek/bridge crossing, retaining walls and stormwater infrastructure) resulting from the proposal. Further concerns include the likely indirect impacts resulting from the proposal including increased fragmentation of the Narrabeen Creek riparian corridor, weed invasion, downstream impacts and changes in hydrology, increased sedimentation traffic, noise and light.</p> <p>The biodiversity team do not support construction of a new roadway across Narrabeen Creek in this location due to the scale impacts to land of high biodiversity value, including threatened species habitats, connectivity/wildlife corridors and the directly adjoining Ingleside Chase Reserve. Council is currently establishing a Biodiversity Stewardship site over the Ingleside Chase Reserve, and is required to actively manage the site for biodiversity conservation.</p> <p>Part of the site impacted by the proposal is mapped on the NSW Governments Biodiversity Values Map and works are likely result in a significant impact to biodiversity. Additional impacts</p>



Specialist Advice

such as potential NSW RFS requirements to address bush fire safety access/egress also require consideration and may result in further clearing of natural areas.

Responses are provided to the following applicable biodiversity related planning controls/legislation;

- **Pittwater Local Environment Plan 2014 – Zone C2 Environmental Conservation**

Comment: the proposal is considered to be inconsistent with all environmental conservation based objectives of the C2 zone.

- **Pittwater Local Environment Plan 2014 – cl. 7.6 Biodiversity**

Comment: The proposed roadway is located within an area identified as “Biodiversity” on the Biodiversity Map. The proposal is considered inconsistent with the objectives of Clause 7.6 Biodiversity of the Pittwater LEP.

- **Pittwater 21 Development Control Plan - Category 1 Flora and Fauna & Wildlife Corridor**

Comment: The proposal would directly fragment the wildlife corridor on Narrabeen Creek. The proposal is considered to be inconsistent with the outcomes and controls identified under B4.2 and B4.6 of the Pittwater DCP.

- **NSW Biodiversity Conservation Act 2016 and NSW Biodiversity Conservation Regulation 2017 and Biodiversity Values Mapping.**

Comment: The proposal does not avoid or minimise impacts to biodiversity. The proposal includes areas mapped on the NSW Biodiversity Values map and will likely trigger requirements of the NSW Biodiversity Offsets Scheme.

On the basis of the above, proposal cannot be supported by the biodiversity team.

Submission requirements

Where the applicant proceeds with an application regarding the proposal, the following biodiversity related reporting requirements must accompany the application;

- Biodiversity Development Assessment Report (BDAR) –under a Part 4 application. The BDAR must demonstrate that impacts have been avoided and minimised where feasible.
- Biodiversity/ Management Plan – addressing impacts during pre-construction, during construction, post construction and during operational phases of the project.
- Assessment and reporting must address all relevant planning controls (as above) and demonstrate consistency with relevant objectives and requirements.

Riparian

The comments below are based on the information provided at the PLM meeting for the creation of a crossing between 8 forest road and 120 Mona Vale Road.

The paper road is crossing Narrabeen Creek an important creek morphology feature. Narrabeen creek is transitioning from a steep channel contain in the escarpment to a broader valley setting. The riparian team is unlikely to support the proposal due to the environmental impacts on the riparian and creek system.

In reference to:



Specialist Advice

- Pittwater 21 Development Control Plan » Section C Development Type Controls » C6 Design Criteria for Warriewood Valley Release Area » C6.1 Integrated Water Cycle Management
- Water policy for development
- DPIE NRAR guidelines for crossing (https://www.industry.nsw.gov.au/__data/assets/pdf_file/0019/160471/licensing_approvals_controlled_activities_watercourse_crossings.pdf)
- Warriewood-valley-urban-land-release-water-management-specification-2001

The Pittwater 21 Development Control Plan C6.1 outcomes are difficult to achieve with the proposed Creek crossing. The proposed bridge location is against the objective to establish a network of multi-functional living creekline corridors particularly Narrabeen Creek. The bridge and associated structures are impeding the existing linkages for wildlife movement by impacting the creek and riparian connectivity.

In Warriewood the creek line corridor is to generally comprise a total width of 100 metres, comprising of a 50 metre wide Inner creekline corridor (being 25 metres either side of the centreline of the creek) and an Outer creekline corridor 25 metres wide each side of the Inner creekline corridor.

As a minimum infrastructure is not to be located in the first 25m creekline corridor known as the Inner creekline corridor.

It is noted that the Warriewood-valley-urban-land-release-water-management-specification-2001 is identifying 4 major crossings (4.5.3. Flood Evacuation). Additional minor pedestrian/cycleway bridges can be provided over Narrabeen Creek, but the Warriewood specification are not including any additional major bridge structure.

If the applicant wish to proceed with a development application there are a number of issues that are to be considered and reported when submitting designs for crossings associated with watercourses.

These include but are not limited to:

- Facilitating the upstream and downstream movement of fish and invertebrates where this movement is significant. Drop structures and pipe culverts can hinder this movement.
- Minimising scour downstream of the waterway crossing. Increased flow velocities through waterway crossings may scour the channel, resulting in erosion and habitat loss.
- Assessing the impacts on upstream channel erosion of any creek 'realignment' works associated with waterway crossings.
- Acknowledging that watercourses are in a state of 'dynamic equilibrium', and can change their location and form under natural conditions. Waterway crossings may restrict this dynamic process or be undermined by the process.
- Providing an appropriate waterway area and geometry for creek crossings to minimise impact on upstream flood conditions.
- All waterway crossings are to be free-spanning structures with piered approaches. The deck obvert of spans should be set at the appropriate flood planning level
- Where cycleways and walkways are designed to cross under bridges, thereby exposing the population to risk from rising floodwaters, appropriate signage is to be provided
- box culverts will not be supported



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Traffic

There is limited information to comment on based on the application in isolation for the road only. The notes below are provided based on the detail provided in the PLM.

- Little information provided for the PLM upon which to comment.
- No objection in principle to the proposed road however further details and supporting information are required.

The following matters will need to be considered and addressed in a traffic impact report accompanying any DA:

- The purpose of the road and its intended traffic (i.e. how many dwellings and/or generated traffic it will cater for together with any anticipated reassignment of existing traffic)
- The proposed road widths (7.5m carriageway with 1.5m footpath on one side and a 2.5 m shared user path on one side would be acceptable for an Access Street)
- The proposed road gradients – the topography is steep and the road may require excessive gradients which may result in a propensity for unacceptable speeds and/or unsafe conditions for traffic and/or pedestrians
- Impact on traffic conditions in the surrounding road network – SIDRA modelling of Jubilee/Ponderosa and Forest Road/Macpherson
- Impact of the road on school operations particularly in the before and after school period and details of measures to maintain student safety. Liaison with the school to ensure their concerns are addressed is expected
- Adequacy of the road to cater for anticipated traffic volumes and types
- Bridge design over the creek – bridge must be of a suitable design and width to cater for the heaviest vehicles anticipated to use the road (garbage trucks and removalist vans at a minimum)
- Streetlighting details (designed to meet the requirements of AS/NZS 1158 – Lighting for roads and Public Spaces)
- Applicant to advise will it be a public or private road.

Development Engineering

In addition to the traffic engineer comments above, the following comments are provided:

- 1) Road geometry and footpath widths as per Traffic's comments and generally in accordance with the Warriewood valley roads Masterplan, August 2018.
- 2) The proposed road gradients for an access street should be a maximum of 12%, however 16% gradient may be acceptable for shorter distance. Please refer to Council's Auspec one design guidelines.
- 3) If the road reserve within Boundary Street is a Crown Road reserve, then it will need to be transferred to council upon Council's request. The road would also need to be a public road.

Transport and Civil Infrastructure

The engineering design of the road is a matter for development engineers to advise the detail in accordance with Council's engineering design standards. In principle, transport of civil infrastructure team does not have a significant objection to the proposal if it can be made to work



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from an engineering and traffic point of view including the connection to Forest Road. The road geometry is concerning and likely to result in undesirable vehicle speeds.

Heritage

Council's Heritage team have reviewed the submitted plans for the construction of a roadway within 8 Forest Road Warriewood and considered them for the impact upon the existing farmhouse known as 'Oaklands'. This cottage has been identified as being of heritage significance and is to be retained under the existing consents for 8 Forest Road.

Upon review of the preliminary plans Heritage advises it cannot support the proposal for the following reasons:

- Complete removal of the landscaped garden setting and curtilage at the front of the cottage with a negative impact to the house and its significance.
- Negative visual impact from the removal of open landscape space between Buildings C, D and the farmhouse.
- Extensive excavation for the road and its associated facilities with impacts to the elevated rock/sandstone base for the cottage as well as associated physical fabric.
- Impacts upon landscape curtilage of the cottage from the road and associated works (excavation, retaining walls etc).
- Physical and visual separation of the farmhouse from its land by way of a busy local street.
- Removal of the bush landscape setting to the north and south of the cottage which is a significant part of its significance.
- Impacts to servicing of the cottage and required relocation of the garage from its preferred current location to a location with a greater visual impact.
- Unclear as to whether there is the physical space between the cottage and Building C to contain required carriageway width as well as pedestrian pathways and servicing required to support that road.

Heritage would be unable to support any road that went between the cottage and Building C without there being a significant setback and landscape buffer of a minimum 6.5m so as to not impact upon the setting and curtilage of the item. Any proposal would need to be supported by a Heritage Impact Statement as well as a Conservation Management Strategy to support and maintain the item's heritage values and significance.

In addition, Heritage understands there may be a sandstone quarry within and adjoining the Boundary Road reserve and Narrabeen Creek, in the area of the proposed bridge. This quarry may have a relationship to the sandstone base of Oaklands. Any heritage assessment would also need to assess this quarry for its heritage significance, firstly to Oaklands but also on its own merits.

Strategic Planning

The construction of a roadway should not be presented as a DA on its own. Its purpose is to provide vehicular access to a development proposed at 120 Mona Vale Road – of a density and scale that is as yet unknown. Given the bushfire hazard and the complexities with existing conditions as well as that the portion of the road is a 'paper road' and will require consent from the Crown, the approach should be the development be considered as a Concept DA (colloquially known as Staged DA).

Clause 6.2 specifically applies to the future development of 120 Mona Vale Road and amongst its matters for consideration will be the vehicular access to and from 120 Mona Vale Road.



Specialist Advice

Waste

Road to be designed and constructed in accordance with the requirements contained within the Waste Management Guidelines. Specifically Chapter 7 – Private Roadway Developments.

Design requirements include, but are not limited to:

- Road pavement must be a minimum of 6 metres wide kerb to kerb where on-street parking is prohibited.
- Road pavement must be a minimum of 7.5 metres wide kerb to kerb where on-street parking is permitted.
- Any stormwater infrastructure (eg. pipes, OSD tanks) placed under the road pavement must be able to carry the weight of a 23 tonne waste collection truck.
- 4.5 metres clearance above the road pavement required for operation of waste collection vehicles

A positive covenant will be required to be placed on the lot containing the roadway to indemnify Council and the contractor. Wording for the covenant will be provided by Council.

Documentation to accompany the Development Application

- Lodge Application via NSW Planning Portal
- Owners consent from the Crown
- Statement of Environmental Effects
- Scaled and dimensioned plans:
 - Site Plan;
 - Road Plan;
 - Elevations; and
 - Sections.
 - Detailed road and bridge design plans
- Cost of works estimate prepared by a quantity surveyor
- Survey Plan (Boundary Identification Survey)
- Site Analysis Plan
- Demolition Plan
- Excavation and fill Plan
- Waste Management Plan (Construction & Demolition)
- Erosion and Sediment Control Plan / Soil and Water Management Plan
- Stormwater Management Plan / Stormwater Plans
- Heritage Impact Statement and Conservation Management Strategy
- Traffic Impact Report and SIDRA Modelling
- Biodiversity Development Assessment Report (BDAR)
- Biodiversity Management Plan
- Street Lighting Plan
- Arboricultural Impact Assessment
- Flood Report
- Construction Traffic Management plan and Construction Methodology Plan
- Bushfire Report



- Aboriginal Heritage Assessment Report

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 21 April 2022 to discuss construction of an access road at 120 Mona Vale Road and 8 Forest Road. The notes reference the plans prepared by Mapstead and Associates dated 12/11/21.

The proposal in its current form would not be supported by Council due to the very likely high level of impact upon biodiversity and the creekline, the difficulty in road geometry, and heritage impacts resulting from the proposed road. The applicant is to explore alternatives that are available to them that are likely to result in lesser environmental impact (options for access to the east of the site). Should a development application be lodged, the applicant is to demonstrate that all other options for road access to 120 Mona Vale Road have been extensively exhausted and present detail to prove this within the development application.

Whilst it is acknowledged that the site 120 Mona Vale Road is required to be provided with some form of connection to a public road to enable site development, the proposed option is not Council's preferred outcome given the likely impact that will result from road construction over the varied terrain and bushland. Council strongly recommends that the option with the least environmental impact be chosen.

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.