

SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-406
DA Number	DA2023/0976
LGA	Northern Beaches
Proposed Development	Demolition works, subdivision into 53 lots and one community title lot, construction of 53 dwellings, including internal roadways, stormwater, creekline rehabilitation and landscape works
Street Address	Lot 1 DP 592091, 20 - 22 Macpherson Street WARRIEWOOD NSW 2102
Applicant/Owner	Green Kingswood Pty Ltd Green Kingswood Pty Ltd
Date of DA lodgement	26/07/2023
Number of Submissions	31
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Capital investment value of more than \$30 million.
List of all relevant s4.15(1) (a) matters	SEPP (Resilience and Hazards) 2021, Pittwater Local Environmental Plan 2014, Pittwater 21 Development Control Plan
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Plans - Master Set • Plans - Subdivision • Plans - Landscape • Report - Statement of Environmental Effects • Report - Geotechnical
Clause 4.6 requests	Nil

Summary of key submissions	<ul style="list-style-type: none"> • Encroachment into Outer Creekline Corridor • Built form (non-compliance with DCP controls and outcomes) • Concerns raised by Design and Sustainability Advisory Panel (unresolved) • Acid Sulfate Soils • Contaminated Lands • Biodiversity • Landscape • Riparian Lands and Creeks issues • Stormwater • Flooding • Traffic • Waste • Privacy • Strategic Planning issues • Lack of information to enable a complete and proper assessment of application
Report prepared by	Thomas Prosser, Planner
Responsible officer	Thomas Proser, Planner
Report date	25/01/2024

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **YES**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **YES**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **NO**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions **NO**

Conditions

Have draft conditions been provided to the applicant for comment? Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY

This application is for the redevelopment of the *Flower Power Garden Centre* site on Macpherson Street, Warriewood.

The application was preceded by a pre-lodgment meeting with Council. There were two pre-lodgment applications for this concept, one for subdivision only and one for subdivision and dwellings. The latter pre-lodgment application for subdivision with dwellings went to the Design and Sustainability Panel but the subsequent meeting with planning staff was cancelled by the applicant. Since the lodgment of the Development Application, Council has provided a Request for Information letter detailing concerns with the proposal, and also met with the applicant on numerous occasions to discuss the concerns raised. At all of these stages, the response by the Applicant to the concerns, and suggested design changes has been extremely limited and has not overcome any of the critical issues.

A detailed assessment has been carried out and the proposed development and the conclusion has been reached that it is unsupportable based on being inconsistent with the following local policies and environmental planning instruments:

- Pittwater 21 Development Control Plan (P21DCP)
- Pittwater Local Environmental Plan (PLEP 2014)
- State Environmental Planning Policy (Resilience and Hazards) 2021
- Warriewood Valley Roads Master Plan
- Warriewood Valley Landscape Masterplan
- Warriewood Valley Urban Land Release Water Management Specification 2001

The proposal relies on Clause 6.1(3) of PLEP 2014 which specifies a dwelling yield range of not more than 53 dwellings and no less than 42 dwellings for Sector 301 of the Warriewood Valley Release Area, which comprises the subject lot. The proposal is based on the maximum dwelling yield of 53 dwellings.

It is determined that, with this design and density, the lack of variation in housing typology (townhouses only), provides a situation in which the extensive coverage of the site is not site responsive and not locality responsive, and results in fundamental concerns with the lack of spatial separation and physical breaks between buildings, encroachment of buildings and lots within the creekline corridor, and lack of space for an appropriately designed internal and provision for vehicle circulation. Specifically, the 53 townhouse style, single dwellings, have a significant site coverage, and the coverage has pushed in to the creekline corridor to an unacceptable extent.

As such, 53 dwellings in this form is not suitable for the subject site. Rather, if this uniform townhouse housing typology is maintained, there should be a reduction in the number of dwellings to allow for sufficient space and opportunities for the planning and infrastructure issues to be properly addressed and overcome. Alternatively, a different approach to the site planning, subdivision and building design could allow the development to achieve the maximum yield of 53 dwellings. This could involve variation in the typology of housing such as the introduction of some residential flat building components.

The non-compliances with the planning controls under the Pittwater 21 DCP that lead to unacceptable and unreasonable character, environmental and impacts are as follows:

- Outer creekline corridor control (Clause C6.1 and C6.2)
- Residential Subdivision Principles (C6.8)
- Character as viewed from a public place (Clause D6.1)

- Front Building lines (Clause D16.6)
- Side Building lines (Clause D16.7)

Specifically, the breach of these planning controls is symptomatic of a proposal that provides a dominance of one built form (townhouses) and a lack of integration of the residential form with the natural and built environment.

Numerous referral bodies have raised issues with the application, which are addressed in the body of this report. These referrals include:

- Environmental Health
- Landscape
- Biodiversity
- Riparian Lands and Creeks/ Water Management
- Development Engineers
- Flooding
- Strategic
- Traffic
- Waste
- Design and Sustainability Advisory Panel/Urban Design
- Aboriginal Heritage

As a result of the public notification and advertising, there were 31 submissions made in relation to this application. The concerns raised by residents are addressed in this report. In particular, submissions were focused on the inappropriateness of providing 53 dwellings in this area. Although Clause 6.1 of the PLEP 2014 does allow for this number of dwellings, the site planning and subdivision design have not provided an outcome in which 53 dwellings is appropriate for the site and locality, whilst ensuring the creekline corridor is maintained and enhanced. For this reason, many of the concerns that are raised in the submissions with regard to impact caused by the density and design of the dwellings and roads are relevant. This includes; impact on local character, traffic issues, lack of landscaped area, lack of open and green space, overdevelopment, impacts on creekline corridor, flooding, privacy, earthworks, and dominance of built form.

This report concludes with a recommendation for refusal based on determinative planning, environmental and infrastructure matters, as well as matters relating to a lack of information to carry out a complete and proper assessment of the application. The applicant has been given ample time to address the issues with the lack of information provided. However, additional information has not been provided.

The application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulations 2021, relevant Environmental Planning Instruments and Council policies.

Accordingly, based on the detailed assessment contained in this report, it is recommended that the Sydney North Planning Panel **REFUSE** the application.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves a 54 lot community title subdivision with the construction of 53 dwellings and a community title lot containing the internal road/laneways and common areas.

In further detail, the proposed development comprises the following:

- Demolition of existing built form
- Earthworks
- Driveways and a one-way anti-clockwise circulation access roads
- Stormwater infrastructure
- Essential services (water, electricity, gas and NBN)
- Landscaping including street trees
- Creekline works
- Construction of 10 detached two storey dwellings
- Construction of 43 attached two storey dwellings (including 14 adaptable dwellings)
- Removal of 38 trees (34 being exempt species)
- Site preparation works
- Provision of a right of way through Lots 58 and 59 as well as Lots 60 and 61

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 5.21 Flood planning

Pittwater Local Environmental Plan 2014 - 6.1 Warriewood Valley Release Area
 Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils
 Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
 Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
 Pittwater 21 Development Control Plan - B3.6 Contaminated Land and Potentially Contaminated Land
 Pittwater 21 Development Control Plan - B3.11 Flood Prone Land
 Pittwater 21 Development Control Plan - B5.15 Stormwater
 Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan
 Pittwater 21 Development Control Plan - C1.9 Adaptable Housing and Accessibility
 Pittwater 21 Development Control Plan - C1.12 Waste and Recycling Facilities
 Pittwater 21 Development Control Plan - C6.1 Integrated Water Cycle Management
 Pittwater 21 Development Control Plan - C6.2 Natural Environment and Landscaping Principles
 Pittwater 21 Development Control Plan - C6.4 The Road System and Pedestrian and Cyclist Network
 Pittwater 21 Development Control Plan - C6.7 Landscape Area (Sector, Buffer Area or Development Site)
 Pittwater 21 Development Control Plan - C6.8 Residential Development Subdivision Principles
 Pittwater 21 Development Control Plan - D16.1 Character as viewed from a public place
 Pittwater 21 Development Control Plan - D16.6 Front building lines
 Pittwater 21 Development Control Plan - D16.7 Side and rear building lines

SITE DESCRIPTION

Property Description:	Lot 1 DP 592091, 20 - 22 Macpherson Street WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The subject site consists of an allotment located on the northern side of Macpherson Street.</p> <p>The site is irregular in shape with a frontage of 140m along Macpherson Street and a depth of 156m. The site has a surveyed area of 2.049ha.</p> <p>The site abuts Narrabeen Creek to the rear, having a creekline corridor (prescribed by the Pittwater 21 DCP).</p> <p>The site is located within the R3 Medium Density Residential zone and is currently developed and operated as a "Flower Power Garden Centre."</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a variety of housing typologies with older subdivisions to the north-west. The adjoining site to the south-east (previously 18 Macpherson Street) contains a 79 dwelling residential development, which was granted consent by the Land and Environment, <i>Sunland Developments (No 28) Pty Ltd v Northern Beaches Council (formerly Pittwater Council) [2016] NSWLEC 1460.</i></p>

Map:



SITE HISTORY

The land has been used as a plant nursery, being the "*Flower Power Garden Centre*," for an extended period of time. The original consent was granted under Consent No: 91382 in 1991. There have been various smaller consents providing additions to the garden centre, including for a cafe and signage.

Pre-lodgment Meetings

2021 Meeting - PLM2021/0344

A pre-lodgment meeting was held on 1 February 2022 to discuss subdivision of the land in to 53 allotments. This did not include any dwellings or buildings on the lots.

The subdivision plan submitted with this application is similar to the plan that has been lodged with the development application. There were a number of issues raised with the subdivision in the Pre-lodgment notes, that remain relevant and unresolved under the development application. These include:

- Issues with Creekline corridor including encroachment of residential lots
- Issues with front loading of narrow lots; inconsistency with provisions of Clause C6.8 Residential Subdivision principles
- Suggestion that further PLM should be held for proposed built form. As discussed below, a further pre-lodgment was started and went to the Design and Sustainability Advisory Panel (DSAP) for comments, but was cancelled by the applicant prior to advice being provided by Council.
- Flood issues
- Landscape issues
- Traffic issues

2023 Meeting - PLM2023/0032

A pre-lodgement application was submitted for the same concept as has been proposed under this Development Application. The pre-lodgement application was referred to the DSAP for comment. After the meeting with DSAP, the applicant chose not to go ahead with the meeting with Council staff. The applicant raised numerous issues with the application at the pre-lodgement stage, and again at the Development Application stage. These issues have not been responded to or resolved and are further discussed under the DSAP Internal Referral section of this report.

Request for Information and Meetings with Applicant

A Request for information (RFI) letter was sent to the applicant on 30 October 2023, listing the various concerns Council had with the application. In response to the letter, the applicant requested a number of meetings in order to understand and potentially address concerns. After these meetings, the applicant did not provide any formal response to the concerns raised in the RFI, and did not provide any amended plans (with the due date being extended till 8 December 2023 based on the magnitude and multitude of issues).

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter could be addressed by condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the</p>

Section 4.15 Matters for Consideration	Comments
<p>impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>Pittwater Development Control Plan section in this report. In summary, the impacts are unacceptable and warrant the refusal of the application.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the residential townhouse character of the proposal in a medium density area.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the proposed land use. The loss of the Flower Power Garden Centre does not raise any specific issues in this regard.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is not considered suitable for the development of the size, density and built form proposed.</p> <p>The proposal significantly encroaches on the outer creekline corridor, with over 80% of the creekline corridor containing features that are not permitted under the planning controls. This is indicative of a site planning approach and chosen subdivision design and building pattern and configuration that is not suitable for the site.</p> <p>Further to this, there are numerous other issues with the character and design outlined in this report. This includes inappropriate setbacks, streetscape outcome, lack of open space, and overly dominant presentation of built form to Macpherson Street and the internal roads, with a distinct lack of building separation and visual breaks in the built form.</p> <p>These fundamental issues indicate that the selected design and maximisation of the dwelling yield (53 dwellings), comprising attached and detached townhouses only, are inappropriate for the site.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>In response to the notification of the application, Council received 31 submissions. These particularly raised concerns with the design and providing 53 dwellings in this location. The concerns raised can be summarised as follows:</p> <ul style="list-style-type: none"> • Increase in dwellings and proposed density • Increased Traffic and Provisions for waste pick-up • Lack of green space, lack of landscaped area and environmental impacts • Out of Character, an overdevelopment and adverse visual impact • Non-compliance and impacts on Creekline corridor • Building height • Flooding • Earthworks • Solar Access

Section 4.15 Matters for Consideration	Comments
	<ul style="list-style-type: none"> • Privacy • Acid Sulfate Soils • Contamination • Aboriginal Heritage
Section 4.15 (1) (e) – the public interest	The proposal is inconsistent with the Pittwater 21 DCP, inconsistent with the Pittwater LEP 2014 and State Environmental Planning Policy (Resilience and Hazards) 2021. In particular, the proposal is unreasonable in terms of visual, environmental and amenity impacts (as outlined in the various sections of this report). As such, the proposal would not be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 01/08/2023 to 29/08/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 31 submission/s from:

Name:	Address:
Sarah Wittmack	26 / 30 Macpherson Street WARRIEWOOD NSW 2102
Mrs Marney Hands	65 Beacon Hill Road BEACON HILL NSW 2100
Mrs Christina Louise Grace	1853 Sawgrass Place SANCTUARY COVE NSW 4212
Mr Moray William Robertson	19 Wesley Street ELANORA HEIGHTS NSW 2101
Ms Jane Wilkinson	6 A Warraba Road NORTH NARRABEEN NSW 2101
Mr Adam Stephen Bennett	13 / 3 - 4 Carousel Close CROMER NSW 2099
Mr Gary Pike	56 / 14 Narabang Way BELROSE NSW 2085
Bree Niels	Address Unknown
Ms Maraya Sunshine Bell	1 Fazzolari Avenue MONA VALE NSW 2103
Mrs Roslyn Leonie Mahony	117 Macpherson Street WARRIEWOOD NSW 2102
Mr Scott Ronald Bunnett	149 Veterans Parade NARRABEEN NSW 2101
Mrs Janette Ivy Ryan	9 Hunter Street South WARRIEWOOD NSW 2102
Ms Brenda Louise Eagles	2 Mahogany Boulevard WARRIEWOOD NSW 2102
Mrs Maria Clare Twigg	4 Parkland Way WARRIEWOOD NSW 2102
Mr Timothy John Pike	106 Rickard Road NORTH NARRABEEN NSW 2101
Mr John Thomas Mardon	131 Macpherson Street WARRIEWOOD NSW 2102

Name:	Address:
Mrs Kathryn Ruth Powell	9 / 2 Forest Road WARRIEWOOD NSW 2102
Ms Zara Kathryn Bennett	213 Macpherson Street WARRIEWOOD NSW 2102
Miss Jane Joynton-Smith	10 / 4 - 6 Fantail Avenue WARRIEWOOD NSW 2102
Mrs Samantha Renee Mcelroy	15 / 38 - 40 St Andrews Gate ELANORA HEIGHTS NSW 2101
Mr Vangeli Dimas-Herd	15 Powderworks Road NORTH NARRABEEN NSW 2101
Mrs Kayla Jean Richards	13 / 26 Macpherson Street WARRIEWOOD NSW 2102
Mr Daniel Cowan Waller	11 Parkland Road MONA VALE NSW 2103
Mr James Henry Harding	135 Macpherson Street WARRIEWOOD NSW 2102
Ms Carol May Kroger	33 / 26 Macpherson Street WARRIEWOOD NSW 2102
Dominic Edward Harper-Smith	17 / 26 Macpherson Street WARRIEWOOD NSW 2102
Ms Kim Burgess	32 / 26 Macpherson Street WARRIEWOOD NSW 2102
Ms Cara Mcdonell	4 Cockatoo Way WARRIEWOOD NSW 2102
Mr Daniel Victor Tomaszewski Mrs Sandra Helga Tomaszewski	15 / 26 Macpherson Street WARRIEWOOD NSW 2102
Creative Planning Solutions Pty Ltd	Level 3 397 Riley Street SURRY HILLS NSW 2100
Mr Jared Adams	19 Chambers Circuit WARRIEWOOD NSW 2102

The following issues were raised in the submissions:

- Increase in dwellings and proposed density
- Increased Traffic and Provisions for waste pick-up
- Lack of green space, lack of landscaped area and environmental impacts
- Out of Character, an overdevelopment and adverse visual impact
- Non-compliance and impacts on Creekline corridor
- Building height
- Flooding
- Earthworks
- Solar Access
- Privacy
- Acid Sulfate Soils
- Contamination
- Aboriginal Heritage

The above issues are addressed as follows:

- **Increase in dwellings and proposed density**

The submissions raised concerns that the additional number of dwellings is not appropriate for the area. In particular, it is suggested that there is a lack of infrastructure to support such an increase in the number of dwellings. It is suggested the land should be kept as a nursery, for

commercial purposes or for a park.

Comment:

The land is part of an urban release area, being zoned for residential development (R3 Medium Density Residential). Under Section Clause 6.1(3) of PLEP 2014, the planning controls identify an allowable dwelling yield of up to 53 dwellings for Sector 301 of the Warriewood Valley Release Area, which includes the subject lot, so the dwelling entitlement exists, subject to meeting all the planning and infrastructure requirements.

Despite providing for a number of dwellings that is consistent with this clause, the proposed design is not supported due to a variety of visual, environmental, traffic, and amenity impacts on the site and the area. Therefore, the concerns in relation to the maximum number of dwellings are concurred with.

- **Increased Traffic and Provisions for waste pick-up**

The submissions raised concerns with the significant increase in traffic impacts that will be caused by an additional 53 dwellings in the area. Concerns were also raised with the lack of off-street parking, lack of visitor parking and proper provision for garbage collection.

Safety concerns were also raised with the increase in traffic, including concern for pedestrian safety in the area.

Comment:

The site was anticipated to have a maximum of 53 dwellings in the planning of the Warriewood release area and the road network was designed to cater for this.

Council's Traffic Officer has detailed a number of concerns with the road and access design, and these have been detailed in the Traffic Officer's referral in this report. In particular, concern is raised with the one-way circulation method for the internal roads, which limits opportunity for on-street parking. Therefore, the concerns in relation to the road design and concurred with.

- **Lack of green space, lack of landscaped area and environmental impacts**

The submissions raised concerns with the excess of built form and lack of landscaped area and open space.

Comment:

The architectural plans show that the residential lots comply with the requirements for landscaped area under the P21DCP. However, it is noted that there is a discrepancy between the landscape plans and the architectural plans, with timber decks shown as landscape area. This deficiency in the application forms a reason for refusal.

The natural environment and landscape outcome for the Outer Creekline Corridor is not supported. There are significant encroachments of roads and private lots in this area. This forms a reason for refusal and is further discussed in the Pittwater 21 DCP section of this report.

Council's Natural Environment Officers have also raised a number of concerns associated with impacts on the environmental amenity of the creek. This is discussed in the Internal Referrals section of this report.

- **Out of Character, an overdevelopment and adverse visual impact**

The submissions raised concerns that the proposal would not be consistent with existing or desired character of the area, and that excessive built form would cause unacceptable visual impact.

Comment:

The proposal involves long rows of terrace-style townhouse design with unacceptably minimal and ineffective breaks in built form within the various modules. This provides for an overly repetitive and monotonous urban form which dominates the overall outcome. There is also a distinct lack of landscaping which is integrated into the design, including between buildings and in the streetscapes, especially internally. This critical and fundamental design flaw is discussed in detail in the Pittwater 21 DCP section of this report and is included as a reason for refusal.

- **Non-compliance and impacts on Creekline corridor**

The submissions raised concerns that with the encroachments in to the creekline corridor, the lack of maintenance of natural form, lack of detail on plans, and the extensive cut and fill in this area.

Comment:

There is a significant amount of works and lot areas within the 'Outer Creekline Corridor' area, including elements that are not permitted by the planning controls. In particular, large extents of private lots encroach this buffer area. The extent of encroachment within the corridor is not supported and is included as a reason for refusal. This is discussed in detail under the Pittwater 21 DCP section of this report.

- **Building height**

The submissions raised concerns with the manner in which building height is addressed in the application.

Comment:

An assessment of survey detail and architectural plans has found that the proposal complies with the development standard for Building Height under the PLEP 2014. This includes the 8.5m standard that applies to the dwellings along Macpherson Street, and the 10.5m standard that applies to the remainder of the site.

- **Flooding**

The submissions raised concerns with the flooding impacts of the proposed development.

Comment:

Council's Flood Officer is not satisfied with the proposal and requires further information to

carry out a full and proper assessment. Further details are provided in the Internal Referrals section of this report. This is also included as a reason for refusal.

Earthworks

- *The submissions raised concerns with the impact of extensive earthworks.*

Comment:

An assessment of the application against the clause for Earthworks under the PLEP 2014 has found that the proposal is unacceptable, and that further information is required.

Further details of the assessment are provided in the PLEP 2014 section of this report. This is also included as a reason for refusal.

Solar access

- *The submissions raised concerns with solar access and overshadowing.*

Comment:

The proposal complies with the provisions and requirements for solar access under the Pittwater 21 DCP.

Privacy

- *The submissions raised concerns with overlooking as well as safety and security issues for adjoining neighbours to the north-west and south-east.*

Comment:

There is a lack of detail in the application to demonstrate the mitigation of privacy impacts from the rear areas and private open space of the Type A attached dwellings. In particular, concern is raised in relation to the overlooking potential for rear boundaries, noting the raised ground levels, and the lack of separation or screening to address this issue.

Further details are provided in the Pittwater 21 DCP section of this report. This is also included as a reason for refusal.

Acid Sulfate Soils

- *The submissions raised concerns with the lack of an acid sulfate soil management plan (ASSMP).*

Comment:

An acid sulfate soil management plan (ASSMP) has not been provided with the application. This forms a reason for refusal.

Contamination

The submissions raised concerns with contamination and the lack of a Detailed Site Investigation.

• Comment:

A Detailed Site Investigation, a Remediation Action Plan and a Hazardous Building Materials Assessment are required and have not been provided with the application. As such, adequate information has not been provided to allow assessment of contamination issues under SEPP (Resilience and Hazards) 2021. This is included as a reason for refusal.

• **Aboriginal Heritage**

The submissions raised concerns with the lack of preliminary inspection by a qualified Aboriginal Heritage professional.

Comment:

A Preliminary Inspection by an aboriginal heritage expert is required to be provided by the applicant. This has not been carried out. This forms a reason for refusal.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p>NOT SUPPORTED</p> <p>Design + Sustainability Advisory Panel Meeting Report – Date 28th September 2023 Item 2 - DA20230967 – 20-22 Macpherson Street Warriewood PANEL COMMENT AND RECOMMENDATIONS</p> <p>General</p> <p>Two previous meetings took place regarding this design. One was a PLM meeting with Council officers on 1 February 2022 and the other was a Design and Sustainability Panel meeting on 23 March 2023. Reports were issued following both meetings. The degree to which those previous recommendations have been actioned is not apparent in the documents submitted to the current Panel (28 September 2023).</p> <p>For these reasons, the previous recommendations of the DSAP Panel on 23 March 2023 remain current and are to be taken into account in the re-design of this application, in addition to the recommendations below.</p> <p>Strategic context, urban context: surrounding area character</p> <p>This is the last remaining site to be re-developed in this part of Macpherson Street Warriewood. Existing adjacent developments to</p>

Internal Referral Body	Comments
	<p>the south-east and north-west of this site contain more visual permeability from Macpherson Street into the site than the proposed development. The development to the north-west has a public pedestrian link from Macpherson Street to the creek corridor.</p> <p>Recommendations</p> <ol style="list-style-type: none"> 1. Provide greater permeability into the site in the form of straight physical and visual links between Macpherson Street and the creek corridor. <p>Scale, built form and articulation</p> <p>The scale of the houses is acceptable and the range of built forms and roof designs provides a reasonable degree of articulation and variety.</p> <p>Lot sizes vary in size from 168sqm to 251sqm but the housing typologies stay the same for all of them (eg. row housing). Greater potential for variation appears possible. Although Type D is classified “detached” the separation distances between each house are narrow and un-useable (for at least half the site length). Consideration should be given to better allocation of POS and internal footprint with respect to Lot boundaries to maximise the potential use and amenity of POS. The benefits of a larger lot size have not been realized. 4 bedroom housing types arguably support larger families with children and therefore should incorporate more generous POS provisions.</p> <p>Recommendations</p> <ol style="list-style-type: none"> 2. Amend house layouts and forms in accordance with recommendations for Access, Amenity and Sustainability below. 3. Consideration given to providing greater variation in housing typologies with respect to variable lot sizes and POS relationships. <p>Access, vehicular movement and car parking</p> <p>Access to the site from Macpherson Street is poor, as the proposed entry street (Driveway 01) is short and on axis with garages in Lot 45. This blocks views into the site and discourages pedestrian access both into the site and towards the landscaped creek corridor.</p> <p>Driveway 01 should retain its proposed width and be re-located towards the south-east to be on axis with the centreline of Driveway 02. The proposed central median of Driveway 01 could be retained, or removed and the carriageway narrowed to allow for tree planting on both sides of the carriageway.</p> <p>To promote pedestrian access from Macpherson Street to the site and landscaped creek corridor, a pedestrian only link is recommended between Lots 21 and 22.</p> <p>Driveway 02 is currently irregular in its treatment of verges and landscape design. Driveway 02 should become a tree-lined avenue from Macpherson Street to the creek landscaped corridor. It should have a different scale and character compared to other driveways, creating a hierarchy of streets. Lot 47 is currently a wide private lot. This lot (and Lot 42) might be narrowed in favour of a wider communal space containing canopy trees. The open parking space in front of Lots 27 to 34 should be a minimum of 6m long to avoid</p>

Internal Referral Body	Comments
	<p>parked cars projecting over the pedestrian path. The proposed width of 1.2m for the pedestrian path is a minimum width for any footpaths. A car right of way is proposed in the landscaped buffer zone within the 50m setback to access Lots 59 and 60. This will compromise the landscaped character of this zone and the car access should be removed. Car access to Lots 59 and 60 should be in an access drive behind the house in Lots 58 and 61. The layout of the houses in Lots 58, 59, 60 and 61 should be amended to accommodate this vehicular access.</p> <p>The proposed kerb-free Driveways 4 and 5 are supported as they promote pedestrian and bicycle use in a shared street environment. The same opportunity should be explored in Driveway 03. Special paving could designate this as a shared street environment to promote walking in a relaxed slow traffic zone. These specially paved, kerb-free zones will contribute to creating a hierarchy of streets in the development.</p> <p>Recommendations</p> <p>See recommendations as described above.</p> <p>Landscape</p> <p>The landscape design response must be in accordance with the Warriewood Valley Landscape Masterplan and Design Guidelines (WVLMDG) dated August 2018 in all aspects.</p> <p>The document requires generous sized tree stock at regular intervals of between 6 – 12 metres for street trees which should be delivered. 30% tree canopy cover should be the minimum target. The current proposal suggests the removal of 4 x AA important trees; #55, #59, #60 & #61 with no justification by the Project Arborist and is not supported.</p> <p>Consideration should be given to the use of a structural root cell system such as Strata Vault by City Green or approved equal to provide the most suitable growing conditions for new trees and to aid in water management of the site.</p> <p>Pedestrian circulation within the development should be further reviewed providing easier access and more generous footpaths as well as a shared user path as outlined in the WVLMDG.</p> <p>A break in the building form for every 3 x units is required and these breaks should provide an opportunity for planting and heat island mitigation measures as well as providing habitat for local fauna.</p> <p>The 25-meter outer creek line corridor is to perform the functions of part water quality control and a fauna/flora corridor. The private buffer strip is to be a multifunctional corridor, appear to be part of the public domain, and may contain water quality control ponds; other water quality treatment measures; and/or roads and other impervious areas traditionally sited in the public domain, for up to 25% of the outer Creek line Corridor area subject to merit assessment".</p> <p>The current proposal has designed this area as the rear yards for the corresponding units and is not supported.</p> <p>There does not seem to be any communal open space provided and a local park with play equipment, bubbler benches and shade at the</p>

Internal Referral Body	Comments
	<p>very least should be incorporated into the design. There is to be further coordination with the Landscape and Vegetation Management Plans in accordance with the planning controls for this area.</p> <p>Recommendations</p> <p>4. A revised planting plan and schedule to meet all the relevant criteria of the Warriewood Valley Landscape Masterplan and Design Guidelines with a focus on the Plant species for landscape development on page 7.</p> <p>5. A further coordinated Landscape Documentation package with the Vegetation Management Plan to ensure creek line rehabilitation and biodiversity guidelines are met.</p> <p>6. Providing water management and passive recreation opportunities in the outer 25m creek line corridor in accordance with the Warriewood Valley Landscape Masterplan and Design Guidelines.</p> <p>7. Increased pedestrian amenity and circulation measures throughout the development with a dedicated pedestrian entry into the site.</p> <p>8. A target canopy cover should be compliant with the Greener Neighbourhoods guide which prescribes a minimum canopy cover target of 30% for developments of this type.</p> <p>9. The current proposal suggests the removal of 4 x AA important trees; #55, #59, #60 & #61 with no justification by the Project Arborist and is not supported.</p> <p>10. Provision of a local park with play equipment, bubbler, benches and a structural shade element should be considered.</p> <p>Amenity</p> <p>The interiors of the house types are reasonably varied and offer reasonable amenity. Types A1 and A2 contain a ground floor study with a skylight as the only source of natural light and ventilation. As this room is large enough to serve as a bedroom, the amenity of this room would be poor. It is recommended to reduce the room size by aligning the external wall with window(s) with the rumpus room window above, and for the room to serve as a study.</p> <p>The internal layouts of house types on Lots 58, 59, 60 and 61 should be amended to accommodate rear car access to houses 59 and 60 as described above.</p> <p>The house on Lot 24 should be replaced with a pedestrian through site link, or house plans adjacent to the link amended to accommodate the link.</p> <p>Recommendations</p> <p>11. Amend the floor plans of Types A1 and A2, and the internal planning of houses on lots 58-61 and houses on Macpherson Street to accommodate recommended changes to access.</p> <p>12. Consideration should be given to increasing the size of the POS to Lots 9-26. At 3m these spaces are very constrained in size.</p> <p>Façade treatment/Aesthetics</p> <p>The façade treatments and overall aesthetics are generally</p>

Internal Referral Body	Comments
	<p>acceptable. Cement render and paint finish is not recommended. Light-coloured roofs should be introduced to minimise summer heat load.</p> <p>Recommendations</p> <p>13. Materials with integral finishes such as face brick, prefinished, integral colour square edged, compressed fibre cement (CFC) panels, metal cladding including zinc and copper panels or integrally coloured acrylic textured coatings with long-term warranties are encouraged for consideration.</p> <p>Sustainability</p> <p>This application meets only the minimum compliance for sustainability, and considering minimum compliance is just about to be increased through changes to the NCC and BASIX, then it is expected that this application should include forward looking initiatives to better future proof the proposal. These include:</p> <ul style="list-style-type: none"> • Removal of gas and replacement with induction cooktops and heat pump hot water systems. • Inclusion of PV on all roofs. • Improved landscaping and canopy cover, in line with landscape and urban design comments above. <p>Otherwise, all comments from previous submission are still valid:</p> <p>Recommendations</p> <p>14. 16 % canopy target is inadequate. Aim should be for at least 30%.</p> <p>15. Discussion of biodiversity should be based on compliance in the first instance. A riparian zone is by definition the transition between natural landforms and waterways. Riparian zones are intended to be a zone of soil protection, natural water filtration to reduce water pollution, and a rich ecological zone. Landscaped lawn, fences and roads are not land use types that would constitute a natural “riparian zone”.</p> <p>16. Discussion of water management in relation to ‘sustainability’ should be in relation to strategies and approaches that achieve more than minimum compliance. This could include more naturalistic approaches to water management in the development area (rain gardens etc. as part of the landscape design) and detention that may have habitat and landscape value as compared to the fenced 1.6m deep pit proposed.</p> <p>17. Potential use of PV needs to be a firm commitment and full electrification including provision of bi-directional EV charging noting imminent NCC requirements</p> <p>18. Consider how more dwellings could have only 1 space by encouraging alternative forms of transport and providing space for car share vehicles</p>

Internal Referral Body	Comments
	<p>19. Light coloured roofs and hard surfaces to reduce heat island effect</p> <p>20. High NatHERS performances – at least 7 Star average will be required by BASIX in 2024. Consideration could be given to this in the re-design.</p> <p>PANEL CONCLUSION</p> <p>The Panel does not support the proposal in its current form. The proposal is to be presented to the Panel once amendments are made as recommended above and in previous reviews.</p> <p>Planner comment</p> <p>There have not been any amended plans or any additional information to address any of the recommendations made by the panel. As such, all issues with regard to Sustainability and Urban Design are unresolved, and this forms a reason for refusal.</p>
Environmental Health (Acid Sulfate)	<p>NOT SUPPORTED</p> <p>General Comments</p> <p>This application is seeking consent for an integrated housing development, comprising of 54-lot community title subdivision inclusive of a community title road including laneways and the erection of 10 detachable dwellings and 43 attached dwellings at 20-22 Macpherson Street, Warriewood.</p> <p>The site is identified primarily as Class 4 Acid Sulfate Soils and marginally part Class 5 Acid Sulfate Soils. The development does not involve works more than 2m below the natural ground surface or that are likely to lower the watertable by more than 2m. However, a Site Contamination Report prepared by Douglas Partner, reference 207253.02 prepared May 2023, has stated:</p> <p>The laboratory results indicated that ASS is likely to be present in all soils below the water table near the creek (i.e., the north-east site boundary) and in some horizons further away from the creek.</p> <p>Published ASS risk mapping indicates that the site is located in an area with low probability of ASS occurrence. It is noted, however, that localised occurrences may occur, and previous data indicates there is a risk of ASS occurrence at the site. Furthermore, swamp soils are often ASS.</p> <p>The site is located approximately 260 m north-west of an area with a high probability of ASS occurrence.</p> <p>An acid sulfate soil management plan (ASSMP) is required to provide the methods by which acid sulfate soil (ASS) at the site are to be managed during the works.</p>

Internal Referral Body	Comments
	<p>The ASSMP is to be prepared by a suitably qualified person and in accordance with the relevant sections of the Acid Sulfate Soils Management Guidelines 1998 and the report submitted to Council for review.</p> <p>Recommendation</p> <p>REFUSAL</p>
<p>Environmental Health (Contaminated Lands)</p>	<p>NOT SUPPORTED</p> <p>General Comments</p> <p>This application seeks consent for a Residential Subdivision Development at 20-22 MacPherson Street, Warriewood. Environmental Health has been asked to review the Preliminary Site Assessment for Contamination onsite. A report by Douglas Partners, reference number Project 207253.02 dated May 2023, has identified on the site through current and previous site investigations:</p> <ol style="list-style-type: none"> 1) fill containing asbestos, building waste. 2) Acid Sulfate Soils 3) One above ground storage tank (gas) and two Underground Petroleum Storage Tanks (location unknown) 4) heavy metals, arsenic and PFOS in groundwater sampling. <p>It is recommended as per the Geotechnical Report that a Detailed Site Investigation is undertaken as well as a Remediation Action Plan and a Hazardous Building Materials Assessment. Therefore the below is to be undertaken and reports submitted to Council for review.</p> <p>A detailed site investigation to assess data gaps at the site, including further assessment for the recorded Underground Storage Tanks, characterization of contamination in the existing building footprints when access becomes available and further groundwater assessment.</p> <p>A remediation action plan (RAP) is required to address the identified asbestos contamination and the former Underground Storage Tanks as well as any other contamination identified during further investigation or site works. The RAP should include an Unexpected Finds Protocol (UFP) and an Asbestos Finds Protocol describing how unexpected contamination and asbestos finds identified during constructions works will be managed. A detailed asbestos assessment may be required to inform the remediation decision. A validation assessment report will be required to validate the success of the remediation works recommended by the RAP.</p> <p>A hazardous building materials (HBM) assessment will be required for existing site buildings / structures prior to demolition. Hazardous materials will need to be removed in accordance with relevant legislation and guidelines prior to demolition and certified by a suitably qualified person.</p>

Internal Referral Body	Comments
	<p>Recommendation</p> <p>REFUSAL</p>
Landscape Officer	<p>NOT SUPPORTED</p> <p>Council's Landscape Referral section have assessed the application against the Pittwater Local Environment Plan (PLEP), and the following Pittwater 21 DCP (PDCP) controls (but not limited to):</p> <ul style="list-style-type: none"> • C6.1 Integrated Water Cycle Management; C6.2 Natural Environment and Landscaping Principles; C6.4 The Road System and Pedestrian and Cyclist Network; and C6.7 Landscape Area (Sector, Buffer Area or Development Site) • D16 Warriewood Valley Locality, and in particular D16.5 Landscaped Area for Newly Created Individual Allotments, and D16.12 Fences • Warriewood Valley Landscape Masterplan and Design Guidelines, August 2018 (WVLMG), and the Warriewood Valley Roads Masterplan, August 2018 (WVRM). <p>Under C6.2 Natural Environment and Landscaping Principles, the control intent of 'Integration with Creekline Corridor and the Public Domain' is not satisfied for Lots 48 to 57 inclusive, and Lots 58 to 61 inclusive, as all these Lots encroach upon the Outer Creekline Corridor that is required to appear as part of the public domain. Furthermore C6.2 notes that "Any part of residential lots, dwellings, garages, fences and other vertical built structures (wholly or in part) must not encroach into the 25 metre wide Outer Creekline Corridor".</p> <p>This Outer zone, under C6.1, 'Creekline Corridor', the "25 metre Outer Creekline Corridor (commonly known as the 'private buffer strip') to be provided on each side of the Inner Creekline Corridor is to be retained in private ownership and is to perform the functions of part water quality control and a fauna/flora corridor. The private buffer strip is to be a multifunctional corridor, appear to be part of the public domain, and may contain: water quality control ponds; other water quality treatment measures; and/or roads and other impervious areas traditionally sited in the public domain, for up to 25% of the outer Creekline Corridor area subject to merit assessment".</p> <p>However the proposed landscape treatment within the 25 metre wide Outer Creekline Corridor is designed as a traditional 'backyard' to be utilised by the occupants of the Lots and includes private open space, fencing to separate the lots, pavements, lawns and garden, and this aspect is not supported.</p> <p>As part of the 50 metre riparian corridor a Landscape Plan is required for the Outer Creekline Corridor and a Vegetation Management Plan is required for the Inner Creekline Corridor, and the current documentation within both the Landscape Plan and Vegetation Management Plan do not distinguish the 25 metre zones.</p>

Internal Referral Body	Comments
	<p>The Landscape Plans submitted are conceptual at this stage and provide reasonable information to assess the landscape outcome, however will be subject to the issue of detailed landscape plans at construction certificate should the application be approved. Of concern however with the Landscape Plans is the proposal for timber decking within area nominated in landscape calculations as 'landscape area'. The timber decking areas are not able to be calculated as 'landscape areas' hence such Lots do not achieve the required 'landscape area'. The definition of 'landscape area' in PLEP "means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area". Additionally it is noted that paved areas are also indicated on plans to further reduce the "landscape area", and of note is that the ground floor plans include living areas adjoining the proposed private open space area nominated as 'landscape areas' yet realistically the private open space area beyond the building would be utilised for outdoor living upon hard surfaces for all Lots and in particular for Lots 9 to 26 inclusive which provide a small distance between the garage and dwelling nominated as private open space.</p> <p>The proposal within the road reserve shall consider the streetscape guidelines of the Warriewood Valley Landscape Masterplan including street tree planting for sub arterial streets under section S-1 requiring street tree planting. It is noted that roadworks including car parking have been completed, however the deep soil area at the development at the entrance should be utilised for street tree planting.</p> <p>Based on the above concerns Landscape Referral at present do not support the landscape components of the application, and in summary the issues are:</p> <ul style="list-style-type: none"> • encroachment into the Outer Creekline Corridor. • co-ordination of the Landscape Plan and Vegetation Management Plan. • strict compliance with the requirements to provide adequate 'landscape area' as defined in the PLEP (for the Landscape plans) • lack of street tree planting.
NECC (Bushland and Biodiversity)	<p>NOT SUPPORTED</p> <p>The proposal is unacceptable as the development will not provide the 25 metre public and 25 metre private riparian corridor as required under the Pittwater LEP clauses 6.1 and 7.6, and the specific Warriewood Valley development planning controls. The subdivision plans and Vegetation Management Plan do not clearly identify the Inner 25m Riparian Corridor, and Lot 23 is not clearly defined on the Plans or within the supporting documentation. In particular, the 25 metre Outer Riparian Corridor includes the private rear yards of 14 lots as well as rights of way, and this is not allowed under the specific Warriewood Valley controls and Design Guidelines. The Landscape Referral includes more specific commentary with respect to the</p>

Internal Referral Body	Comments
	<p>relevant controls.</p> <p>The Riparian Corridor should focus on the creekline rehabilitation and bank stabilisation, weed removal and native revegetation, and passive use recreation. The development should identify the retention, restoration and revegetation of flora and fauna habitats, with the other permissible passive public uses (basins, roads etc) confined to the Outer 25 metres. The design of the outer corridor riparian buffer should be detailed in the Landscape Plan, with the objective to provide a generous private riparian buffer that is not impacted by private lots or rights of way.</p> <p>The Flora and Fauna Report and Arborist Reports are noted, and these identify the limited impacts to native vegetation and fauna habitats. The conclusion by Kingfisher that a significant impact to the environment is unlikely is concurred with, and the recommended mitigation and management measures noted.</p> <p>In relation to the VMP, the Plan is too generic and needs to be in accordance with Pittwater 21 DCP controls C6.1 Integrated Water Cycle Management and C6.2 Natural Environment and Landscaping Principles and the Warriewood Valley Riparian Corridor Design requirements. The VMP is to be specific to the subdivision development proposal, and focus on the 25 metre Inner Riparian Corridor. Extensive cut and fill is proposed within the creekline corridor, and this needs to be accounted for in the proposed vegetation management measures of the Plan. The area is not bush fire prone land, so the VMP should be prepared to retain and or recreate a fully structured native plant community. Specific management zones should be provided for the aquatic zones, creekbank zone, and then the remaining portion of the Inner Creekline Corridor. For each zone the VMP should clearly detail weed control methods, soil amelioration, sedimentation controls, plant species, planting densities, responsibilities, timing, maintenance and monitoring methods as a minimum.</p>
NECC (Development Engineering)	<p>NOT SUPPORTED</p> <p>The proposed 52 lot subdivision and housing application is not supported for the following reasons:</p> <ol style="list-style-type: none"> 1) On site detention stormwater (OSD)management <ol style="list-style-type: none"> a) The applicant is required to submit a drains model with full summary information for councils review to determine the the OSD volume sizing for the below ground tank and bio retention/OSD basin in accordance with Councils water management for development policy and the Warriewood Valley water management specification 2001. b) State of nature conditions are to be used in the DRAINS model to determine the pre developed site stormwater flows up to the 1/100 AEP plus climate change. The minimum information as required by section 9.1.3 of Councils water management for development policy is to be provided on the stormwater management plans. The current

Internal Referral Body	Comments
	<p>plans are conceptual and require more detail.</p> <p>c) The design engineer is to demonstrate that the outlet to the creek from the OSD basin is not affected by tail water levels and flooded restricting the OSD basin performance.</p> <p>d) As recommended by ARR 2019 Council requires the hydrological model in DRAINS is to be a Initial Loss - Continuing Loss model.</p> <p>e) No proposed level details of the stormwater outlet pipe connection point to the creek have been provided. Councils Catchment and coastal team will have more specific requirements in terms of outlet orientation , location and scour protection requirements.</p> <p>f) Specifications and design pollutant capture details are to be submitted for the Gross Pollutant Trap (GPT). The GPT type is to be detailed on the plans accordingly. A draft maintenance and operation manual in regard to the GPT and BIO Retention/detention basin operation is to be submitted for review.</p> <p>4) The applicant is to prepare a draft community management statement for Councils review and is to feature appropriate by laws /reference to a the operation and maintenance of all gross pollutant traps , the OSD tank and bio retention/OSD basin</p> <p>2) Internal Road Design /Geometry</p> <p>Non compliance with the stipulated access road, verge and footpath widths as detailed in the Warriewood Roads Masterplan dated June 2018.</p> <p>The required road ,verge and footpath widths are as follows: Minimum road width (kerb to kerb) required is 7.5m. The minimum verge widths are to be 2.5m and feature a 1.5m width concrete footpath at the back of the kerb which allows for street planting in the turfed area. The internal access road into Macpherson Street is to feature paved entry thresholds featuring wide laybacks.</p> <p>Please also refer to waste services requirements in relation to on site waste collection.</p>
NECC (Flooding)	<p>NOT SUPPORTED</p> <p>The development application seeks approval for demolition of existing buildings, construction of 10 detached two-storey dwellings and 43 attached two-storey dwellings, infrastructure, roadworks, landscaping and rehabilitation works for Narrabeen Creek.</p> <p>Earthworks are to include filling to raise the building platform to the FPL and excavation in the creekline corridor for rehabilitation works.</p> <p>The property is flood affected. The submitted Flood Impact and Risk Assessment Report (FIRA) by Stantec provides results and mapping for the existing and proposed future scenarios, using a modified version of Council's TUFLOW model from the Ingleside, Elanora and Warriewood OFFS (2019).</p> <p>The assessment of flooding includes consideration of the following documents:</p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • Pittwater 21 DCP - Sections C6.1, B3.11, B3.12, A1.9, • Pittwater LEP 2014 - Clauses 5.21, 7.4, • Warriewood Valley Urban Land Release Water Management Specification (2001) - Section 4.5. <p>Adverse Impacts</p> <p>The proposed development results in adverse impacts which are non-compliant with the Pittwater 21 DCP and Pittwater LEP 2014.</p> <p>In accordance with Control C6.1 of the Pittwater DCP, the building platform is permitted to be raised to the FPL provided that there "there is no additional adverse flood impact on the subject and surrounding properties and flooding processes for any flood event up to the PMF event including climate change impacts". Prior to lodgment of the DA, the Applicant was advised that for all events (which all include climate change impacts), they needed to show that the proposed development:</p> <ul style="list-style-type: none"> • Will result in less than 0.02m increase in the 1% AEP, 20% AEP and 50% AEP • Will result in less than a 0.05m increase in the PMF • Will result in less than a 10% increase in the PMF and 1% AEP peak velocities <p>The FIRA concludes that "while the flood impacts of the proposed residential development exceed the adverse impact criteria identified in Section A1.9 of the Pittwater 21 DCP in some of the assessed flood events, that the impact of any exceedances are considered minor and acceptable". However the impacts are not minor and acceptable, as they are outside of the tolerances allowed within the definition of "adverse impacts".</p> <p>The FIRA also implies that adverse impacts don't matter unless they are on existing dwellings. However this is not true. For instance, Macpherson St is an important evacuation route, so it is important that the roadway is not adversely impacted by flooding.</p> <p>The FIRA also states that "while the increases in velocity may be of possible concern in relation to scour, it is no more so than elsewhere in the locality, including the creek corridor and Macpherson Street under both Benchmark and Future Conditions and for this reason the exceedances above the DCP impact criterion are considered minor and acceptable". However these adverse impacts in velocity are outside the tolerances allowed within the definition of "adverse impacts", and for new development are expected to be satisfactorily addressed.</p> <p>Impacts on flood levels are shown on the FIRA mapping in Figures D1, D2, D3 and D6 and described in Section 4.2.1. From the mapping, there are no adverse impacts on flood levels within private property in the 20% AEP and 50% AEP events, but there are in the 1% AEP and PMF events.</p>

Internal Referral Body	Comments
	<p>Figure 14 shows 9 reference points for flood levels and impacts in Tables 5 and 6, but there are not enough reference points to cover all the flood impacted areas, for instance there are no points within the 18 Macpherson St property. However the mapping shows that there are adverse impacts within 18 Macpherson St, particularly in the northern, adjacent corner.</p> <p>The categories in Figures D1, D2 and D3, should be clarified, as they show one colour category for -0.02 to 0.02m overlapping with another category for 0.01 to 0.05m. Impacts are defined as adverse in the 1% AEP and smaller events when they are more than 0.02m, so the category should be for 0.02 to 0.05m, not 0.01 to 0.05m. It is also unclear from the Legend whether the category for -0.02 to 0.02m is white or no-fill, or maybe an extremely pale and transparent blue. On the figure, it is also difficult to differentiate between the very pale blue and very pale green colours as they are so similar. The colour scheme could be improved.</p> <p>Some of the text is also unclear. In Section 4.21, it states that “Figure D6 and Table 5” disclose certain impacts within the PMF event, however it is assumed that this is meant to refer to Table 6.</p> <p>1% AEP Event In the 1% AEP event (Fig D3), there are patches of adverse impacts on flood levels (ie an increase of more than 0.02m) at the northern adjacent corner of 18 Macpherson St, increasing by “0.2-0.5”m. They also increase by “0.01 to 0.05”m in patches along Macpherson St.</p> <p>The Figure F9 for 1% AEP future flood extents and levels seems to have been run with existing conditions and should be updated.</p> <p>In the 1% AEP event (Fig D5), velocity increases by more than 10% in numerous patches including within 18 and 26 Macpherson St and within the Macpherson St roadway.</p> <p>PMF Event In the PMF event (Fig D6), there are patches of adverse impacts on flood levels (ie an increase of more than 0.05m) on neighbouring properties at 18, 24 and 26 Macpherson St and across the road at 163 Macpherson St. The biggest increase is 0.50m, at 26 Macpherson St, near the middle of the adjacent boundary. The increase at 163 Macpherson St is 0.10m. Also, most of the roadway in front of 20-22 Macpherson St is adversely impacted, with the worst patch being in the range 0.20-0.50m increase.</p> <p>In the PMF event (Fig D8), velocity increases by more than 10% along the creek, and in numerous patches including within 14, 16, 18, 24 and 26 Macpherson St and within the Macpherson St roadway.</p> <p>Flood Planning Level</p>

Internal Referral Body	Comments
	<p>The FPLs which are based on modelling of the 1% AEP+CC for the developed case are set out in Appendix F of the FIRA. They are provided only along the creek, where they range from 10.05m AHD down to 8.73m AHD. The filling appears to be above these FPLs and the floor levels for the proposed dwellings appear to be well above these FPLs. For instance, Lot 40 has a floor level of 10.71m AHD (Drawing DA 200, elevation 5).</p> <p>The longitudinal sections in the Bulk Earthworks drawings show that there is significant filling across the site, right up to the boundaries of the property. For instance, the A-Long Section shows an increase in ground level of 0.6m at the 26 Macpherson St boundary and an increase of 1.87m at the 18 Macpherson St boundary. The D-Long Section shows an increase of approximately 1m (the actual finished ground level is missing from the drawing) at the front boundary with Macpherson St and an increase of 2.09m in the middle of the property.</p> <p>It seems that the filling will cause the ground levels on this property to be significantly higher than on adjacent properties, potentially with vertical retaining walls on the boundaries. The levels in these sections seem to be shown only within the property. Further information is requested so that this can be properly assessed.</p> <p>It is difficult to determine whether all of the requirements in Table 4.3 of the Warriewood Valley Urban Land Release Water Management Specification (2001) have been adequately met. It is requested that these requirements are specifically addressed.</p> <p>Request for further information Provision of the following additional information is requested to assist with further assessment:</p> <ol style="list-style-type: none"> 1) Additional reference points for flood results, to detail specific values for flood impacts in other flood impacted areas such as at 18 Macpherson St and the Macpherson St roadway. 2) Re-mapping of Figures D1, D2 and D3 so that the categories in the legend don't overlap. The range 0.02m to 0.05m would be more appropriate than 0.01 to 0.05m. 3) Information on FPLs across the property. 4) Clarification regarding the ground elevations on both sides of the front and side boundaries. 5) Clarification and discussion regarding the impact of these higher ground elevations, and the corresponding impact on the increased flood levels on the neighbouring properties and roadways. This should include discussion on why the filling and floor levels need to be so high and whether they could be lowered. 6) If removal of the adverse impacts is not possible, justification as to why not. 7) Mapping of the difference in Velocity x Depth product for the 1% AEP and PMF events. 8) Demonstration that each of the requirements in Table 4.3 of the

Internal Referral Body	Comments
	<p>Warriewood Valley Urban Land Release Water Management Specification (2001) has been met.</p> <p>9) If/when the FIRA is updated, improvement of the colour schemes as noted above and with the cadastre boundaries plotted on top of the flooding extents rather than underneath, to make it easier to determine the extent of flooding encroaching across the boundary.</p>
NECC (Riparian Lands and Creeks)	<p>NOT SUPPORTED</p> <p>This application has been assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Pittwater LEP 2014 6.1 Warriewood Valley Release Area (Protection and rehabilitation of creekline corridors and riparian areas, including water quality and flows, and bank stability) • Pittwater 21 DCP C6.1 Integrated Water Cycle Management (Use and rehabilitation of creekline corridors and riparian land) • Pittwater 21 DCP C6.2 Natural Environment and Landscaping Principles (Integration and landscaping of the creekline corridor) • Warriewood Valley Landscape Masterplan and Design Guidelines (Public Domain) (Detailed guidance on creekline corridor improvements) • Warriewood Valley Urban Land Release Water Management Specification 2001 (Detailed guidance on the restoration of creekline corridors in Warriewood) • State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.8 & 2.12) (Protecting the hydrological integrity of the adjacent coastal wetland and no impact to quantity and quality of surface AND groundwater flows) <p>This referral relates to the Narrabeen creek and the creekline corridor. Particular consideration has been given to the inner the 25m creekline corridor to be dedicated to Council.</p> <p>General terms of approval and a controlled activity permit are required from the Department of Planning and Environment (DPE) – Water prior to any works in Narrabeen Creek and the creekline corridor.</p> <p>CREEKLINE CORRIDOR</p> <p>Any part of residential lots, dwellings, garages, fences and other vertical built structures are not permitted within the 25 metre wide Outer Creekline Corridor.</p> <p>Fences at the rear of riparian properties are to be limited to open mesh systems with opening sizes not smaller than 0.1m to allow unrestricted wildlife migration. The Warriewood Valley DCP contains a full description of fencing requirements with conceptual sketches. The boundaries of the inner and outer creekline corridor must be clearly labelled in the plans and included in the design legend.</p>

Internal Referral Body	Comments
	<p>CREEK DESIGN Further information is required about the proposed creekline design. The existing and proposed creek profile has been presented in survey form. A cross-section of the proposed creek profile has also been provided. Detail is needed on how the design will connect to the upstream and downstream creek section. Detail about how the creek section will connect to the existing creek downstream is missing. Upstream detail is required about how the outlet from the adjoining upstream property will be harmonised into the proposed creek design to avoid scour. In both cases, abrupt transitions between lots must be minimised.</p> <p>The concrete weir recorded in the survey must be addressed in the design plan. Further details around creek design requirements can be found in Section 4.4.4 Creek Design Requirements of the Warriewood Water Management Specification.</p> <p>The Bulk Earthworks Plan provided implies soil will be cut from the creekline corridor. This appears to contradict the vegetation management plan which includes retaining some areas of vegetation, and replanting others. Clarification, and consistency between plans, is required.</p> <p>The planting density suggested in the Vegetation Management Plan (VMP) of 1 plant per 2.5 square metres is too low. Amend Table 4.3 of the VMP to remove reference to Blue Gum High forest.</p> <p>FILTER STRIPS A considerable proportion of the post-development catchment plan does not drain to a water quality control pond, in this case the bio-retention basin. Where sub-catchments cannot practicably be drained to a water quality control pond, filter strips are to be provided between stormwater discharge points and the waterway. The design must be revised so that the outlet from the OSD connects to a filter strip as per the Warriewood Valley Urban Land Release Water Management Specification 2001.</p> <p>SEDIMENT AND EROSION CONTROLS Sediment and erosion plan. Narrabeen Creek experiences flash flooding for which the proposed sediment control of straw bales for in-stream works is insufficient. A sediment curtain must be included for the duration of the in-stream works, ideally just downstream of the property boundary.</p>
NECC (Water Management)	<p>NOT SUPPORTED</p> <p>This application has been assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Pittwater LEP 2014 6.1 Warriewood Valley Release Area (Impacts to water quality of creeks) • Pittwater 21 DCP C6.1 Integrated Water Cycle Management (Water Management Report, surface and groundwater quality management and monitoring)

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • Pittwater 21 DCP C6.2 Natural Environment and Landscaping Principles (Location of water quality treatment measures) • Warriewood Valley Urban Land Release Water Management Specification 2001 (Detailed guidance on water quality monitoring and management) • State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.8 & 2.12) (Protecting the hydrological integrity of the downstream coastal wetland, and no impact to quantity and quality of surface AND groundwater flows) <p>This referral relates to water quality management on the site. A separate referral has been prepared in relation to the creekline corridor and Narrabeen Creek.</p> <p><u>General requirements</u> A water management report has been provided. A MUSIC model, including the data files, of pre-development and post-development conditions for the subdivision design should be submitted as soon as possible prior to perusal of the Water Management comments.</p> <p>The plans for the bio-retention basin must clearly show the boundaries of the inner and outer creekline corridor, noting that the bio-basin must be located entirely in the private buffer i.e., the outer creekline corridor.</p> <p><u>Water Cycle Assessment</u> Council preference is for a bio-retention basin without an impervious liner to promote infiltration and baseflow to Narrabeen Creek. The stormwater management report Ref 359-21 indicates that this is intended and this must be reflected in the design plans. The water management model (MUSIC) set up is to reflect the BASIX guidelines. The rainwater tanks requirements of BASIX are 1,500L and associated roof area collection (65 and 90 sqm depending on dwellings). Reference to CAMDEN COUNCIL'S to be deleted.</p> <p><u>Water Quality Management</u> Council agrees with the definition of the site proposed in the Stormwater Management Report (Ref: 359-21). The subject site is an existing commercial site with at grade carparking. The aim of the WARRIEWOOD VALLEY URBAN LAND RELEASE WATER MANAGEMENT SPECIFICATION is to create an effective but unobtrusive stormwater management system that enhances, rather than reduces the values of the area and ensures minimal impact on downstream sites.</p> <p>Council note that a no impact comparison (pre development against mitigated developed scenario) is not meeting the basics industry targets (see below):</p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • Total Phosphorous 65% reduction in the post development mean annual load • Total Nitrogen 45% reduction in the post development mean annual load • Total Suspended Solids 85% reduction in the post development mean annual load • Gross Pollutants 90% reduction in the post development mean annual load (for pollutants greater than 5mm in diameter) <p>Due to the existing commercial nature of the site the general stormwater quality targets should be used for the proposed development.</p> <p>Council is supportive of a bio-retention basin but further detail is required and the design requires some revision, including:</p> <ul style="list-style-type: none"> - addition of weir and spillway - include top of bank of minimum 500mm <p>Council is supportive of a stormwater outlet set back from the creek which connects with the floodplain. However, the outlet must connect to the creek via rock-lined swale to ensure it does not scour the floodplain and creek bank. Energy dissipation structures such as rock-lined swales must have a natural appearance and their invert at the base of the creek to ensure there is no additional scour induced by their presence. The connection to the creek should be made at a 45 degree angle.</p> <p>A considerable amount of the catchment post-development would not drain directly to the bio-retention basin. The stormwater outlet from the OSD must connect to a filter strip as per the Warriewood Valley Urban Land Release Water Management Specification 2001. The filter strip is to be located at the toe of the 1(V) in 4(H) upper riparian embankment and allow for the low flow to be disperse/spreaded in the riparian corridor. High flows to be connected to the main stormwater outlet.</p> <p>The stormwater management report Ref 359-21, page 2 of 23, refers to a temporary on-site detention tank and a bio-retention basin. Reference to these features as temporary must be clarified or else removed. Section 7.3 and 7.5 are referring to basin access from Lorikeet Grove and lifting of maintenance equipment, report to be updated to reflect the use of the proposed access ramp.</p> <p>Table 7 on page 17 of the Stormwater Management Report lists Council as responsible for maintenance of the Onsite Detention Basin. This reference must be removed. Council will not be responsible for maintenance of the bio-retention basin.</p> <p>A draft maintenance and operation manual in regard to the GPT and Bio Retention/detention basin operation is to be submitted for review.</p>

Internal Referral Body	Comments
	<p>The applicant is to prepare a draft community management statement for Council's review and is to feature appropriate by-laws /reference to a the operation and maintenance of all stormwater quality systems (including but not limited to gross pollutant traps , the OSD tank and bio retention/OSD basin).</p>
Strategic and Place Planning	<p>NOT SUPPORTED</p> <p>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 development site:</p> <ul style="list-style-type: none"> • Is identified as a residential sector, labelled Sector 301 in the above report and the LEP Urban Release Area Map; and • Has an assigned dwelling range for residential development, from 42 to 53 dwellings/lots. <p>If the residential development is not within this 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]. The number of residential allotments proposed under this development is within the dwelling range identified.</p> <p>Water management for each development sector or buffer area by way of 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 accounts for the calculated site cover for each proposed lot as a total sum, in the development sector.</p> <p>The inter-related DCP provisions for water management means that the site coverage at sector and at the individual lot scale modelled and specified under the water management report prepared for 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:</p> <p>“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”.</p> <p>Based on the objectives and considerations listed above, this DA proposes:</p> <p>An impervious area for the development sector of 49.86%. Council’s Catchment team and Development Engineers should confirm the impervious area (development site and individual lot scale) modelled under the submitted Water Management Report prepared for this DA and potential impacts.</p> <p>a) Notwithstanding there is no plan detailing the site coverage for</p>

Internal Referral Body	Comments
	<p>each proposed residential allotment to demonstrate it is aligning with the impervious fraction calculated at the lot scale under the submitted Water Management Report.</p> <p>Given this is an integrated housing development, the DA Officer should confirm the plans are consistent with the modelled impervious area for the sector and site cover for each residential lot.</p> <p>b) As discussed already, the applicant will need to address the following matters:</p> <ul style="list-style-type: none"> • Plans detailing the proposed rehabilitation works of the inner 25m creek line corridor land; • encroachment onto the outer 25m creek line corridor by proposed residential allotments 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 and 61; • if required, matters identified in a) and b) above, <p>as part of the overall water management scheme developed for this proposed subdivision.</p> <p>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(4) of PLEP and related DCP provisions.</p>
<p>Strategic and Place Planning (Heritage Officer)</p>	<p>SUPPORTED - WITHOUT CONDITIONS</p> <p>HERITAGE COMMENTS</p> <p>Discussion of reason for referral</p> <p>The proposal has been referred to Heritage as the subject site is located opposite two heritage items</p> <p>'Federation Cottage' - 163 Macpherson Street</p> <p>Memorial in Bus Shelter - adjacent to 163 Macpherson Street</p> <p>Details of heritage items affected</p> <p>Federation Cottage</p> <p>Statement of Significance</p> <p>The Cottage at 163 Macpherson Street in Warriewood, built in 1910s, is of historical significance as a good representative example of the early 20th century housing stock in the Warriewood Valley. The house is one of most intact remaining houses of the early 1906 subdivision.</p> <p>Physical Description</p> <p>Weatherboard brick and fibrous cement cottage. Hipped and gabled colourbond roof. Weatherboard to lower portion of exterior façade walls. Fibrous cement panelling above and to gable ends. Timber casement windows. Dark brick balustrade to veranda. Appears to be intact. Very little ornamentation in detailing (Tropman 1993).</p> <p>Memorial in Bus Shelter</p> <p>Statement of Significance</p> <p>The Memorial in Bus Shelter is dedicated to all Pittwater men who died in during WWII. The place has high social significance for the</p>

Internal Referral Body	Comments
	<p>Pittwater community due to its association with the men who died during WWII.</p> <p>Physical Description Bus shelter and brass memorial plaque. Warriewood community donated most of the money to pay for this. The plaque reads "This building was erected to the memory of our gallant dead. 1939-1945. Lest we forget. F Gibson AIF; H M F Howlett AIF; K Hadley RAAF; V W Hearne RAN; F W Headford AIF."</p> <p>Other relevant heritage listings SEPP (Biodiversity and Conservation) 2021 No Australian Heritage Register No NSW State Heritage Register No</p> <p>National Trust of Aust (NSW) Register No RAI A Register of 20th Century Buildings of Significance No</p> <p>Other No</p> <p>Consideration of Application The proposal seeks consent for the subdivision of the existing site into a number of lots and the construction of dwellings in a combination of attached and detached styles. The two heritage items are located on the other side of Macpherson Street, opposite where the entrance to the new estate is proposed. The development including the proposed dwellings facing the heritage house are considered to not impact upon this item or its significance. As currently proposed, there is also no roadworks to the southern side of Macpherson Street or the bus shelter with the heritage item and therefore no impact to this item either. However if the proposal is amended to include roadworks on this side, or adjustments to the bus stop, the proposal should be referred to Heritage for further comment on its impacts to the house or the memorial.</p> <p>Therefore as currently proposed, Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>
Strategic and Place Planning (Development Contributions)	<p>NOT SUPPORTED</p> <p>INTRODUCTION On 26 July 2023, Strategic and Place Planning received a referral request for application (DA2023/0976) for demolition works, civil and infrastructure works, subdivision into 53 lots and one community title road, the construction of 53 dwellings and associated works.</p>

SUBJECT SITE

The subject site comprises of 20 – 22 Macpherson Street Warriewood (Lot 1 DP 592091). The Flower Power nursery and ancillary café currently exists on site.

The subject site is located on north-east of Macpherson Street. The subject site is rectangular in shape and contains a section of Narrabeen Creek at its rear boundary.

The subject site is zoned R3 – Medium Density Residential under Pittwater LEP 2014. The site is identified as Sector 301 under the PLEP Urban Release Area Map and the Warriewood Valley Strategic Review Report.

PROPOSED DEVELOPMENT

This DA is for an integrated housing development, resulting in the subdivision of site to create 53 residential allotments and the construction of a dwelling on each residential lot.

The existing café and nursery are proposed to be demolished to make way for the proposed residential subdivision. The land is to be subdivided under Community Title, into 54 lots:

Lot 1 is to contain the internal road, as community association (common property);

53 residential allotments, with each lot containing a dwelling to be built as part of this DA (10 detached two storey dwellings and 43 attached two storey dwellings including 14 adaptable dwellings); associated civil works including bulk earthworks, internal road network to facilitate vehicular site access via driveways comprising majority one-way anti-clockwise circulation loop (labelled as Roads No. 1 to No. 5 inclusive on submitted DA plans but not labelled as a lot under the submitted plan of subdivision), installation of stormwater network including pit and pipe infrastructure and the construction of on-site stormwater detention and water quality infrastructure; installation of essential services (e.g. potable water, waste water, electricity, gas and NBN); landscaping of each proposed lot and verges, including street tree planting and public domain treatment; and Narrabeen Creek rehabilitation works.

The submitted subdivision plan shows a development staging sequence, not mentioned in the DA form or the submitted SEE prepared by Urbis, as being:

subdivision to create community lot (Lot 1), 7 super lots (Lots 2 to 8 inclusive) and Lots 9 to 16 inclusive; and

Lots 2 to 8 inclusive will be further re-subdivided into individual residential lots.

The submitted subdivision plan has not identified the following: defined lot showing extent of the community association lot.

a lot containing the outer 25m creek corridor and water management basin, and what ownership this lot would be.

The 53 residential allotments are proposed to accommodate: a detached dwelling on proposed lots 42 to 47 and Lots 58 to 61 inclusive, resulting in 10 dwellings under this typology; and an attached dwelling on proposed lots 9 to 41 and lots 48 to 57 inclusive, resulting in 43 dwellings under this typology.

14 of the attached dwellings (terraces) are adaptable dwellings, to be sited on proposed lots 16, 17, 42, 43, 44, 45, 46, 47, 48, 57, 58, 59, 60 and 61.

The stormwater management report notes the provision of:

a temporary OSD tank, shown on the submitted plans to be under part of the internal road shown as Road No. 2. Clarification should be

sought on how the tank is 'temporary' if is underneath a road, and a bio-retention basin located to the north of lots 58 and 59. The Statement of Environmental Effects and submitted plan of subdivision are inconsistent in referring to the inner creek line corridor being identified as a Residue lot and "Proposed Council reserve" respectively and will need to be rectified by the applicant.

ASSESSMENT OF DA

1. The additional plans submitted on 25 September 2023 show this development is being staged however, no details are provided as to what each stage delivers. These details are required to ensure:

- a) an assessment can be made that appropriate infrastructure will be provided at each stage to cater for the lots created at that stage:
- b) development contribution can be determined for each development stage.

2. Concern is raised on the encroachment into the outer 25m creek line corridor by proposed residential allotments 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 and 61, in terms of their rear yards being within the outer 25m creek corridor.

A critical element of the planning for Warriewood Vally release area is the integration of the outer 25m creek line corridor land as a landscape buffer supporting habitat and assisting in stormwater and water quality management whilst the inner 25m creek line corridor is a stormwater/environmental feature with the 1%AEP flood event conveyed along Fern Creek and Narrabeen Creek.

The thirteen (13) residential allotments encroaching into the outer 25m creek corridor means that sections of the landscape buffer will be in private ownership, resulting in:

inconsistencies in how this buffer area will be maintained, and potential that this is built upon as they are rear yards for individual residential allotments including having vertical structures on them, that, in turn, results in detracting from the original intent of the outer 25m creekline corridor as a landscape buffer and water management feature.

3. Insufficient information has been provided for the following:

- a) This DA is seeking development consent for rehabilitation works within the section of Narrabeen Creek which is within the development site. The works associated with this inner 25m creek corridor land should be part of the water management scheme developed by the applicant for the overall development however no details on the proposed rehabilitation of the inner 25m creek corridor are submitted with the DA. This is crucial in maintaining the features along the creek line corridor in accordance with the objectives of the PLEP.

A critical element of the planning for the Warriewood Valley release area is the integration of the creek line corridor as a stormwater/environmental feature with the 1%AEP flood event conveyed along Fern Creek and Narrabeen Creek. Without the details on the rehabilitation works, the DA as submitted has not addressed objective (b) of Part 6.1(1) and Part 6.1(4) of the PLEP in considering the impacts and rehabilitation of the creek line corridor. The proposed development:

is to ensure that there is no adverse impact on waterways and creek line corridors, the existing native riparian vegetation is protected 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 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.
b) The submitted Community Management Statement does not provide the following details:

The responsibility for funding the maintenance of water management facilities and internal road/laneways associated with this development given these infrastructure items would be in private ownership in perpetuity.

The maintenance regime and standard required for these privately-owned infrastructure items to ensure they continue to operate effectively over time; and to ensure there are no adverse impacts on the creek and surrounding properties in the long term.

What occurs in the event of a dispute.

4. Clarification is required to the following:

a) Is the OSD tank under Road No. 2 temporary or permanent to ascertain and fully assess the water management scheme developed for the overall development.

b) As the DA is an integrated housing development, accounting for the impervious area of each residential lot is critical in: the sum total of the impervious area of the development site, and the modelling outcomes of the water management scheme developed for the overall development including the OSD tank.

A plan demonstrating that each residential lot has an impervious area based on the modelling assumption for each lot – Assessment Officer responsibility (see a) below).

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 development site:

Is identified as a residential sector, labelled Sector 301 in the above report and the LEP Urban Release Area Map; and

Has an assigned dwelling range for residential development, from 42 to 53 dwellings/lots.

If the residential development is not within this 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].

The number of residential allotments proposed under this development is within the dwelling range identified.

Water management for each development sector or buffer area by way of 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 accounts for the calculated site cover for each proposed lot as a total sum, in the development sector.

The inter-related DCP provisions for water management means that the site coverage at sector and at the individual lot scale modelled and specified under the water management report prepared for 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”. Based on the objectives and considerations listed above, this DA proposes:

An impervious area for the development sector of 49.86%. Council’s Catchment team and Development Engineers should confirm the impervious area (development site and individual lot scale) modelled under the submitted Water Management Report prepared for this DA and potential impacts.

a) Notwithstanding there is no plan detailing the site coverage for each proposed residential allotment to demonstrate it is aligning with the impervious fraction calculated at the lot scale under the submitted Water Management Report.

Given this is an integrated housing development, the DA Officer should confirm the plans are consistent with the modelled impervious area for the sector and site cover for each residential lot.

b) As discussed already, the applicant will need to address the following matters:

Plans detailing the proposed rehabilitation works of the inner 25m creek line corridor land; encroachment onto the outer 25m creek line corridor by proposed residential allotments 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 and 61; if required, matters identified in a) and b) above, as part of the overall water management scheme developed for this proposed subdivision.

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(4) of PLEP and related DCP provisions.

Development Contribution 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 by this plan.

The applicant is to confirm the staging of this DA given there is a submitted staging plan however no details are provided in the SEE. The staging of development is to clearly state the stages and what encompasses each development stage including the construction of dwellings and the infrastructure associated with the subdivision and housing construction.

The applicant should be advised that the reconstruction and rehabilitation of the inner 25m creek line corridor as well as the inner 25m creek line corridor land are identified items of the Warriewood Valley Contributions Plan. The reconstruction and rehabilitation of the creek at Sector 301 is known as Item 2.53 under this Plan.

The applicant may wish to make an Offer to Northern Beaches Council to Enter into a Planning Agreement in relation to the developer delivering Item 2.53 for Council as a Works-In-Kind/Material Public Benefit. In this way, if the Offer is progressed to an Executed Planning Agreement, the total monetary amount payable

to Council as development contributions will be re-calculated based on offsetting the contribution for the value of the works of Item 2.53 in the Contributions Plan. It is recommended that the applicant seek a pre-lodgement meeting for any future Planning Agreement. Links to the Policy and Guide are provided below:

Council's Planning Agreement Policy 2022 can be found at https://files.northernbeaches.nsw.gov.au/sites/default/files/Planning_Agreement_Policy_2022_Adopted_28_June_2022.pdf

Guide for Developers 2022 can be found at <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/planning-agreements/guide-developers-mar2022.pdf>

At this initial stage of assessment, the contribution amount has not been calculated based on the inconsistencies noted above including the subdivision plan, the encroachment of lots in the outer 25m creek line corridor and the staging of this development.

Upon receipt of this additional information, the DA should be re-referred to SPP for review and to enable the calculation of a development contribution if appropriate.

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

RECOMMENDATION

1. As submitted, there are inconsistencies with the DA that needs to clarification by the applicant. The following additional information should be requested:

A. Details on the staging of the development consistent with the submitted subdivision plans, and should include the timing of creation of the community lot incorporating all land and infrastructure that is to be in private ownership and the land containing the inner 25m creek corridor being dedicated to Council.

Details should also include timing of the construction of dwellings on individual allotments or superlot and subsequent subdivision of superlot(s) into individual residential allotments.

These details are required for the purpose of calculating the development contribution amount payable to Council at each stage, and confirming what is to be produced on site for each development stage.

B. Details of the water management scheme developed for this development needs to include: Plans detailing the proposed rehabilitation works of the inner 25m creek line corridor land; Plans detailing the site coverage for the overall development site and for each proposed residential allotment to demonstrate it is aligning with the impervious fraction calculated at the total site area and lot scale respectively under the submitted Water Management Report.

Assessment on the impacts of the proposed encroachment onto the outer 25m creek line corridor by proposed residential allotments 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 and 61, noting the encroachment contradicts Section C6.1 of the Pittwater 21 DCP.

C. Details on maintenance schedule including funding for maintenance of the private infrastructure - water management facilities, outer 25m creekline corridor land and internal road network - proposed as a part of this development; including details in the event of conflict.

D. Clarification on the 'temporary' OSD tank located under the road reserve.

2. On receipt of the above additional information listed in point 1

	<p>above, the DA with the additional information is to be referred to S&PP (development contributions) for further consideration.</p> <p>3. The applicant should be advised that the submitted DA includes infrastructure identified under the adopted Warriewood Valley Contributions Plan namely:</p> <ul style="list-style-type: none">A. Item 2.53 Multi-functional Creek line Strategy (Rehabilitation Works)B. Item 301 Multi-functional Creek line Strategy (Land Acquisition) <p>A Planning Agreement pathway is available to deliver works-in-kind identified under the Warriewood Valley Contributions Plan. If the applicant wishes to pursue this pathway, an application for pre-lodgement meeting for the Planning Agreement can be lodged.</p> <p>Council's Principal Development Infrastructure Officer will be in contact with the applicant to discuss the advice provided in the recommendation.</p>
--	--

Internal Referral Body	Comments
Traffic Engineer	<p>NOT SUPPORTED</p> <p>The development Application is for demolition of the existing Flower Power development on the land and redevelopment of the site to provide 55 residential dwellings each served by two offstreet parking spaces. A One Way circulation system is proposed with some 27 on-street visitor parking spaces proposed.</p> <p>The following issues are raised with regard to the development proposal:</p> <p>Road widths</p> <p>The road widths are beneath the minimums required under the Warriewood Valley Roads Masterplan (WVRM) which specifies a minimum width of 7.5m kerb to kerb for an Access Street with a verge width of 2.5m required on both sides including a 1.5m footpath on one side of the carriageway. None of the internal roads meet these requirements. While consideration could be given to accepting a 5.5m road width for Roads 04 & 05 given their short length and the absence of any parking on those roads, the other roads must be designed to be consistent with the requirements of the WVRM.</p> <p>Truck circulation</p> <p>As outlined in the comments from Councils' Waste Services team provision must be made for the circulation of Council's 10.5m waste collection vehicles and not an 8.8m medium rigid vehicle as has been plotted in the applicant's traffic report.</p> <p>One Way Traffic Flow</p> <p>A One Way traffic flow arrangement has been proposed by the applicant. The Warriewood Valley Roads Masterplan requires two way traffic flow which maximises the residential amenity and provides for convenient access to all residential premises within the sub division as well as maximising the potential for on-street parking for visitors. The proposed One Way circulation will result in inconvenient access to home situated at the ends of roads which is likely to result in drivers travelling contrary to the intended One Way circulation. The One Way circulation also limits the amount of on-street parking able to be provided within the subdivision with no on-street parking on Road 3. The One Way traffic flow and narrow road widths also require that parking be banned on waste collection days to allow for circulation of the waste collection vehicle. This is not appropriate for a new subdivision and is unenforceable on a private road. It is inevitable that vehicles will park inappropriately preventing collection of waste. A two way circulation arrangement with a 7.5m road width would allow parking to be provided on one side of all streets and still maintain two way access. This will need to be confirmed with swept path plots for a 10.5m Heavy Rigid Vehicle. Finally, as outlined by Council's Waste Services team, the One Way circulation arrangement does not allow for collection of waste from both sides of</p>

Internal Referral Body	Comments
	<p>the road which is inconvenient and undesirable. A Two Way circulation arrangement should be provided on the internal road network</p> <p>Vehicle Access</p> <p>The internal road network proposed by the applicant envisages a 6m carriageway width on road 2 with parking on one side. Driveways are then accessed with parking access to/from driveway opposite parked vehicles. The applicant's traffic report has not verified that B99 vehicles are able to enter and exit residential driveways with vehicles parked at kerb side. swept path plots must be provided to confirm that access to driveways is feasible by the B99 vehicles as required by AS/NZS 2890.1 when the parking bays are occupied</p> <p>Road Cross Sections</p> <p>It is noted that the cross sections for Roads 1& 2 show that roll kerbs are proposed. This is unacceptable with the WVRM requiring standard vertical faced kerb and gutter. The use of roll kerbs will encourage vehicles to park with one wheel up on the nature strip/footpath which is illegal, will result in erosion of landscaped areas and will reduce footpath widths for pedestrians.</p> <p>The cross sections for Roads 4 & 5 show the use of flush kerb which is acceptable for a laneway consistent with the intent of the WVRM that laneways be designated as 10km/h Shared Zones with pedestrians sharing the road with motor vehicles. Road 4 & 5 should be designed with a contrasting paved surface to clearly define that they are Shared Zones.</p> <p>Lighting</p> <p>There have been no details provided for the streetlighting of the internal road and footpath areas. Indicative locations for streetlight poles should be plotted on the DA plans with poles to be sited clear of any trees to maximise light spill. Streetlight poles should also be located clear of footpaths to ensure that footpath widths are not restricted.</p> <p>Summary</p> <p>There are a number of areas where the submitted plans and reporting are inadequate or unacceptable. Additional material and amended plans are required prior to further consideration of the development.</p>
Waste Officer	<p>NOT SUPPORTED</p> <p>Waste Management Assessment The proposal is unacceptable.</p> <p>Specifically: Waste Collection Vehicles - information Councils uses a fleet of heavy rigid waste collection vehicles NOT</p>

Internal Referral Body	Comments
	<p>medium rigid vehicles as stated in the Traffic Assessment. The vehicles are 10.5 metres long, have three axles and weight 23 tonnes when fully loaded.</p> <p>Road Circulation - Unacceptable The proposal is for an anti-clockwise road circulation. This is the wrong direction for use with Council's fleet of side-arm waste collection vehicles. The road circulation must be changed to either clockwise or, preferably, two directional. A two directional road will allow for all bins to be collection from in front of each property. A clockwise road will allow for more than 80% of bins to be collected from in front of the allocated property. (Properties 48 thru to 57 may need to present on opposite side of road 02 - at least this is not in front of any other dwellings).</p> <p>Road Design - Unacceptable The internal roads must be designed to accommodate Councils fleet of heavy rigid vehicles. Swept path analysis is to be provided demonstrating entry/egress to/from Macpherson Street and the property in both directions for HR vehicle. Swept path analysis for all corners and truck manoeuvres within the property to be provided for HR vehicle. All infrastructure placed under the road pavement (pipes, OSD tanks etc) must be able to support a 23 tonne waste collection vehicle. A 4.5 metre clearance is required above the road pavement and bin presentation area to allow for operation of the bin lifting mechanism. (The landscape plans show a considerable amount of vegetation overhanging the road pavement which will potentially interfere with bin emptying operations). Road pavements must be a minimum of 6.0 metres wide where on-street parking is not provided and a minimum of 7.5 metres wide where on-street parking is provided. For waste collection purposes access roads 04 and 05 must have the pavement widened to 6.0 metres to meet the minimum requirement.</p> <p>On Street Parking - unacceptable The proposal for on-street parking on 6 metre wide road pavements does not comply with Council's road design requirements. The expectation that vehicles will not park on the road pavement on nominated waste collection days is unrealistic. As the proposal is for a community titled roadway Council will have no jurisdiction to enforce parking restrictions and have offending vehicles moved. Please refer to the "Road Design" comments for road pavement width requirements for on-street parking.</p> <p>Bin Presentation - unacceptable The proposal that residents present their bins in front of another</p>

Internal Referral Body	Comments
	<p>property, with some residents being required to drag their bins more than 30 metres, is entirely unacceptable to Council and all future occupants of the property.</p> <p>The proposal also shows a large number of bins being presented behind nominated on-street parking spaces.</p> <p>Bins must be able to be emptied from in front of the property to which they are allocated.</p> <p>A clockwise road rotation or two directional road will allow this to happen.</p> <p>An area must be provided for the presentation of up to 3 wheelie bins at the kerbside in front of each dwelling.</p> <p>The road pavement cannot be used for this purpose.</p> <p>The photo montages show extensive garden beds and trees between the road kerb and the footpath or property boundary. The location of these gardens and trees will need to be reviewed in order to ensure bins can be placed at the kerbside immediately adjacent to the road pavement. It would be acceptable to replace the garden beds with turf.</p> <p>Bin Storage within the Property - acceptable</p> <p>Bin storage within the garage is shown on the plans for all property types except A1 & A2.</p> <p>Bin storage arrangements for property types A1 & A2 is shown to be in garden.</p> <p>These arrangements are acceptable.</p> <p>Bulky Goods Presentation - information</p> <p>An area must be available for the presentation of up to 3 cubic metres of bulky waste at the kerbside in front of each dwelling.</p> <p>The road pavement cannot be used for this purpose.</p> <p>The 0.75 metre verges provided on roads 03, 04 & 05 will not be suitable for this purpose and must be widened.</p> <p>The photo montages show extensive garden beds and trees between the road kerb and the footpath or property boundary. The location of these gardens and trees will need to be reviewed in order to ensure the bulky goods items can be placed at the kerbside immediately adjacent to the road pavement. It would be acceptable to replace the garden beds with turf.</p> <p>Community Management Statement (CMS)- information</p> <p>The CMS must contain standard wording provided by Council with regards to access by waste collection vehicles.</p> <p>Wording for the CMS will be provided by Council.</p> <p>The CMS standard wording can be downloaded from Councils' website.</p> <p>Positive Covenant for Waste Collection Services - information</p> <p>A positive covenant is required to be placed on the community lot containing the roadway to ensure ongoing access for waste collection services.</p> <p>Wording for the covenant will be provided by Council.</p>

Internal Referral Body	Comments
	The positive covenant wording can be downloaded from Councils' website.
External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>SUPPORTED - SUBJECT TO CONDITIONS</p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations could be included in conditions of consent, if a determination of approval was made.</p>
Aboriginal Heritage Office	<p>NOT SUPPORTED</p> <p>Council's Aboriginal Heritage officer provided the following comments:</p> <p><i>"Reference is made to the proposed development at the above area and Aboriginal heritage.</i></p> <p><i>There are known Aboriginal sites in the area. No sites are recorded in the current development area, however, the area of the proposed development is identified as having high potential for unrecorded Aboriginal sites.</i></p> <p><i>The Aboriginal Heritage Office recommends a preliminary inspection ('due diligence' under the National Parks and Wildlife Act 1974) by a qualified Aboriginal heritage professional. The assessment would provide information on what potential Aboriginal heritage issues exist on the land and recommendations for any further action if required.</i></p> <p><i>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted."</i></p> <p>Given the size and scale of the development, it is determined a preliminary inspection should be undertaken prior to the granting of any development consent.</p>
Nominated Integrated Development - Department of Planning and Environment - Water - Water Management Act 2000, s91 - Controlled Activity Approval for works within 40m of watercourse	<p>SUPPORTED - SUBJECT TO CONDITIONS</p> <p>The Department of Planning and Environment provided a letter with General Terms of Approval.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1390599M).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	42
Thermal Comfort	Pass	Pass
Energy	50	51

A condition can be included in the consent requiring compliance with the commitments indicated in the BASIX Certificate if the application is approved.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which could be imposed in the event a determination of approval was made.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the consent authority to consider whether land is contaminated.

In response to the above requirements of Chapter 4, the applicant has submitted a Preliminary Environmental Site Investigation dated May 2023 and prepared by Douglas Partners. In its conclusion, the investigation states:

Based on the results of this assessment it is considered that the site can be rendered suitable for the proposed development subject to remediation of contamination issues at the site.

It is recommended that:

- *A detailed site investigation be undertaken to assess data gaps at the site, including further assessment for the recorded USTs, characterisation of contamination in the existing building footprints when access becomes available and further groundwater assessment.*
- *A remediation action plan (RAP) is required to address the identified asbestos contamination and the former USTs as well any other contamination identified during further investigation or site works. The RAP should include an Unexpected Finds Protocol (UFP) and an Asbestos Finds Protocol describing how unexpected contamination and asbestos finds identified during constructions works will be managed. A detailed asbestos assessment may be required to inform the remediation decision. A validation assessment report will be required to validate the success of the remediation works recommended by the RAP.*
- *A hazardous building materials (HBM) assessment will be required for existing site buildings / structures prior to demolition. Hazardous materials will need to be removed in accordance with relevant legislation and guidelines prior to demolition and certified by a suitably qualified person.*
- *An acid sulfate soil management plan (ASSMP) is required to provide the methods by which acid sulfate soil (ASS) at the site are to be managed during the works. Delineation of ASS is difficult, and it is recommended it be assumed that all soils from beneath the water table are ASS for planning purposes.*
- *All soil disposed off-site will require classification in accordance with the POEO Act prior to disposal. Based on the results of this investigation the soils have been given a preliminary classification of general solid waste - asbestos waste. All soils containing ASS will require treatment prior to disposal.*

Therefore, as the Investigation indicates that there is a potential for contaminants to exist on the site, sub-section 4.6 (1)(b) and 7(1)(c) of this chapter must be considered.

Sub-section 4.6(1)(b) stipulates that *"if the land is contaminated, it [Council] is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out"*.

Given the claimed potential of contamination on the site as noted in the Phase 1 Investigation, a Phase 2 Environmental Site Assessment must be provided to confirm whether contamination is actually present, at what levels and at what locations. However, no Phase 2 Environmental Site Assessment has been provided. In this regard, given the claimed presence of contamination, Council

cannot be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

Sub-section 4.6 (1)(c) stipulates that *"if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose"*.

The extent of any potential remediation of the site is uncertain due to the lack of a Phase 2 Environmental Site Assessment. Therefore, before any remediation of the site could be recommended and undertaken, a Phase 2 Environmental Site Assessment would be required in accordance with the SEPP and the Contaminated Lands Management Act 1997 to confirm the presence of contamination, what any such contamination may actually consist of and the precise locations and depths of any contamination.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	10.5m (internal areas) 8.5m (dwellings fronting Macpherson Street)	Ranging from 6.2m to 0.4m 7.0m to 8.5m	N/A	Yes
Number of Dwellings in Warriewood Valley Release Area (Sector 301)	Not more than 53 dwellings or less than 42 dwellings	53 dwellings	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.6 Subdivision - consent requirements	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	No
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	No
7.2 Earthworks	No

Clause	Compliance with Requirements
7.6 Biodiversity protection	No
7.10 Essential services	Yes

Detailed Assessment

5.21 Flood planning

Insufficient information has been provided to assess impacts on flooding. This is further detailed in the Flood Officers referral section of this report.

6.1 Warriewood Valley Release Area

Clause 6.1(3) of PLEP 2014 identifies that the site has a dwelling yield of not more than 53 dwellings and not less than 42 dwellings for Sector 301 of the Warriewood Valley Release Area. The subject site is within Sector 301. The proposal provides for 53 dwellings which satisfies the numerical maximum for the site.

7.1 Acid sulfate soils

The Site Contamination Report prepared by Douglas Partners, Reference 207253.02, prepared May 2023, has indicated that Acid Sulfate Soils are likely to be present in all soils below the water table near the creek (i.e. the north-east site boundary) and in some horizons further away from the creek.

An Acid Sulfate Soils Management Plan (ASSMP) is required to be provided that details the methods by which acid sulfate soils are to be managed during the works.

This plan has not been submitted, so this insufficient information has accompanied the application, which forms a Reason for Refusal.

7.2 Earthworks

The objective of Clause 7.2 - 'Earthworks' requires that development is to ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: Further information is required with regard to the proposed fill and any associated retaining walls. This is required to understand the potential amenity impact on neighbouring residential properties.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan submitted with the application. A condition may be included requiring any fill to be of a suitable quality if the application is to be approved.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: Further information is required with regard to any retaining walls that will be required on the boundaries, associated retaining walls will result in unreasonable amenity impacts on adjoining properties.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan submitted with the application. A condition may be included requiring any fill to be of a suitable quality if the application is to be approved.

(f) the likelihood of disturbing relics

Comment: The development was referred to the Aboriginal Heritage Office who provided comments that a preliminary inspection is required and has not been undertaken. This is required to understand the proposal's likelihood of disturbing relics.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment: There are earthworks (and lots) within the creekline corridor, which will change the natural form to be more residential lots in character and form which is unacceptable for this environmentally sensitive area.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment: Further information is required with regard to any retaining walls that will be required on the boundaries, associated retaining walls will result in unreasonable amenity impacts on adjoining properties as well as flooding impacts.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment: The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is **not supported**, in this particular circumstance.

7.6 Biodiversity protection

Council's Biodiversity Officer does not support the proposal and requires further information to assess the design and impacts. This is detailed in the Internal Referrals section of this report.

In particular, concerns are raised with the 25 metre Outer Riparian Corridor, including the private rear yards of 14 lots, as well as rights of way, which are inconsistent with the Warriewood Valley controls and Design Guidelines. Instead, the development should identify the retention, restoration and revegetation of flora and fauna habitats, with the other permissible passive public uses (basins, roads etc) confined to the Outer 25 metre of the Riparian Corridor.

Pittwater 21 Development Control Plan

Built Form Controls

Type A - Attached Dwellings along North-western and South-eastern sides of Site

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front setback to garage/carport	4.0m	5.5m	N/A	Yes
Front setback to dwelling	5.5m	2.2m-2.7m	54.5%	No (see comments)
Rear building line	4.0m (ground level) 6.0m (upper level)	4.0m (ground level) 6.0m (upper level)	N/A	Yes
Side building line	0m 0.9m at end of row	0m 0.9m at end of row	N/A	Yes
Landscaped area	25% (Lot width 5.8m)	A1: 25.4% (42.7sqm) A2: 25.1% (48.7sqm)	N/A	Yes

Type B - Attached Dwellings fronting Macpherson Street

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front setback to dwelling	6.5m	6.5m	N/A	Yes
Rear building line	0.5m (to garages) 6.0m (dwelling)	0m 9.3m	N/A	No (see comments) Yes
Side building line	0m 0.9m at end of row	0m 0.9m at end of row	N/A	Yes
Landscaped area	B1/B2: 25% (Lot width: 6.5m) B3:35% (Lot width: 8.9m)	B1/B2: 33.5% (65sqm) B3: 39% (95sqm)	N/A	Yes

Type C - Attached Dwellings Adjacent to Creekline

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front setback to dwelling	3.0m	15m-16m	N/A	Yes
Rear building line	0.5m (to garages)	0m	N/A	No (see comments)
	6.0m (dwelling)	0.5m	92%	No (see comments)
Side building line	0m 0.9m at end of row	0m 0.9m at end of row	N/A	Yes
Landscaped area	25% (Lot width: 6.4m)	40-45.9% (94.5-107.6sqm)	N/A	Yes

Type D - Central Island of Detached Dwellings

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front setback to garage/carport	4.0m	1.3m	67.5%	No (see comments)
Front setback to dwelling	3.0m	1.7m	43.3%	No (see comments)
Rear building line	4m to ground level	5.0m	N/A	Yes
	6.0m to upper level	3.2m		No (see comments)
Side building line	One side: 0.9m and 1.5m for upper level Other side: 0.9m at ground floor and 1.5m for upper level	One side: 0.9m and 1.5m for upper level Other side: 0.9m at ground floor and 1.5m for upper level	N/A	Yes
Landscaped area	35% (Lot width:9.9m-12.8m)	D1: 36.7% (87sqm) D2: 46.7% (149.9sqm)	N/A	Yes

Type E/F - Four Detached dwellings Adjacent to Creekline

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front setback to garage/carport	4.0m	2.0m	50%	No (see comments)
Front setback to dwelling	3.0m	2.4m	20%	No (see comments)
Side building line	One side: 0.9m and 1.5m for upper level Other side: 0.9m at	One side: 0.9m and 1.5m for upper level Other side: 0.9m at	N/A	Yes

	ground floor and 1.5m for upper level	ground floor and 1.5m for upper level		
Landscaped area	E: 35% (Lot width: 12.5m)	E: 41.4% (174sqm)	N/A	Yes
	F: 45% (Lot width: 15.5m)	F: 48.9% (213.7sqm)		

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	No	No
B3.6 Contaminated Land and Potentially Contaminated Land	No	No
B3.11 Flood Prone Land	No	No
B5.15 Stormwater	No	No
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	No	No
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	No	No
C1.3 View Sharing	Yes	Yes
C1.9 Adaptable Housing and Accessibility	No	No
C1.12 Waste and Recycling Facilities	No	Yes
C1.13 Pollution Control	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C5.17 Pollution control	Yes	Yes
C6.1 Integrated Water Cycle Management	No	No
C6.2 Natural Environment and Landscaping Principles	No	No
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
C6.4 The Road System and Pedestrian and Cyclist Network	No	No
C6.5 Utilities, Services and Infrastructure Provision	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C6.6 Interface to Warriewood Wetlands or non-residential and commercial/industrial development	Yes	Yes
C6.7 Landscape Area (Sector, Buffer Area or Development Site)	No	No
C6.8 Residential Development Subdivision Principles	No	No
C6.9 Residential Land Subdivision Approval Requirements	Yes	Yes
D16.1 Character as viewed from a public place	No	No
D16.5 Landscaped Area for Newly Created Individual Allotments	No	No
D16.6 Front building lines	No	No
D16.7 Side and rear building lines	No	No
D16.8 Spatial Separation	Yes	Yes
D16.9 Solar access	Yes	Yes
D16.10 Private and Communal Open Space Areas	Yes	Yes
D16.11 Form of construction including retaining walls, terracing and undercroft areas	Yes	Yes
D16.12 Fences	Yes	Yes
D16.13 Building colours and materials	Yes	Yes

Detailed Assessment

B3.6 Contaminated Land and Potentially Contaminated Land

A Detailed Site Investigation is required and has not been provided. This is a critical deficiency in the application and forms a reason for refusal. See further discussion under SEPP (Resilience and Hazards) 2021.

B3.11 Flood Prone Land

Insufficient information has been provided to fully assess the flooding and associated impacts. This is further detailed in the Flood Officer referral section of this report.

B5.15 Stormwater

Insufficient information has been provided to enable an assessment of the proposed development with regard to Stormwater. See further details under comments section in the Development Engineers Referrals Section of this report.

B8.6 Construction and Demolition - Traffic Management Plan

A Construction and Traffic Management Plan has not been submitted with the application. Owing to the size, scale and potential for impacts on the road system and surrounding amenity and creekline, such a plan is required at DA stage. This is included as a reason for refusal.

C1.9 Adaptable Housing and Accessibility

The development application must be accompanied by certification from an accredited access

consultant confirming that the nominated adaptable dwellings are capable of being modified, when required by the occupant, to comply with AS 4299:1995 Adaptable Housing. This certification has not been provided. As such, this is included as a reason for refusal.

C1.12 Waste and Recycling Facilities

Council's Waste Officer has detailed a number of concerns with the application, including; waste collection, road circulation/design, and bin presentation. More details are provided in the Internal Referrals section. This is included as a reason for refusal.

C6.1 Integrated Water Cycle Management

Description of Non-compliance

The proposal does not comply with the following Outer Creekline Corridor controls under the P21 DCP:

“The 25 metre Outer Creekline Corridor (commonly known as the ‘private buffer strip’) to be provided on each side of the Inner Creekline Corridor is to be retained in private ownership and is to perform the functions of part water quality control and a fauna/flora corridor (Lawson & Treloar, 1998). The private buffer strip is to be a multifunctional corridor, appear to be part of the public domain, and may contain:

- the pedestrian path/cycleway sited above the 20% AEP flood level to reduce the incidence of flood damage to a manageable level and achieve a satisfactory safety level for regular use. The location of the pedestrian path/cycleway is variable to ensure connectivity with existing sections of the path and retention of vegetation. The alignment of pedestrian paths/cycleways and associated landscaping must provide adequate sightlines for cyclists;*
- water quality control ponds;*
- other water quality treatment measures;*
- and/or roads and other impervious areas traditionally sited in the public domain, for up to 25% of the outer Creekline Corridor area subject to merit assessment” and, “Any part of residential lots, dwellings, garages, fences and other vertical built structures (wholly or in part) must not encroach into the 25 metre wide Outer Creekline Corridor.”*

Over 80% of the outer corridor area contains features that are not permitted under the requirements outlined above.

This includes areas of private lots, the loop road and two other roads, and the rights of carriageway. The proposal does not provide a design that integrates well with the creek by appearing visually as a natural extension to the creek environs. It also does not provide a design that appropriately involves soft landscaping, provides functions of part water quality control, or provides fauna/flora corridors.

See further discussion on this under the sections for Councils Natural Environment Officers (Landscape Officer, Biodiversity Officer, and Riparian Lands and Creeks Officer).

The proposal also does not comply with the following requirement:

*“A landscape plan for the Inner and Outer Creekline Corridors is to be prepared and submitted with the application. Extensive stands of *Casuarina glauca*, groves of *Eucalyptus robusta* with other native feature trees, an indigenous understorey and ground covers are to comprise a minimum of 75% of the total Creekline corridor area. Native groundcovers should be used as an alternative to lawn.”*

The required plan is necessary to satisfy this requirement.

Merit Assessment

An assessment is made against the overarching outcomes of the clause as follows:

Development is designed with an integrated approach to water management and conservation, addressing water quality and quantity, watercourse and creekline corridors, stormwater and groundwater, and minimises the risk posed by flooding and adapts to climate change impacts.

Comment: Council's Development Engineer, Water Management Officer and Flooding Officer do not support the application due to a multitude of issues and lack of information relating to; water management, flooding and stormwater. As such, the design for water management across the site is unacceptable.

The proposal is **inconsistent** with this objective.

Establish a network of multi-functional living creekline corridors particularly Narrabeen Creek, Fern Creek and Mullet Creek for flood conveyance, environmental flows, flora and fauna habitat, water quality improvement, cyclist and pedestrian access, and drainage, linking the Warriewood Escarpment with the Warriewood Wetlands and Narrabeen Lagoon, and facilitates the long-term environmental protection of the receiving waters including the Warriewood Wetlands and Narrabeen Lagoon.

Comment: The design involves a large majority of the outer creekline corridor being occupied by private lots. This does not allow for a multi-functional creekline corridor allowing for flood conveyance, environmental flows, flora and fauna habitat, water quality improvement, cyclist and pedestrian access, or drainage. The substantial amount and extent of private lots within the creekline corridor alters the existing natural form of the corridor and does not allow for long-term environmental protection of this area.

The proposal is **inconsistent** with this objective.

Remnant native vegetation along creekline corridors, escarpment vegetation, and the Warriewood Wetlands, including stands of Swamp Mahogany, Forest and Swamp Oaks, and Angophora Woodlands are conserved and restored to provide linkages and stepping stones for wildlife movement.

Comment: The privatisation of the creekline corridor restricts the potential for native vegetation to be established in this area. In particular, private open space should generally be open, and the remaining amount of deep soil areas on each lot do not provide sufficient opportunities for native vegetation that is reflective of the broader creekline corridor.

The proposal is **inconsistent** with this objective.

A range of aquatic habitats within the creeks are protected and restored as natural creekline and wildlife corridors with riparian vegetation, providing a functioning habitat for birds and diverse native flora.

Comment: The encroachments within the Outer Creekline Corridor area restrict the potential for and extent of natural habitats adjacent to the creekline. The natural habitats would effectively be reduced to be only 25m from the creekline. This inappropriately restricts opportunity for proper functioning habitats.

The proposal is **inconsistent** with this objective.

Landscaping enhances the required functions of the creekline corridor and reduces the impact of utilitarian drainage structures on the open space.

Comment: As above, the private lots provide insufficient opportunity for landscaping that is appropriate for the characteristics of the creekline corridor.

The proposal is **inconsistent** with this objective.

Effective management of grey water treatment systems (where relevant) which maintain disposal to Sydney Water central reticulation system (for disposal in cases of emergency breakdown/malfunction). and, Effective management of onsite sewage and effluent systems to ensure environmental and public health protection.

Comment: No concern is raised in this regard. However, further detail is required for overall water management on the site.

The proposal does not meet the outcomes for the clause. As such, this is included as a reason for refusal.

C6.2 Natural Environment and Landscaping Principles

Description of Non-compliance

The proposal does not comply with the following controls:

"Development must be designed to maximise the restoration, retention and preservation of indigenous trees, shrubs and groundcovers, as well as natural features, including wildlife corridors, fauna habitats, rock features and watercourses.

Create visually pleasing environments that integrate the built form of the development into the natural and cultural landscapes of the Warriewood Valley.

Integrate and form linkages with parks, reserves and transport corridors.

Integration with Creekline Corridor and the Public Domain (appropriate Landscaping including local species for natural fauna).

Any part of residential lots, dwellings, garages, fences and other vertical built structures (wholly or in part) must not encroach into the 25 metre wide Outer Creekline Corridor."

In particular, over 80% of the Outer creekline corridor contains features not permitted by the control.

Merit Assessment

An assessment is made against the overarching outcomes of the clause as follows:

Landscaping enhances and complements the natural environment and surrounding landscape character, reinstating elements of the natural environment, reducing the visual bulk and scale of development, and complementing the design of the proposed development.

Comment: The proposal involves large monotonous and visually dominant rows of built form with a

lack of landscaping and natural elements to reduce the visual bulk of the development. Along with the visual bulk issues relating to the internal streetscapes (as further discussed under D16), the lack of response to the Outer Creekline Corridor control provides a situation in which built form and presentation of residential lots is overly dominant and provides a design and scale that is inappropriate for a site adjacent to the sensitive creek environs.

The proposal is **inconsistent** with this objective

Promotion of ecologically sustainable outcomes by maintaining and enhancing remnant bushland, creekline corridors, wetland areas, local indigenous trees, shrubs and groundcover where possible to enhance the visual landscape, environmental qualities, biological diversity and ecological processes.

Comment: The proposal does not provide ecologically sustainable outcomes, as the large majority of the outer creekline corridor will not be kept in its natural form. This is visually inappropriate for the desired character and urban form in the area and is also inconsistent with the expected retention of ecological processes.

The proposal is **inconsistent** with this objective

The canopy cover and the habitat value are increased.

Comment: The amount and opportunity for new canopy cover and habitat value within the creekline corridor will be significantly reduced under this proposal, as evidenced by the presence of private residential lots within the majority of the outer creek corridor.

The proposal is **inconsistent** with this objective

Provision of a pleasant and safe living environment that is environmentally responsive, resulting in a unified, high quality landscape character and high level of visual amenity that in turn contributes to the sense of place.

Comment: The proposed design does not provide a sufficient opportunity for the residential and built form to be balanced with the natural environment. In particular, the design does not make provision for the creekline corridor area to be an area with a high-quality landscape character and high level of visual interest. Instead, the presence of roads, rights of way and residential lots within the outer riparian zone provides an outcome that is dominated by a monotonous presentation of built form and private lots with a lack of natural form integrated into the subdivision layout and built form design.

The proposal is **inconsistent** with this objective.

New development is blended into the streetscape and neighborhood.

Comment: The proposal involves long rows of attached townhouses without sufficient physical breaks, integration of natural form or any other visual relief. In particular, the large rows of townhouses fronting Macpherson Street, do not blend in with the predominant form of attached housing in the area, in that there is a lack of visual breaks provided by full physical separation or other design initiatives. The reliance upon a multitude of smaller "articulations" is not sufficient to address the lack of visual break-up of the built form and satisfy the predominant streetscape character and building pattern and configuration. Further, the presentation of the built form and subdivision pattern does not suitably blend into the creekline corridor, as it does not provide a sufficient natural buffer nor balance between natural form and residential lots in this area.

The proposal is **inconsistent** with this objective.

The proposal does not meet the outcomes for the clause. As such, this is included as a reason for refusal.

C6.4 The Road System and Pedestrian and Cyclist Network

The proposal does not provide a road design that is acceptable to Council's Waste Officer or Council's Traffic Officer.

See further comments under the Internal Referral sections for more details.

The proposal provides a one-way traffic flow system which is inconsistent with the Warriewood Valley Roads Masterplan.

This raises a number of issues including:

- lack of road widths
- lack of street planting
- lack of on-street parking
- lack of opportunity for truck circulation (waste) and;
- lack of evidence to show appropriate relationship between safe pedestrian and vehicular movements

As such, the proposal is inconsistent with this clause, and this is included as a reason for refusal.

C6.7 Landscape Area (Sector, Buffer Area or Development Site)

There are inconsistencies between the architectural plans and landscape plans. Specifically, the landscape plans include timber decks as soft landscaping. In this regard, there are deficiencies in the documentation, which forms a reason for refusal.

C6.8 Residential Development Subdivision Principles

Description of Non-compliance

The proposal does not comply with the following controls under this clause:

Lots 35-41 and Lots 27-34 do not meet the following requirements:

***“Lots less than 225m² in size or less than 9m wide are to be rear loaded, except where it can be demonstrated that:
-rear access is not practical due to the size or shape of the development site; or
-there will be no adverse impact on streetscape amenity and on-street parking.”***

The current proposed design involves a lack of landscape planting, open green space, and a minimisation in the presentation of built form for these groups of consecutive lots. As such, it has not been demonstrated that these "*front loaded*" lots are appropriate in the context of this subdivision.

The proposal also does not meet the following control:

“A ‘break’ (i.e. a larger lot width, an indentation in the dwelling with a width and depth of 1.5m on both levels, a housing product of a different width, a detached housing product) is to be provided between every 3 attached/abutting dwellings of the same lot width.”

The current design will result in a built form that is visually dominant, overly repetitive, highly monotonous and lacking the necessary visual relief and building separation, visual corridors and physical breaks, and does not sufficiently integrate landscaping into the streetscapes. This deficiency is fundamental to whether the proposal achieves the basic premise of the planning controls, and it fails the primary desired future character outcome envisaged by those controls.

Merit Assessment

An assessment is made against the overarching outcomes of the clause as follows:

Development occurs in an efficient and orderly manner.

Comment: The narrow lots with lack of physical breaks or visual relief provides for an overly dominant and monotonous presentation of the built form. This does not provide an appropriate sense of space or appropriate visual outcome where visual interest is created through change in form, nor where sufficient planting or natural features are balanced with the built form. As such, the proposed development does not occur in an efficient or orderly manner, or a desirable manner.

The proposal is **inconsistent** with this objective.

A range of lot sizes and dwelling types are provided to foster a diverse community and interesting streetscape.

Comment: Most of the lots are of a similar size and have a relatively narrow width. Most of the dwellings are within long rows of attached townhouse style housing. This contributes to the situation in which there is a lack of breaks in the presentation of the built form, with long rows of monotonous built form and "walled-in" streetscapes (see figure 1 below).



1 TYPE B
NTS

Figure 1: Representation of proposed built form for the rear of 'Type B' dwellings (image provided by applicant)

The proposal is **inconsistent** with this objective.

To efficiently utilise land to achieve the target dwelling yield.

Comment: The proposal is based on achieving the maximum dwelling target which is permitted by the provisions of the PLEP 2014 (being at the maximum yield of 53 dwellings and noting that a minimum yield of 42 dwellings could be provided).

However, it is determined that with this design, the lack of variation in residential building typology (such including some residential flat building elements), provides a situation in which the extensive coverage of the site is not suitable, and leads to issues with lack of spacing, building modules being out of character, encroachment into the creekline corridor, and a lack of space for an appropriately sized road design and vehicle circulation system. As such, 53 dwellings in this form is not suitable for the site. Instead, with this design, there should be a reduction in the number of dwellings to allow for enough space for all other issues to be addressed, including additional greenspace and soft

landscaping. Alternatively, a different approach to site planning and design, with different housing typologies, could allow the overall development to achieve the maximum yield permitted under the LEP. The introduction of some higher density housing typologies should be further explored.

The proposal is **inconsistent** with this objective.

Proposed residential lots achieve a high level of amenity including reasonable solar access.

Comment: The residential lots along the eastern and western side rows of the site are within close proximity to the existing neighbours. This raises concerns in relation to privacy, including overlooking between rear private open space areas and opposing windows. The proposal complies with the requirements for solar access, so concern is not raised in that regard.

The proposal is **inconsistent** with this objective (further information is required to show how privacy impacts will be mitigated).

Surveillance of public open spaces is facilitated.

Comment: The proposal generally provides windows and openings to allow for surveillance of public open space.

The proposal is **consistent** with this objective.

An ecologically sustainable environment which reduces the use of fossil fuels and increases the use of renewable energy is developed and maintained.

Comments: The proposal does not involve any electric car charging stations. This could be be conditioned in the event of an approval.

Active modes of transport and accessibility are encouraged through design.

Comment: The proposal does not provide a suitable internal roadway for transport and accessibility (see Traffic Officer and Waste Officers comments).

The proposal is **inconsistent** with this objective.

The proposal does not meet the outcomes for the clause. As such, this is included as a reason for refusal.

D16.1 Character as viewed from a public place

The proposal does not meet the following controls:

“The facades of buildings presenting to any public place must address these public places, provide visual interest, have a street presence and incorporate design elements (such as roof forms, textures, materials, arrangement of windows, modulation, spatial separation, landscaping etc.) that are compatible with any design themes existing in the immediate vicinity. Blank facades that front public places are not supported. Walls without articulation shall not have a length greater than 8 metres to any street frontage.

The bulk and scale of buildings must be minimised. Landscaping is to be integrated with the building design to screen and soften the visual impact of the built form. The height and scale of the landscaping in the setback area to the public place must be proportionate to the height and scale of the building.”

The proposal does not meet the desired future character outcomes envisaged for this site and locality, as the built form dominates the visual amenity for most of the site. Greater landscaping and articulation of built form is required across the site. In particular, this involves the extensive walls at Elevations 02, 05, 07, and 09 provide long walls with a lack of any articulation, spatial separation or landscaping, at both the garage and dwelling elevation levels (see figures below).



1 TYPE C
INT.

Figure 2: Presentation of internal 'walled in' streetscape (provided by applicant)



1 TYPE A
NTS

Figure 3: Presentation of attached housing. There are another 5 attached dwellings to the right of this image, which do not include an sufficient break or change to provide visual relief.

D16.6 Front building lines

Description of Non-compliance

For Type A (attached dwellings along north-western and south-eastern sides of site), the control requires a 5.5m front setback to the dwelling. The proposal involves a varied setback to the upper level of the dwellings from 2.2m-2.7m. This is up to a **54.5%** variation to the control. This contributes to a dominant presentation of built form and a poor streetscape outcome in this part of the site.

For Type D (central island of detached dwellings), the control requires a 4.0m front setback to the garage and a 3.0m setback to the dwelling. The proposal involves a varied setback of 1.4m-1.7m. This is up to a **67.5%** variation to the control. However, it is noted that the visual presentation of these dwellings is generally satisfactory.

For Type E/F (four detached dwellings adjacent to creek line, two on either side of the site), the control

requires a 4.0m front setback to the garage and a 3.0m setback to the dwelling. The proposal involves a varied setback of 2m-2.4m. This is up to a **50%** variation to the control. This contributes to dominant presentation of built form and the poor outcome in this part of the site (being within and viewable from the creek line corridor).

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying objectives of the Control as follows:

To achieve the desired future character of the locality.

Comment: The proposed development provides built form that is dominant and monotonous, with a lack of visual relief, spacing and integration of landscaping. There is also a lack of areas within the development dedicated to being open and landscaped, providing a situation in which the built form does not suitably fit into a landscaped setting as anticipated by the desired future character statement.

The proposal is **inconsistent** with this objective.

The area of site disturbance is minimised and soft surface is maximised.

Comment: The proposed development proposes significant disturbance to the creek line corridor area, an area that the DCP anticipates would be generally kept in its natural form. Further, the narrow lots and non-compliant front setback limit opportunity for soft surface to be maximised across the site.

The proposal is **inconsistent** with this objective.

The bulk and scale of the built form is minimised.

Comment: The proposed long and continuous rows of garages and attached housing, with a lack of any form of sufficient visual/physical breaks, do not sufficiently minimise bulk and scale. The non-compliant front setbacks contribute to this dominant presentation of built form and lack of natural form and spacing. This creates an inappropriate visual presentation for the internal streetscapes.

The proposal is **inconsistent** with this objective.

To achieve a consistent built form alignment in the streetscape, which is spacious and attractive, enhanced by tree planting within the front setback.

Comment: The proposed front building lines and narrow allotments, restrict opportunity for planting within the front setbacks to allow for spacious and attractive streetscapes. This contributes to the situation in which the front presentation of lots is dominated by built form and has little visual interest or physical breaks to alleviate and soften the streetscape.

The proposal is **inconsistent** with this objective.

Equitable preservation of views and vistas to and/or from public/private places.

Comment: The proposal will not cause any unreasonable impact on views or vistas from neighbouring properties.

The proposal is **consistent** with this objective.

Vegetation and natural features of the site are retained and enhanced within the site design to screen the visual impact of the built form.

Comment: Vegetation and natural features are not suitably enhanced to screen the visual impact of the built form. The areas for planting within the front setback are limited by the non-compliant front setbacks, car parking and narrow style allotments.

The proposal is **inconsistent** with this objective.

Encourage tandem carparking opportunities on narrow lots and minimise the visual prominence of parking structures in the streetscape.

Comment: Tandem parking is provided on the narrow lots. However, the visual prominence of garages generally across the site is unacceptable (see Figures 1 and 2 above).

The proposal is **inconsistent** with this objective.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties.

Comment: As discussed above, concern is raised with the relationship between the rear of the side rows of attached housing and the neighbours. However, it is noted that the non-compliant front setbacks do not contribute to any issues with regard to amenity such as privacy.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is **not supported**.

D16.7 Side and rear building lines

Description of Non-compliance

For Type C, (attached dwellings adjacent to creek line), the control requires a 6.0m rear setback to the dwelling. The proposal involves a varied setback of 0.5m to the dwellings. This is a **92%** variation to the control. This contributes to the "walled-in" streetscapes as shown in *Figure 2* above.

For Type B, the garages are setback 0m from the boundary. The control requires 0.5m.

For Type D, the dwellings have a setback of 3.2m (minimum) to the upper level. This control requires 6.0m.

Merit Consideration

The proposed development is considered against the underlying outcomes of this control in the following ways:

To achieve the desired future character of the Locality.

Comment: The proposed development provides built form that is dominant and monotonous, with a lack of visual relief, spacing, and integration of landscaping. There is also a lack of areas within the development dedicated to being open and landscaped, providing a situation in which the built form does not suitably fit into a landscaped setting as anticipated by the desired future character statement.

The proposal is **inconsistent** with this objective.

The area of site disturbance is minimised and soft surface is maximised.

Comment: The proposed development proposes significant disturbance to the creek line corridor area, an area that the DCP anticipates would be generally kept in its natural form. Further, the narrow lots and non-compliant front setback limit opportunity for soft surface to be maximised across the site.

The proposal is **inconsistent** with this objective.

The bulk and scale of the built form is minimised and the impact of the proposed development on the adjoining properties is minimised.

Comment: The proposed long rows of garages and attached housing with a lack of any form of sufficient breaks do not appropriately minimise bulk and scale. In particular, the non-compliant rear setback for the Type C dwellings (Figure 2) provide a walled-in streetscape with an unacceptable visual impact caused by such dominance of the built form.

The proposal is **inconsistent** with this objective.

To create meaningful breaks between adjoining buildings and regular rhythm of built form, particularly with regard to the built forms presentation to public places.

Comment: The proposal does not provide meaningful breaks across the site. This provides for long rows of built form without any visual relief, creating a poor visual outcome for the streetscapes.

The proposal is **inconsistent** with this objective.

To create usable curtilage areas around buildings for viable access, landscaping and open space.

Comment: The dominance of built form and lack of spacing provides a situation in which there is a lack of curtilage areas. This contributes to issues with access, landscaping and open space.

The proposal is **inconsistent** with this objective.

Equitable preservation of views and vistas to and/or from public/private places.

Comment: The proposal will not cause any unreasonable impact on views or vistas from neighbouring properties.

The proposal is **consistent** with this objective.

Vegetation and natural features of the site is retained and enhanced within the development site design to screen the visual impact of the built form.

Comment: Vegetation and natural features are not suitably enhanced to screen the visual impact of the built form. In particular, there is no opportunity for deep soil planting in the rear setback of the Type C dwellings. Further concern is raised with the inconsistency between landscape plans and architectural plans relating to the timber decks shown. These are shown on the landscape plans as soft landscaping and would restrict opportunity for planting to the rear of the site, particularly for the type A dwellings.

The proposal is **inconsistent** with this objective.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties.

Comment: As discussed above, concern is raised with the relationship between the rear of the side rows of attached housing and the neighbours.

The proposal is **inconsistent** with this objective.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is **not supported**.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

Insufficient Information

The following is a list of insufficient information, that it is determined to be required to allow a full and proper assessment of the application:

- Detailing of retaining walls relating to the large amounts of fill and earthworks
- Detailing of the exact location of the inner and outer creekline corridor on Architectural plans
- A Preliminary, 'due diligence' inspection for Aboriginal Heritage.
- Consistency between Architectural Plans and Landscape plans inconsistent. Architectural plans show landscaped private open space. Landscape plans show timber decks in this location.
- A Landscape Plan for Inner and Outer Creekline corridors
- An Certification from an accredited access consultant confirming that the nominated adaptable dwellings are capable of being modified, when required by the occupant, to comply with AS 4299:1995 Adaptable Housing.
- A Construction and Traffic Management Plan (CTMP).
- Boundaries identified on floor plans
- All additional information detailed in the internal referrals section of this report.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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 by this plan.

At this initial stage of assessment, the contribution amount has not been calculated based on the inconsistencies noted in the Development Contributions referral including the subdivision plan, the

encroachment of lots in the outer 25m creek line corridor and the staging of this development.

Upon receipt of this additional information, the DA should be re-referred to SPP for review and to enable the calculation of a development contribution if appropriate.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;

- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

PLANNING CONCLUSION

This proposal, for 54 lot community title subdivision with the construction of 53 dwellings with a community title road (lot 1) and laneways has been referred to the Sydney North Planning Panel due to the Capital Investment Value exceeding \$30 Million.

The concerns raised in the objections have been addressed this report, with many of this concerns being represented in the reasons for refusal.

The critical assessment issues relate to the following:

- Encroachment into Outer Creekline Corridor
- Incompatible and Inconsistent Built form and Character (non-compliance with DCP controls and outcomes)
- Concerns raised by the Design and Sustainability Advisory Panel (unresolved)
- Acid Sulfate Soils
- Contaminated Lands
- Biodiversity
- Landscape
- Riparian Lands and Creeks issues
- Stormwater
- Flooding
- Traffic
- Waste
- Privacy
- Strategic Planning issues
- Lack of adequate information to enable a proper assessment of application

The proposal does not comply with some critical controls in the P21DCP relating to development within the creekline corridor, and also relating to overall bulk, scale and size of built form.

In relation to the creekline corridor, this includes a variation of greater than 80% to the "25 meter outer creekline corridor" under Clause C6.1 and Clause C6.2 of the Pittwater 21 DCP.

In relation to the built form, there are various non-compliances with numerical controls for setbacks, and other controls that assist in minimising bulk and scale. These have been further discussed earlier in the report.

There were two pre-lodgement applications for this concept, one for subdivision only and one for subdivision and dwellings. The pre-lodgement application for subdivision with dwellings went to the Design and Sustainability Panel but was cancelled by the applicant prior to the meeting with Council. Since the lodgment of the Development application, Council has provided a letter detailing concerns with the proposal (Request for Information), and also met with the applicant on numerous occasions to discuss Council's concerns. At all of these stages, the Applicants response to Council's concerns and suggested changes to the concept, has been extremely limited.

An important part of the conclusion is also that there is a lack of information provided with the application to enable a complete and proper assessment and consideration of the proposal, in accordance with the EPA Act, 1979 and related legislation and policies. This lack of information is listed under the Insufficient Information section of this report.

This report concludes with a recommendation of refusal. The reasons relate to determinative planning, environmental, engineering and servicing matters as well as matters relating to a lack of information. Particulars are provided for the reasons of refusal, where relevant.

Overall, the development has numerous issues with regard to site planning and design that result in unreasonable visual impacts, impacts on adjoining nearby properties, and on the natural environment.

The proposal has therefore been recommended for **REFUSAL**.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Sydney North Planning Panel, as the consent authority REFUSE Development Consent to Development Application No DA2023/0976 for the Demolition works, subdivision into 53 lots and one community title lot, construction of 53 dwellings, including internal roadways, stormwater, creekline rehabilitation and landscape works on land at Lot 1 DP 592091,20 - 22 Macpherson Street, WARRIEWOOD, for the reasons outlined in Attachment 1.

ATTACHMENT 1

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Environmental Planning and Assessment Act 1979.

Particulars

- a) The proposal is inconsistent with Section 4.15(1) of the act. This includes (i) any environmental planning instrument, (iii) any development control plan, and (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph).
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of State Environmental Planning Policy (Resilience and Hazards) 2021.

Particulars

- a) A detailed site investigation to assess data gaps at the site, including further assessment for the recorded Underground Storage Tanks, characterization of contamination in the existing building footprints when access becomes available and further groundwater assessment.
- b) A remediation action plan (RAP) is required to address the identified asbestos contamination and the former Underground Storage Tanks as well as any other contamination identified during further investigation or site works. The RAP should include an Unexpected Finds Protocol (UFP) and an Asbestos Finds Protocol describing how unexpected contamination and asbestos finds identified during constructions works will be managed. A detailed asbestos assessment may be required to inform the remediation decision. A validation assessment report will be required to validate the success of the remediation works recommended by the RAP.
- c) A hazardous building materials (HBM) assessment will be required for existing site buildings / structures prior to demolition. Hazardous materials will need to be removed in accordance with relevant legislation and guidelines prior to demolition and certified by a suitably qualified person.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 5.21 Flood planning of the Pittwater Local Environmental Plan 2014.

Particulars

- a) Adverse impacts
- b) 1% AEP Event
- c) PMF Event
- d) Additional information required:

1) Additional reference points for flood results, to detail specific values for flood impacts in other flood impacted areas such as at 18 Macpherson St and the Macpherson St roadway.

- 2) Re-mapping of Figures D1, D2 and D3 so that the categories in the legend don't overlap. The range 0.02m to 0.05m would be more appropriate than 0.01 to 0.05m.
 - 3) Information on FPLs across the property.
 - 4) Clarification regarding the ground elevations on both sides of the front and side boundaries.
 - 5) Clarification and discussion regarding the impact of these higher ground elevations, and the corresponding impact on the increased flood levels on the neighbouring properties and roadways. This should include discussion on why the filling and floor levels need to be so high and whether they could be lowered.
 - 6) If removal of the adverse impacts is not possible, justification as to why not.
 - 7) Mapping of the difference in Velocity x Depth product for the 1% AEP and PMF events.
 - 8) Demonstration that each of the requirements in Table 4.3 of the Warriewood Valley Urban Land Release Water Management Specification (2001) has been met.
 - 9) If/when the FIRA is updated, improvement of the colour schemes as noted above and with the cadastre boundaries plotted on top of the flooding extents rather than underneath, to make it easier to determine the extent of flooding encroaching across the boundary.
4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.1 Acid sulfate soils of the Pittwater Local Environmental Plan 2014.

Particular

- a) An acid sulfate soil management plan (ASSMP) is required.
5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.2 Earthworks of the Pittwater Local Environmental Plan 2014.

Particulars

- a) A Preliminary site inspection needs to be provided and considered by Consent Authority in relation to Clause 7.2(f)
 - b) Further information is required with regard to any retaining walls that will be required on the boundaries, associated retaining walls will result in unreasonable amenity impacts on adjoining properties.
6. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.6 Biodiversity protection of the Pittwater Local Environmental Plan 2014.

Particulars

- a) Breach of 25 metre Outer Riparian Corridor and inappropriate design for riparian corridor
 - b) More detail required for VMP
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B1.4 Aboriginal Heritage Significance of the Pittwater 21 Development Control Plan.

Particulars

- a) A Preliminary ('due diligence') site inspection needs to be provided.

8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B3.6 Contaminated Land and Potentially Contaminated Land of the Pittwater 21 Development Control Plan.
9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B3.11 Flood Prone Land of the Pittwater 21 Development Control Plan.
10. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B5.15 Flood Prone Land of the Pittwater 21 Development Control Plan.

Particulars

- a) Further Details are required with regard to OSD including the requirement for a DRAINS Model
 - b) Issues with internal road
11. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B8.6 Construction and Demolition - Traffic Management Plan of the Pittwater 21 Development Control Plan.

Particular

- a) A Construction and Traffic Management Plan is required.
12. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.9 Adaptable Housing and Accessibility of the Pittwater 21 Development Control Plan.

Particular

- a) Certification from an accredited access consultant confirming that the nominated adaptable dwellings are capable of being modified is required
13. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.12 Waste and Recycling Facilities of the Pittwater 21 Development Control Plan.
 14. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C6.1 Integrated Water Cycle Management of the Pittwater 21 Development Control Plan.

Particulars

- a) Unacceptable encroachment in to Outer Creekline Corridor area
 - b) Lack of Landscape Plan for Inner and Outer Creekline Corridor areas
15. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C6.2 Natural Environment and Landscaping Principles of the Pittwater 21 Development Control Plan.

Particulars

- a) Unacceptable encroachment in to Outer Creekline Corridor area
- b) Unacceptable design for Creekline corridor (relating to natural environment)

16. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C6.4 The Road System and Pedestrian and Cyclist Network of the Pittwater 21 Development Control Plan.

Particulars

- a) Internal road design is unsuitable due to:
 - lack of road widths
 - lack of street planting
 - lack of on-street parking
 - lack of opportunity for truck circulation (waste) and;
 - lack of evidence to show appropriate relationship between safe pedestrian and vehicular movements

17. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C6.8 Residential Development Subdivision Principles of the Pittwater 21 Development Control Plan.

Particulars

- a) Non compliance with the following controls leads to inappropriate visual presentation of development:

“Lots less than 225m² in size or less than 9m wide are to be rear loaded, except where it can be demonstrated that:

- rear access is not practical due to the size or shape of the development site; or*
- there will be no adverse impact on streetscape amenity and on-street parking.”*

and,

“A ‘break’ (i.e. a larger lot width, an indentation in the dwelling with a width and depth of 1.5m on both levels, a housing product of a different width, a detached housing product) is to be provided between every 3 attached/abutting dwellings of the same lot width.”

18. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D16.1 Character as viewed from a public place of the Pittwater 21 Development Control Plan.

Particular

- a) The proposal does not comply with controls of the clause and does not achieve desired

future character

19. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D16.6 Front building lines of the Pittwater 21 Development Control Plan.

Particular

a) The proposal does not comply with the controls for front setbacks and this contributes to the dominant and overbearing presentation of Built form.

20. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D16.7 Side and rear building lines of the Pittwater 21 Development Control Plan.

Particulars

a) The proposal does not comply with the controls for rear setbacks and this contributes to the dominant and overbearing presentation of Built form.

b) Lack of information to show mitigation of privacy impacts

21. Pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, insufficient information has been submitted to enable the assessment of the application.

Particulars

a) Detailing of retaining walls relating to the large amounts of fill and earthworks

b) Detailing of the exact location of the inner and outer creekline corridor on Architectural plans

c) A Preliminary, 'due diligence' inspection for Aboriginal Heritage.

d) Consistency between Architectural Plans and Landscape plans inconsistent. Architectural plans show landscaped private open space. Landscape plans show timber decks in this location.

e) A Landscape Plan for Inner and Outer Creekline corridors

f) An Certification from an accredited access consultant confirming that the nominated adaptable dwellings are capable of being modified, when required by the occupant, to comply with AS 4299:1995 Adaptable Housing.

g) A Construction and Traffic Management Plan (CTMP).

h) Boundaries identified on floor plans

i) All additional information detailed in the internal referrals section of this report.

j) Lack of response to issued raised by Design and Sustainability Advisory Panel