

Strategic Planning Referral Response

Application Number:	DA2023/0669
Proposed Development:	Demolition work and the construction of 28 dwellings, infrastructure, roadworks, tree removal, landscaping, community title subdivision and the dedication of the creekline corridor to Council.
Date:	29/06/2023
To:	Alex Keller
Land to be developed (Address):	Lot 4 DP 553816 , 16 Macpherson Street WARRIEWOOD NSW 2102

Officer comments

Officer Comments:

INTRODUCTION

On 5 June 2023, Strategic and Place Planning received a referral request for application (DA2023/0669) for Demolition work and the construction of 28 dwellings, infrastructure, roadworks, tree removal, landscaping, community title subdivision and the dedication of the creek line corridor to Council.

SUBJECT SITE

The subject site comprises of 16 Macpherson Street Warriewood (Lot 4 DP 553816). A dwelling and the Foleys Nursery operations exists on site.

The subject site is located at the north-western corner of Macpherson Street-Brands Lane intersection. The subject site is rectangular in shape and contains a section of Narrabeen Creek as its rear boundary.

The subject site is zoned R3 Medium Density Residential under Pittwater LEP2014. The site is identified as Sector 303 under the PLEP Urban Release Area Map and the Warriewood Valley Strategic Review Report.

PROPOSED DEVELOPMENT

The existing dwelling and nursery are proposed to be demolished to make way for the proposed residential subdivision and construction of 28 new dwellings, and associated civil works including:

- Earthworks,
- Construction of an internal road,
- Rehabilitation of the creek line,
- Half road reconstruction of the Macpherson Street frontage,
- Construction of Brands Lane that would result in this road being a two-way public road and shared pathway at its full length,
- Associated Landscaping, services and infrastructure for the residential development.

Based on the submitted plan of subdivision and Community Management report, the subdivision under Community Title seeks to create 28 residential lots (labelled as proposed lots 2 to 29 inclusive), the community property (proposed Lot 1) consisting the Open Access Way, associated landscaping and the outer creek line corridor land, and lot 30 defining the inner 25m creek line corridor land.

The submitted Statement of Environment Effects indicates the dedication of the 25m inner creek line corridor to Council, known as Lot 30 (page 13).

The applicant's letter dated 16 May 2023 mentions an intent to enter into a Planning Agreement in the future however, a formal offer is yet to be submitted to Council for consideration.

ASSESSMENT OF DEVELOPMENT APPLICATION Strategic Planning Response

Objective (a) of Part 6.1(1) of the Pittwater LEP requires consideration of the Warriewood Valley Release Area in accordance with the *Warriewood Valley Strategic Review Report* and the *Warriewood Valley Strategic Review Addendum Report*. In this regard, the site:

- is identified as a residential sector, labelled Sector 303 in the above report and the LEP Urban Release Area Map; and
- has an assigned dwelling range for residential development, from 23 to 29 dwellings/lots. If the residential development is not within this dwelling range then it would be prohibited development [See *Lotus Project Management Pty Ltd v Pittwater Council [2015] NSWLEC 166* and *Karimbla Constructions Services (NSW) Pty Ltd v Pittwater Council [2015] NSWLEC 83*].

Objective (b) of Part 6.1(1) and Part 6.1 (4) of the Pittwater LEP requires consideration of the impacts and rehabilitation of the creek line corridor. In this regard, the proposed development:

- *is to ensure that proposed development does not have an adverse impact on waterways and creek line corridors, it protects existing native riparian vegetation and rehabilitates the creek line corridors;*
- *will not have any significant adverse impact on opportunities for rehabilitation of aquatic and riparian vegetation, habitats and ecosystems within creek line corridors;*
- *will not have any significant adverse impact on the water quality and flows within creek line corridors;*
and
- *will not have any significant adverse impact on the stability of the bed, shore, and banks of any watercourse within creek line corridors.*

A critical element of the planning for this release area is the integration of the creek line corridors as:

- a stormwater/environmental feature with the 1%AEP flood event conveyed along Fern Creek and Narrabeen Creek,
- the outer 25m creek line corridor land as a landscape buffer supporting habitat and assisting in stormwater and water quality management,
- the added recreational utility of the creekline corridors (inner 25m and outer 25m) for passive recreation use,

informed by *Lawson and Treloar Pty Ltd (1998) "Integrated Water Management Strategy Warriewood Valley – Justification of Corridor Widths and Cost Estimates"* and the *Warriewood Valley Urban Land Release Water Management Specification (February 2001 as amended)*. For this reason, the objectives of the LEP as well as the development of DCP provisions relating to the creek corridor land was established.

Water management for each development sector or buffer area by way of the Water Management Specifications for Warriewood Valley includes on-site detention requirements as well as the creek line corridors. The Water Management Specifications has a total impervious area of 50% for each development sector and the inter-related DCP provisions for water management, therefore the site coverage at sector and at the individual lot scale modelled and specified under the water management report prepared for the development must be complied with at the development and construction phase otherwise there is potential for water management impact on any adjacent or downstream properties in the future. Section A3, Appendix A of the Warriewood Valley Urban Land Release Water Management Specification (February 2001 as amended) states:

"If a sectors impervious area exceeds 50%, a reassessment of the site storage requirements, is in the same method outlined in Appendix A, is required based on the calculated impervious proportion of site".

The proposal includes:

- a) an Area Calculation Schedule prepared by PBD Architects dated 12 April 2023 stating the total impervious area of the sector is 53.5%.

- Council's Catchment team and Development Engineers should confirm the impervious area modelled under the submitted Water Management Report prepared for this DA as well as the site coverage for each proposed lot; and
- for the DA officer to confirm the plans are consistent with the modelled impervious area for the sector and site cover for each lot.

Where inconsistency exists, there needs to be determination on the likely adverse impacts on adjacent and downstream properties including Narrabeen Creek in accordance with Part 6.1(1) and (4) of PLEP and related DCP provisions.

b) Part of residential lots 18 & 19 encroach into the outer creek line corridor land contradicting the intent of the water management specifications, the development contribution plan and creek line corridor of ensuring appropriate environmental flows, flood conveyance, biodiversity corridor and passive open space through delivery of a 50m corridor on either side of the creek centreline (Inner 25m creek corridor to be dedicated to Council and the Outer 25m creek corridor to be retained in private ownership). The outer 25m creek corridor appearing to be part of the public domain is specifically addressed in section C6.1 of the Pittwater 21 DCP and prohibits any part of residential lots, dwellings, garages, fences and other vertical built structures within the 25-metre wide Outer Creekline.

In perusing the submitted Community Management Report, the maintenance of water management facilities associated with this development is not mentioned noting that this is infrastructure that would be in private ownership in perpetuity. Maintenance of these facilities is required to ensure that they continue to operate effectively and to ensure there are no adverse impacts on the creek and surrounding properties over time.

Development Contributions Response

Warriewood Valley Contributions Plan Amendment 16 Revision 4 adopted on 1 July 2022 applies to the subject site and to all residential, commercial and industrial development that would result in a commensurate increase in demand for infrastructure and services of the type provided for by this Plan.

If the DA is recommended for approval, development contributions will be levied on the 28 additional lots/dwellings.

At this initial stage of the assessment, the contribution rate being adjusted at the start of the financial year and uncertainty with the timing of a potential Offer being lodged with Council, the total contribution amount payable to Council has not yet been calculated. Before the DA is determined, a referral is to be sent back to SPP to ensure a condition is created with the development contribution amount payable to Council.

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

RECOMMENDATION:

1. The Assessing Officer is to advise the applicant of the following:

A. If the applicant is looking at voluntary planning agreement pathway, the timing for Council to consider an Offer to enter into a Planning Agreement is now to ensure assessment of the Offer is concurrent to the DA.

Assessment of the Offer will be undertaken independently of the DA. There is greater transparency and understanding of the relationship of the DA proposal with the Offer for delivery of infrastructure commensurate to the development.

Unlike the DA, the determining body for the Planning Agreement is the elected Council.

B. The DA as submitted includes various infrastructure identified under the adopted Warriewood Valley Contributions Plan, namely:

- Item 23 Shared Path Brands Lane (Pedestrian and Cycleway Schedule)
 - Item 2.62B Rehabilitation works of Narrabeen Creek at Sector 303 (Multi-functional Creek Line Strategy)
 - Item 303 land acquisition of Narrabeen Creek corridor (Multi-functional Creek Line Strategy). The land value of the inner creek line corridor will be deducted from the monetary contribution payable to Council. The final area of land to be dedicated is subject to a final plan of subdivision. The intention of an Offer regarding works-in-kind for the delivery of the above-listed items and construction of a roundabout at Macpherson Street and Brands Lane intersection (listed Item 23 – Traffic and Transport) should be submitted to Council now, to allow consideration of such an Offer. In lieu of an executed PA, if the DA is recommended for approval, a development contribution condition will be calculated without offset being calculated as there is no formal agreement in place for the works to be delivered.
- C. The development will require the half road reconstruction of Macpherson Street frontage and construction of a two-way public road of Brands Lane, as direct provision. The road construction along both street frontages are not listed infrastructure items in the Contributions Plan, and no offset will be provided for these works.
- D. The applicant should be requested to amend their proposal to ensure all residential allotments are not encroaching into the outer 25m creekline corridor land and clear intent on the responsibility of the water management facilities and other private infrastructure and the maintenance regime of same.

2. With regard to the site coverage calculation:

- a) the water management team should confirm that the calculation of OSD has incorporated the sector site coverage and individual lot coverage calculation.
- b) DA Planner is to confirm the site coverage (impervious area) at sector and individual lot scale is consistent with that modelled under the submitted water management plan.
- c) In the event there is an inconsistency or where it is determined to be a concern, the applicant should be advised regarding the site coverage calculations.

3. With regard to recommendation 1 above, Council's Principal Development Infrastructure Officer will be in contact with the applicant to discuss the advice provided in the recommendation.

4. This application be referred to SPP upon receipt of amended plans to ensure a condition is created with the development contribution amount payable to Council.

The proposal is therefore unsupported.

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

Strategic Planning Conditions:

Nil.