

Strategic Planning Referral Response

Application Number:	DA2021/0053
Date:	04/08/2021
To:	Jordan Davies
Land to be developed (Address):	<p>Lot 7 DP 1251955 , 121 Dove Lane WARRIEWOOD NSW 2102</p> <p>Lot 1 DP 1266557 , 111 Dove Lane WARRIEWOOD NSW 2102</p> <p>Lot 4 DP 1251955 , 101 Dove Lane WARRIEWOOD NSW 2102</p>

Officer comments

Introduction

This assessment is informed by the additional information received by Council on 17 June 2021 and whether these additional details resolves the concerns initially raised by Strategic and Place Planning (S&PP) in its response of 6 April 2021 (TRIM 2021/213624).

The description of this development, based on the Statement of Environmental Effects prepared by City Plan reads as follows:

Medium density residential development with 31 dwellings and subdivision to be undertaken in 2 stages. Specifics and details of the proposed development, in accordance with the information provided in the Statement of Environmental Effects, prepared by City Plan Strategy & Development Pty Ltd (in January 2021), as follows:

Stage 1 is for a community title subdivision consisting of 19 housing lots at 111 and 121 Dove Lane, Warriewood, which when registered will be their own lot within a deposited plan, with a single community lot containing the laneway. Stage 1 will involve the:

- Construction of one (1) dwelling house (VILLA 1);
- Construction of six (6) semi-detached dwellings (SEMI 1-6);
- Construction of twelve (12) attached dwellings (TOWN HOUSE 1-12); and
- Construction of a "community property" laneway connecting Dove Lane and Fern Creek Road.

Stage 2 is for a community title subdivision consisting of 12 housing lots at 101 Dove Lane, Warriewood, which when registered will be on their own lot within a deposited plan, with a single community lot containing the laneway. Stage 2 will involve the:

- Construction of eight (8) attached dwellings (TOWN HOUSE 13 - 20);
- Construction of four (4) dwelling houses (VILLA 2 - 5); and
- Construction of a "common property" laneway connecting Dove Lane and Fern Creek Road.

The proposal includes on-site stormwater detention tanks beneath the private access ways of the development

Assessment of additional information (received 17 June 2021)

The additional information provided by the developer after the request for information is as follows:

1. We agree and can accept a condition of consent that obligations under VPA2018/0003 need to be met prior to issue of Subdivision Certificate.
2. Noted and no further action required. Note we have also met with DSAP and from the meeting was the development complies with Council controls and provides a high standard of architectural quality and landscape treatment. There is also a wide diversity of housing types and design is reflected by diverse material selection which is thoughtfully considered.
3. Please refer to attached Sketch-0008 with assist understanding of the overall site staging.
 - Stage 1 – DA01 (DA2020/1727) – Will be the 2 Residential Lot T Lot and 1 Residue Lot under Torrens Title Subdivision.
 - Stage 2 – DA02 (DA2021/0053) – 19 Integrated Housing Lot and 1 Community Lot Community Title Subdivision. NB – *this involves the residue lot under DA2020/1727*
 - Stage 3 – DA03 (DA2021/0053) – 12 Integrated Housing Lot and 1 Community Lot Community Title Subdivision.
 - We are seeking to register to subdivision for DA2021/0053 before Construction Certificate of the individual allotments.
4. Noted. The full detailed maintenance regime can be adequately addressed as a DA condition of consent similar to other developments in the area. Note the Community Management Statement will state the water management devices will be part of the Community Association's responsibility and a Stormwater maintenance manual will be provided prior to Issue of Subdivision Certificate.

It is understood that a bushfire report has now been submitted and considered by NSW RFS as the DA involves subdivision of bushfire prone land.

The additional information has been assessed against the original issues raised by S&PP (shown below in italix), namely:

1. The obligations under the Executed Planning Agreement VPA2018/0001, registered on the Title of the properties the subject of this DA, are still to be completed before any Subdivision Certificate can be issued for any residential subdivision.

Additionally, DA2020/1727 (still undetermined) seeks to create a parcel that is part of this development (the current DA2021/0053); a Subdivision Certificate cannot be issued regarding DA2020/1727 until such time as the obligations under the subject Executed Planning Agreement have been complied with.

Updated S&PP Response

Clause 5 of the Executed Planning Agreement specifically relates to Contributions and Acknowledgements of the Executed Planning Agreement and sets out the contributions of the Developer (as the part of the obligations of the PA) and that the contributions are to be provided "prior to the issue of any Subdivision Certificate for residential development of the Developer Land".

Schedule 4 – Developer Contributions of the PA reads as follows:

Schedule 4 – Developer Contributions (clause 5)

1. Contributions

The Developer agrees to provide the Developer Contributions in accordance with this Schedule in

the manner set out in the table below:

Column 1	Column 2
Item Contributions	Delivery Event and Timing
1 Fern Creek Road Works	Construction of an extension of Fern Creek Road, including new onstreet parking, street trees and footpath (but excluding parking bays on the reserve side) and dedication of land to the Council by the Developer at no cost to the Council in accordance with clause 2 of this Schedule 4 prior to the issue of any Subdivision Certificate for residential development of the Developer Land.
2 East-West Road Works	Construction of a new east-west road connecting Fern Creek Road with the eastern half of Sector 9, including new on-street parking, street trees and footpath (but excluding parking bays on the reserve side) and dedication of land to the Council by the Developer at no cost to the Council in accordance with Clause 3 of this Schedule 4 prior to the issue of any Subdivision Certificate for residential development of the Developer Land.
3 Stormwater Infrastructure Establishment Works - Developer	Construction of the section of stormwater infrastructure that is required to be located within the Fern Creek Road Works at no cost to the Council in accordance with Clause 4 of this Schedule 4 prior to the issue of any Subdivision Certificate for residential development of the Developer Land.
4 Monetary Contribution to undergrounding power lines	Contribution of 50% of the total cost to Council of undergrounding the high voltage power lines that run along the current boundary at 9 and 12 Fern Creek Road to be undertaken prior to the issue of any Subdivision Certificate for residential development of the Developer Land.

The Developer contributions as per the Executed PA regarding the construction of the roads (being the extension of Fern Creek Road and the East-west Road) and the stormwater infrastructure as part of the extension of Fern Creek Road are the subject of development consent (DA2018/1044). On 31 May 2021, Council issued a Roads Act approval for the construction of the roads and associated stormwater infrastructure (the subject of the Developer contributions stated in the PA above) – TRIM2021/469789, 2021/469796, 2021/469814. However, it does not appear that a Construction Certificate has been issued specifically for the construction of these infrastructure items the subject of the Roads Act approval and the Developer contributions of the Executed PA.

Additionally, part of the subject property is a re-subdivision of properties (under DA2020/1727) which is not yet determined. If this is the only issue delaying determination of this DA (DA2021/0053), there is an option to impose a condition tying it to DA2020/1727, via a Deferred Commencement Consent, for DA2020/1727 to be approved before the Consent can be commenced.

2. It is understood that this subject DA seeks to construct a total 31 dwellings, within the dwelling range permitted for the subject land of “not more than 33 dwellings or less than 26 dwellings” as specified by Clause 6.1 of Pittwater LEP.

A related DA, DA2020/1727, creating the lot that is subject of this DA will also create 2 residential lots. In the event that DA2020/1727 and this DA (DA2021/0053), the balance of dwellings

permitted under the dwelling range is 2. This results in a dwelling per residential lot under the subdivision DA2020/1727, and to exceed 2 dwellings (being the balance) will result in prohibited development as the dwelling range under Clause 6.1 of Pittwater LEP is not a development standard (see Lotus at Pittwater Council; Karimbla at Pittwater Council).

Given the size and dimensions of the two residential allotments, and what has been submitted for the subject DA as integrated housing (as known under the Pittwater DCP), there is opportunity to consider a redesign that improves efficient use of residential zoned land and enhance the overall design of the subdivision and individual dwelling on each allotment.

Updated S&PP Response

The applicant has noted the advice from S&PP “to consider a redesign to improve efficient use of residential zoned land and enhance the overall design of the subdivision and individual dwelling on each allotment”. The applicant states that the design is compliant and no further action is required due to earlier meetings with DSAP (Design & Sustainability Advisory Panel). However, according to the Northern Beaches DSAP Charter, the panel are advisory only and do not have authority in relation to assessing applications.

It is understood that part of the land (the subject of the current DA) is to be created from a DA2020/1727 that is not yet determined as there was a requirement for a bushfire report to be submitted to ascertain the treatment of the bushfire hazard on the lots under DA2020/1727. Confirmation has been sought as to whether that DA is capable of accommodating the two remaining dwellings allocated (1 dwelling per lot) or otherwise. As it is yet to be determined that the Asset Protection Zone can be reasonably accommodated and there is no impediment for a dwelling to be accommodated on each of the two residential lots and future treatment for the ‘residue’ lot under DA2020/1727; uncertainty with the current DA remains.

The treatment of the bushfire hazard also applies to the current DA. For that reason, our advice remains - that the applicant take the opportunity to consider a redesign that improves efficient use of residential zoned land and enhance the overall design of the subdivision and individual dwelling on each allotment.

It is the responsibility of the Assessment Officer to determine if the proposed residential lots particularly those identified as bushfire prone land is able to accommodate the Asset Protection Zone, the water management and impervious area modelled for each lot (as per Pittwater DCP Controls D16.4 and 16.5) and the dwelling on same; whilst ensuring that the overall impervious area and landscaped area for the total subdivision is in accord with Control C6.7 under Pittwater DCP. Concern is also raised that the Water Management response does not appear to assess the Water Management Specifications for Warriewood Valley as required under Pittwater DCP Control C6.1 (TRIM2021/513105)

Should the Assessment Officer determine that, on balance, to recommend approving the current DA whilst DA2020/1727 is not determined, then the option may be via a Deferred Development Consent to ensure that the part of the land is created by an approved subdivision DA.

Notwithstanding the above, this DA seeks consent for 31 dwellings and is within the permitted dwelling range. Development contributions have been calculated on the 31 dwellings, based on the published contribution rate for 2021/22 under the Warriewood Valley Contributions Plan. It is acknowledged that NSW RFS are still to provide their concurrence to this DA under Division 4.8 of the Environmental Planning and Assessment Act, and should their response require changes to the development in particular the quantum of residential lots or dwellings under this DA then it should be referred to S&PP – Development Contributions to recalculate the development contributions applicable to the development before determination.

3. The staging sequence for this DA remains unclear and it is up to the applicant to state the staging sequence, specifically:

Is the applicant seeking to register the subdivision before Construction Certificate or Occupation Certificate of the individual allotments?

Updated S&PP Response

The applicant advised that they are seeking to register the subdivision - to create the allotments - under Community Title before Construction Certificate for each dwelling. The applicant has provided a staging plan SK0008, indicating that this DA will be undertaken in two stages,

- Subdivision of Community Lot (Lot 1) and 19 residential lots (lots 2 to 20 inclusive) and construction of dwellings in the western area (known as Stage 2 on the submitted Plans)
- Subdivision of Community Lot (Lot 1) and 12 residential lots (lots 2 to 13 inclusive), and construction of dwelling in the eastern area (known as Stage 3 on the submitted Plans).

The Assessing Officer has advised, via email dated 2 August, that the staging sequence for each Stage will be subdivision of lots and construction of associated infrastructure; and then construction of dwellings on each created lot.

Development contributions calculated for this development is on the basis of:

- Stage – subdivision of lots in the western area (known as Stage 2 on the Plan of Subdivision, showing residential lots 2 to 20 inclusive and a Community Association lot) and then construct a dwelling on each lot. This will result in an approved 19 dwellings
- Stage – subdivision of lots in the eastern area (Stage 3 on the submitted Plans, showing lots 2 to 20 inclusive) and then construct a dwelling on each lot. This will result in an approved 12 dwellings

Although the total 31 new lots and dwellings will be achieved, the DA is seeking to stage the development so the contributions payable for each stage should be imposed if this DA is approved.

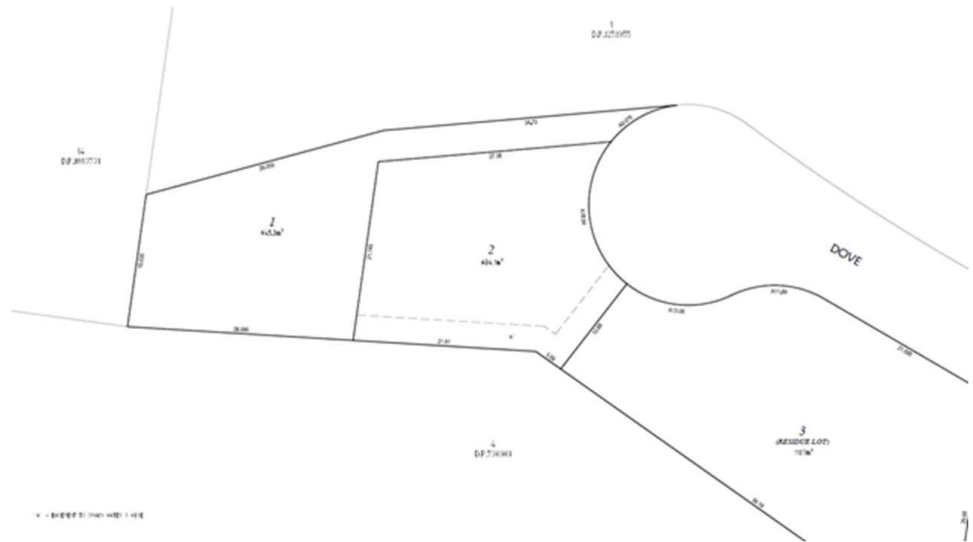
Notwithstanding the above, the following matters need to be resolved by the Assessing Officer:

a) There is also no detail on how this adheres with Control C6.9 (under Pittwater DCP) to ensure that the approved dwellings are built on the concurrent lots if the lots are registered first.

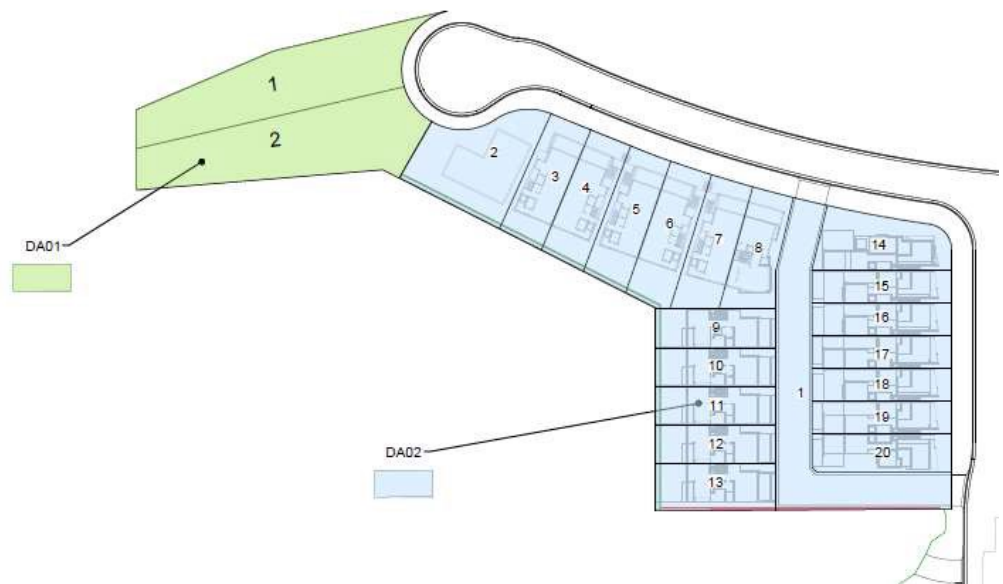
b) The applicant's overall site staging plan SK008 includes the lands the subject of DA2020/1727 (for the creation of 2 residential lots and a residue lot) as the residue lot is part of the development site for the current DA2021/0053. Nonetheless, SK008 is inconsistent with DA2020/1727 in terms of the lot boundaries and is a concern given the relationship of both DA's. This should be rectified **before either DA is determined**.

This plan is from
DA2020/1727 showing
the
subdivision to create the
2

residential allotments
and
the residue lot. The
residue lot will be part of
the development site
under DA2021/0053.



This Plan, provided
under
the current DA, identifies
different boundaries for
the residential allotment
(shaded in green) under
the DA2020/1727



- c) It is the Assessment Officer's responsibility to assess the individual dwellings on each allotment including the water management and landscaped area requirements for individual residential lots, under Controls D16.4 and D16.5 respectively.
- d) A condition should be included on any development consent that a Section 88B Instrument being prepared to ensure that the approved dwelling under this DA is to be built on the respective residential lots under the approved subdivision.
- e) Should the Assessment Officer determine that, on balance, to recommend approving the current DA whilst DA2020/1727 is not determined, then the option may be via a Deferred Development Consent to ensure that the part of the land is created by an approved subdivision DA.

4. The water management for the overall subdivision/dwellings appear to be wholly on land

labelled "Community Property". Nonetheless, details of the maintenance regime of the proposed water management facility should be provided for Council's consideration to ensure they are maintained to an appropriate standard in perpetuity.

Updated S&PP Response

The applicant has indicated that the proposed underground OSD/WSUD tanks, for Stage 2 and Stage 3 of this development (DA2021/0053), are located underneath the Accessways (a Community Lot). Nonetheless the following concerns are raised:

- a) the referral responses from NECC has not addressed the Water Management Specification for Warriewood Valley nor deduced that the subdivision includes water management facilities and impervious area requirements in accord with Pittwater DCP Control C6.1. (TRIM2021/513105)
- b) It is the responsibility of the Assessment Officer to determine if the proposed residential lots particularly those identified as bushfire prone land is able to accommodate the Asset Protection Zone, the water management and impervious area modelled for each lot (as per Pittwater DCP Controls D16.4 and 16.5) and the dwelling on same; whilst ensuring that the overall impervious area and landscaped area for the total subdivision is in accord with Control C6.7 under Pittwater DCP.

The applicant submitted a draft Neighbourhood Management Statement (2021/490344) however there is no reference to the Stormwater Filter and Maintenance Manual submitted for this DA. Given the submission of the Neighbourhood Management Statement, the Assessment Officer should seek advice from Waste Management on the collection of waste receptacles for this development.

An updated Neighbourhood Management Statement will be required, to include the maintenance requirements specified in the Stormwater Filter and Maintenance Manual, and if relevant, Waste Officer comments and any other maintenance of private infrastructure to ensure the private infrastructure is maintained to an appropriate standard in perpetuity. This should be a condition on any development consent.

Development Contributions:

The Warriewood Valley Section 94 Contributions Plan Amendment 16 Revision 3 (the Plan) applies to all new developments in the Warriewood Valley Release Area. The Plan, prepared in accordance with legislative requirements, provides the mechanism by which development contributions can be levied on developments within the catchment area for the WWV Contributions Plan. Additionally, it addresses the public services and facilities that will be required to meet the needs of the future residents and workers of the Release Area.

The subject development seeks to create 31 residential allotments, a dwelling in each lot (total 31 dwellings). The contribution rate (applicable for the 2021/22 financial year) is \$71,548 per dwelling/lot.

The contribution amount for Stage 2 ($\$71,548 \times 19$ lots or dwellings) = \$1,359,412.00

The contribution amount for Stage 3 ($\$71,548 \times 12$ lots or dwellings) = \$858,576.00

A condition will be imposed clearly stating the amount payable, and that the contribution amount will be adjusted at time of payment in accord with the Plan.

IN the event there are changes in the quantum of residential lots or dwellings being approved under this DA, then it should be referred to S&PP – Development Contributions to recalculate the development

contributions applicable to the development before determination

The proposal is therefore supported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

Strategic Planning Conditions:

FEES / CHARGES / CONTRIBUTIONS

Warriewood Valley Contributions Plan - No creekline corridor

Based on the above, approval of this development application is supported subject to the DA2020/1727 being approved first. If legally able, consider if this requirement can be imposed via the Deferred Commencement Consent pathway to ensure that part of the development site for this DA is in place. For the development generally under DA2021/0053, the following conditions being imposed:

1. Prior to the issue of any Subdivision Certificate, the following matters will need to be complied with:
 - a) obligations specified in the Executed Planning Agreement (VPA2018/0001) registered on this land are to be completed.
 - b) Lot 3 is an approved lot under Development consent DA2020/1727.
 - c) An updated Plan of Subdivision, dimensioned, and Section 88B Instrument indicating the Asset Protection Zone, the approved dwelling design and footprint and any other encumbrances applicable to the 31 residential allotments.
 - d) An Updated Neighbourhood Statement is to be submitted to include the maintenance requirements specified in Stormwater Filter and Maintenance Manual, and if relevant, Waste Officer comments and any other maintenance of private infrastructure to ensure the private infrastructure is maintained to an appropriate standard in perpetuity.
2. The total development contribution of \$2,217,988.00 is payable for this development, based on 31 new residential lots in accordance with the Warriewood Valley Section 94 Contributions Plan Amendment 16 Revision 3. The contribution amount is to be paid in two stages and before issue of a Construction Certificate or Subdivision Certificate (if a Construction Certificate is not required) for each stage, being:

Stage 2 - \$1,359,412.00
Stage 3 - \$858,576.00

The monetary contribution payable for each Stage will be adjusted at the time the payment is made, in accordance with the provisions of the Warriewood Valley Section 94 Contributions Plan Amendment 16 Revision 3.

The Applicant may negotiate with Council for the direct provision of other facilities and services, and/or the dedication of land (other than land identified above) in lieu of the monetary contribution above (or any portion of that monetary contribution) or the deferral of payments through a

Material Public Benefit Agreement between Council and the Applicant in accordance with the Warriewood Valley Development Contributions Plan (as amended).

The agreement for Material Public Benefit between the Applicant and Council must be finalised, formally signed and in place prior to the payment of the monetary contribution.

A copy of the development contributions plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan that enables the provision of local infrastructure and services commensurate with the increased demand resulting from development in the Warriewood Valley Release Area.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.