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**From:** Teamjest Pty Ltd [REDACTED]  
**Sent:** Wednesday, 7 February 2024 8:58 PM  
**To:** Council Northernbeaches Mailbox  
**Subject:** re: Mod2023/0476 - Note for the NBLPP on Wednesday 14 February 2024.  
**Attachments:** Note-NBLPP\_Mod2023\_0476~7Feb24.pdf; Form-2060\_LodgeReqs~June23.pdf

**Importance:** High

**Categories:** Amelia

[Attention M/s Heidi Young.](#)

As I am unable to attend the above **NBLPP** meeting, would you please ensure these two attachments are provided to the Panel members for their consideration, ideally well before next Wednesday.

Kind Regards,

**Dr Peter McDonald**  
10/6 Foley Street  
Mona Vale NSW 2103  
[REDACTED]

# **Note to NBLPP-14 February 2024**

## **Mod2023/0476 - DA2019/0123**

Address: Lot 120 DP 135512 and Lot 27 DP 5055 and Lot 26 DP 654262 80-82 & 84 Mona Vale Road MONA VALE and 22 Jubilee Avenue WARRIEWOOD

Dear Panel Members,

As a prior Board commitment prevents me from attending this NBLPP meeting, I have requested that this brief document be provided to each of you beforehand.

I have genuine concerns that due consideration has not been given to some of the matters raised in my 13 October 2023 Submission (refer two attachments). As I will initially be referring to sections within Form 2060, I have also attached pages 1 to 4.

In A. a) of my Submission I questioned the validity of submitting Site Plans (cf. pages 22, 23, 14/4/24 Agenda) that do not include a structure (i.e. Return & Earn installation) in place in August 2018 - six months before the 'indicative' Site Plans were produced and first submitted in 2019.

Perhaps some of you also noted this discrepancy when you visited the site.

Quite clearly, this contravenes the intent of a 'Site Plan' and 'Site Plan Analysis' as detailed in page 4, Form 2060, but was deemed acceptable for this Mod in 2023/24.

In A. b) quoting directly from page 3, Form 2060, I highlighted that '*... reports must be updated so they are relevant to the development as modified. Alternatively, a letter may be provided from the original author ...*'

To date, neither an updated Traffic & Parking Report nor a Letter from the original author of the October 2020 Traffic Report has been submitted.

In B. I transparently detailed what the original/DA2019/0123 Panel meant by 'construction of a footpath' and why this Panel (in June 2019) deferred its construction 'until such time as a modification is lodged extending the consent period.'

Given the 5yr-trial has been successful and Council is recommending a 5yr consent be issued up to September 2029, '*upgrading the Foley Street frontage to ensure a clear and safe passage*' demands deeper consideration.

Kind Regards,

Dr Peter McDonald

# **Submission in Detail**

## **Mod2023/0476 - DA2019/0123)**

Address: Lot 120 DP 135512 and Lot 27 DP 5055 and Lot 26 DP 654262 80-82 & 84 Mona Vale Road MONA VALE and 22 Jubilee Avenue WARRIEWOOD

### **A. Indicative, Outdated, Incomplete, Missed Support Documents**

After more than 4 years of operation it is ridiculous that the Applicant is relying upon indicative, outdated and incomplete support documents, as well as missed a very crucial one, to support this Modification Application.

- a) The 13 February 2019 ‘Indicative Market Layout’ (within the Master Plans) does not reflect today’s market reality nor was it valid at the time. On Sunday 1 October 2023 I was advised a total of only **34** stalls were in operation, significantly below the 100+ stalls Frenchs Forest market this food market was meant to replace.

While in August 2018, six months before the layout was produced, a Return & Earn installation (attached separately) occupying 4-5 of the indicative stalls was in full operation but it has never been reflected in this layout.

- b) ‘Outdated’ 7 October 2020 Traffic & Parking Report – In terms of Reports, NBC’s June 2023 Form 2060\* clearly states on page **3**:

*“If the original development application is supported by reports, the reports must be updated so they are relevant to the development as modified. Alternatively, a letter may be provided from the original author of the report/s stating that the recommendations of the original report, are still current for the proposed modification.”*

Hence, the Applicant’s passing remarks under Traffic & Parking, at the foot of page **1** in the Request for Modification, do not satisfy NBC’s minimum report requirements, as quoted in the previous paragraph.

- c) ‘Missed’ Owners Consent Form – NBC’s June 2023 Form 2060\* clearly states on page **2**:

*“Where the Applicant is not the owner, or where there are multiple owners, written land owners consent is required for all development applications. Refer to Council’s Forms page for (the) relevant Owners Consent Form to be completed.”*

*“Where a landowner is one of the following, the below (4 options given) additional supporting documentation must also be provided.”*

To date, no such documentation has been lodged and/or made available in the Mod2023/0476 site.

\* **Note:** Development Application & Modification Lodgement Requirements is the full title of NBC’s June 2023 Form 2060.

## **B. Extending the Approval for the Conduct of Mona Vale Markets**

All things considered, I would agree with the Traffic Engineer’s 9/10/23 response that it is prudent in these volatile times not to extend the approval on an open-ended basis.

Furthermore, I suggest Council would have some difficulty extending approval for any given number of years beyond 2024 unless it aligns with the yet to be supplied Land Owners’ Consent document.

Also let’s not forget what the Planner for Mod2021/0047 confirmed to that Mod’s Panel in his 13/4/21 Memo about ‘Deferred Construction of Footpath’.

*“In the original approval the condition for construction of a footpath along Foley Street for pedestrian safety was deferred by the NBLPP subject to the trial being successful and a 5yr consent being issued.”*

*“Reason: in relation to (this) Condition, the original Panel deferred consideration of the requirement for construction of the requirement of a footpath until such time a modification is lodged extending the consent period.”*

*“Given the acceptance of the additional information and support of the extension to the consent, the requirement for the construction of footpaths for pedestrians is recommended to be reinstated in the consent.”*

It must be mentioned that to remove any doubt about what DA2019/0123 intended, Council in its 19 June 2019 Memo to the original Panel clarified the ‘footpath’ requirement as follows:

*“DA2019/0123 does not propose footpath upgrades. However, Council’s Traffic Engineer recommends that the gravel portion of the Foley Street frontage (i.e. where there is not yet a formal footpath) be upgraded to ensure a clear and safe passage along the frontage of the site. The requirement fulfils a need in that the proposed development will attract additional foot traffic to the site, and the existing gravel may be a pedestrian issue.”*

### **C. Traffic Management – Revised Condition 12**

Over time the Applicant's adherence to the current version of this Condition has proven to be very problematic indeed.

For instance, although the long-time resident most affected, M/s Valerie Jensen, 185 Warriewood Road, Warriewood reported breaches of Condition 12 on 5 separate Occasions (30 August, 7&17 September, 7&8 October in 2020), Council did not confirm her reporting of them until 28 April 2021 – six months later. Nor was any action taken by the Council against the Applicant.

However, on 13 August 2021, M/s Jensen received a somewhat encouraging letter from M/s Louise Kerr, Director Planning & Place, advising that:

*“Council has written to the operator of the Markets seeking the submission of an application to implement traffic control, within 30 days. The application is to be supported by a traffic control plan prepared by a person holding the appropriate qualifications issued by SafeWork NSW.”*

*“We will provide you with an update, following the response from the operator of the Markets.”*

Indicating that nothing has actually changed, M/s Jensen mentions in her 10 October 2023 submission, that on Sunday 8 October she *‘had to call the rangers once again, cars were parking in the bus stop and outside my driveway. My access was blocked once again.’*

Consequently, I am very much in agreement with the approach taken by the Traffic Engineer to revise Condition 12 in the 9/10/23 Referral Response.

In particular, the inclusion of measures in the TMP to:

1. Manage traffic movements into and out of the RSL driveways.
2. Redirect traffic as required to reduce queueing & delays in the nearest streets.
3. Physically prevent illegal parking activity on nature strips.



Pittwater RSL August 11, 2018 · 61

Return & Earn is at Pittwater RSL! Come down to the club with your recycling and earn some extra money. The Return & Earn Vending Machine can be found in the back of our car park and is easily accessible to the public. Containers that can be returned are 150ml to three litre bottles plastic, glass and aluminum. For every bottle return you will get 10 cents so start sorting your recycling. See you soon!

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Most Relevant

- Comments from Anneke Connell, Michelle Parsons, Katie Page, Hayley Hoile, and Jacqui King.

# Development Application & Modification Lodgement Requirements

Council has developed this guide to assist applicants in preparing their Development Application for lodgement. The guide includes lodgement instructions, as well as the mandatory documentation Council requires. Documentation required will depend on the nature of the development proposal, the location of the site, and any site constraints. Applicants may contact Council's Development Advisory Service on 1300 434 434 should assistance be required in identifying this documentation.

Applicants should refer to Council's [Planning Controls](#) to ensure documents are prepared in accordance with relevant requirements.

Office use only	
Form ID	2060
Last updated	Jun 2023

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Electronic Model	15	Water Sensitive Urban Design Strategy Report	20
Energy Performance Report	15	Water Table Report	20
Environmental Impact Statement	15	Water Management Plan / Waterway Impact Statement	20

## Important Information

### Important Information for all Applications

It is a legislative requirement that all applications **must** be lodged through the NSW Department of Planning and Environment's Planning Portal. For steps outlining how to lodge your Development Application, please refer to Council's [Lodge your Application](#) web page.

#### Documentation

To allow Council to process your application in a timely and efficient manner, please ensure documents are lodged in accordance with the following:

1. Mandatory documentation is lodged as outlined on page 1.
2. A Master Set of plans, as outlined on pages 3-6, are to be uploaded as one file on the Planning Portal (Document Type 'Architectural Plans').  
\* **Note:** *Landscape and stormwater plans are to be uploaded as separate files in the portal.*
3. Reports are uploaded separately.
4. Documents are to be titled in the below naming format examples:
  - Owners Consent
  - Cost Summary Report Form
  - Report - Statement of Environmental Effects
  - Report - Statement of Modification
  - Report - Clause 4.6
  - Report - Bushfire
  - Report - BASIX Certificate
  - Report - Geotechnical
  - Report - Waste Management Plan
  - Plans - Master Set
  - Plans - Landscape
  - Plans - Stormwater

#### Disclaimer – Documents on Public Exhibition

By lodging a Development Application you acknowledge and agree to the use of all relevant plans and reports lodged with the application for public exhibition purposes and note that they will be made available to the public on Council's [Application Search](#).

Note: It is not the responsibility of Council to remove signatures or owner's details from documentation lodged, this is the responsibility of the applicant prior to lodgement of the application.

#### Owners Consent

Where the applicant is not the owner, or where there are multiple owners, written land owners consent is required for all development applications. Refer to Council's [Forms](#) page for relevant Owners Consent Form to be completed.

Where a landowner is one of the following, the below additional supporting documentation must also be provided:

- **Company / Organisation**  
Applicant must provide an ASIC Current Company Extract document. Where there is more than one company owner, council may request additional supporting documentation. Document must list office holders.
- **Land/New Owners(s)**  
Applicant must provide a copy of the Notice of Sale or Settlement Letter. Strata Title / Owner's Corporation (if the property is a unit under strata title or a lot in a community title) Applicant must provide a letter on strata management letterhead, clearly stating the words 'Support for lodgement of Development Application'.
- **Joint Wall / Fence**  
When works affect a joint wall, consent of all affected property owners is required (e.g. Semi-detached dwelling). The title document or a current rates notice of each property will provide this information.
- **Legal Authority**  
If you are signing on the owner(s) behalf as the owner(s) legal representative, you must state the nature of your legal authority and attach documentary evidence (e.g. power of attorney, executor, trustee, company director, etc.)

**Note: Council may request additional supporting information depending on the nature of the development proposal.**

#### Integrated Development

All required approvals, in accordance with Section 4.46 of the Environmental Planning and Assessment Act 1979, must be stipulated when lodging an application on the Planning Portal.

Council's Fees and Charges outline applicable Integrated Development fees.

Council will raise a request to the relevant agency through the Planning Portal for applications where integrated referrals are applicable. Further fees may be payable directly to the referral agency via the Planning Portal.



## Important Information

### Modification Application Requirements

The following documents must be submitted for all modification applications:

- **Statement of Modification**

Describe in detail all the proposed modifications and discusses any impacts these changes have on the relevant planning controls and on adjoining or nearby properties. The statement of modification is to make clear if the proposed works have been undertaken in part or full, as council cannot determine a modification application retrospectively as established by *ku-ring-gai council v buyozo Pty Ltd [2021] NSWCA 177*.

- **Plans**

If the amendments involve changes to the design, the application must include copies of approved plans from the original development consent, indicating all proposed modifications. The modifications must be clearly highlighted and should be in colour.

- **Reports**

If the original development application is supported by reports (i.e. Bushfire, geotechnical, flood risk assessment, statement of heritage impact, etc) the reports must be updated so that they are relevant to the development as modified. Alternatively, a letter may be provided from the original author of the report/s stating that the recommendations of the original report, are still current for the proposed modification.

- **Basix Certificate**

An amended basix certificate is required if the original application included one.

The following is required for any modification to a SEPP 65 development:

- **Design Verification Certificate - Modifications**

A statement by the qualified designer who designed, or directed the design of, the original development, stating that the modifications will still result in a development that is consistent with the design quality principles set out in Schedule 1 of the SEPP No 65 – Design Quality of Residential Apartment Development, and an assessment of the proposal against any provisions (relevant to the modifications) of the Apartment Design Guide.

### Important Information for All Plans

All plans are to clearly highlight the proposed works. Buildings or parts of buildings to be demolished are to be indicated using a dotted line or are to be shown on a separate plan.

The following information must be included/shown on all plans:

- plans must be to scale (1:100 or 1:200) with the scale clearly identified on each plan,
- applicant(s) name(s),
- property address (block/house/shop/flat number),
- lot number, section number and Deposited Plan / Strata Plan number,
- measurements in metric,
- draftsman/architect name,
- plan/document reference details (date, plan/document name and number, plan version/revision etc.).

All plans submitted as part of your application (e.g. site plan, roof plan, landscape plan) must be consistent in detail.

For food premises, the plans must show details in accordance with the relevant Australian Standards (including AS 4674).

For skin penetration premises, the plans must show details in accordance with the Public Health Act.

### Development in Frenchs Forest Precinct - Additional Requirements

All development applications within the Frenchs Forest Precinct must be accompanied by an assessment of the consistency of the proposed development with the Frenchs Forest 2041 Place Strategy.

A concept development application to a consent authority for development consent to carry out development on Site F must be accompanied by a study about traffic and transport that:

- a. is endorsed by Transport for NSW, and
- b. sets out the transport infrastructure and capacity that will service Site F.

**Note: See Clause 35A of the EP&A Regs for further detail**

## Mandatory Plans

### Architectural Plans (Master Set) - To be uploaded as one document

Architectural plans are to be submitted as **one** document and titled '**Plans - Master Set**' (excluding Landscape and Stormwater).

Master Set should include the following plans (as applicable) which are outlined in further detail below:

- Site Plan
- Site Analysis Plan
- Demolition Plan
- Floor Plans
- Elevation and Section Plans
- Waste Management Site Plan
- Excavation and/or fill Plan
- Subdivision Plan
- Certified Shadow Diagrams
- Schedule of Colours and Materials
- Photo Montage
- Road Design Plan
- Advertising Structure / Sign Plan

All development applications within the Frenchs Forest Precinct must be accompanied by an assessment of the consistency of the proposed development with the Frenchs Forest 2041 Place Strategy.

A concept development application to a consent authority for development consent to carry out development on Site F must be accompanied by a study about traffic and transport that:

- a. is endorsed by Transport for NSW, and
- b. sets out the transport infrastructure and capacity that will service Site F.

**Note: See Clause 35A of the EP&A Regs for further detail**

#### Site Plan

A site plan must be submitted with all applications, and is to include (where relevant):

- boundary locations and all site measurements (length, width and area, both existing and proposed),
- dimensioned distances of the new and existing works in relation to site boundaries,
- any minimum setbacks/building lines (shown dotted/dashed) as prescribed by the relevant plan or policy,
- location of
  - » all buildings/structures on adjoining land, including levels and any openings or decks/balconies facing the site
  - » all existing and/or proposed impervious areas/hard surfaces, including dimensions of driveways, decks, paved areas etc
  - » any existing or proposed swimming pools, proposed fences and landscaping features, including retaining walls, paths etc
  - » vegetation and natural features, including canopy trees, rock outcrops etc.
  - » any existing and/or proposed rainwater tanks, including capacity
  - » existing and/or proposed car parking, pedestrian and vehicle access, indicating gradients
  - » existing and/or proposed stormwater infrastructure and/or easements (Council and private), both within the site
  - » and the adjacent road reserve,
  - » all existing and/or proposed electrical infrastructure, including easements, kiosk substations and power poles both within the site and the adjacent road reserve,
  - » any utility manholes, street trees, driveway crossovers and bus stops in the adjacent road reserve,
  - » any existing and/or proposed flue/chimney/exhaust and dimensioned distance from the nearest openings of
  - » adjoining buildings,
- any heritage and archaeological features,
- contours at 1m intervals,
- north point (true north),
- width of road reserve.

#### Site Analysis Plan

A context and site analysis plan must accompany all applications, demonstrating that consideration has been given to site constraints and the context of the immediate locality, including (but not limited to):

- views to and from the site,
- solar access and overshadowing,
- views and solar access enjoyed by adjacent properties,
- adjoining and nearby land uses,
- location of all existing and/or proposed electrical infrastructure, including easements, kiosk substations and power poles
- both within the site and the adjacent road reserve,
- bush fire mapped hazards, flood affectation, coastal hazard etc
- orientation, microclimate and noise sources,
- significant vegetation.

#### Demolition Plan

A demolition plan must be submitted with all applications involving demolition and is to clearly identify all structures to be demolished