

Strategic Planning Referral Response

Application Number:	DA2020/1727
Date:	03/08/2021
To:	Jordan Davies
Land to be developed (Address):	Lot 7 DP 1251955 , 121 Dove Lane WARRIEWOOD NSW 2102

Officer comments

Introduction

This assessment is informed by the additional information received by Council on 17 June 2021 and whether these additional details have resolved the concerns initially raised by Strategic and Place Planning (S&PP) in its response of 1 April 2021 (TRIM 2021/241343).

Applicant's Description of the DA

The proposed development comprises:

- subdivision to create the following lots:
 - Lot 1: 645.3m²
 - Lot 2: 634.1m²
 - Residual (super) lot: 1107m².
- removal of seven trees.

The development site

The site is a newly created allotment, at the western section of Dove Lane based on the Execution of a Planning Agreement between Northern Beaches Council and the property owner.

Updated S&PP Response

Clause 5 of the Executed Planning Agreement specifically relates to Contributions and Acknowledgements of the Executed Planning Agreement and sets out the contributions of the Developer (as the part of the obligations of the PA) and that the contributions are to be provided "*prior to the issue of any Subdivision Certificate for residential development of the Developer Land*". Schedule 4 – Developer Contributions of the PA reads as follows:

Schedule 4 – Developer Contributions (clause 5)

1. Contributions

The Developer agrees to provide the Developer Contributions in accordance with this Schedule in the manner set out in the table below:

	Column 1	Column 2
Item	Contributions	Delivery Event and Timing
1	Fern Creek Road Works	Construction of an extension of Fern Creek Road, including new onstreet parking, street trees and footpath (but excluding parking bays on the reserve side) and dedication of land to the Council by the Developer at no cost to the Council in accordance with clause 2 of this Schedule 4 prior to the issue of any Subdivision Certificate for residential development of the Developer Land.

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

The 'Developer contributions as per the Executed PA' regarding the construction of the roads (being the extension of Fern Creek Road and the East-west Road) and the stormwater infrastructure as part of the extension of Fern Creek Road are the subject of development consent (DA2018/1044).

On 31 May 2021, Council issued a Roads Act approval for the construction of the roads and associated stormwater infrastructure (the subject of the Developer contributions stated in the PA above) – TRIM2021/469789, 2021/469796, 2021/469814. However, it does not appear that a Construction Certificate has been issued specifically for the construction of these infrastructure items the subject of the Roads Act approval and the Developer contributions of the Executed PA.

As this DA involves subdivision to create residential allotments, until such time as the obligations stated in the Executed PA are completed by the Developer and Council; the Subdivision Certificate for this DA cannot be issued by Council. A condition will be imposed accordingly.

Assessment of DA2020/1727

This application seeks to subdivide Lot 7 (with site area of 2383.3m²) into 3 lots, consisting 2 residential lots and 1 residue lot. The residue lot is being developed as part of DA2021/0053 to accommodate 7 dwellings on same, as part of an as yet-determined integrated housing development application over various properties including the subject property.

Given the dwelling range provision applying to this land and adjoining properties (known as Sector 901C, 901G and 9 fern Creek and are subject to the executed Planning Agreement), any consent for subdivision of this land must be certain the dwelling range under Clause 6.1(3) of Pittwater LEP is not exceeded otherwise it is prohibited development.

The 2 residential lots, having a site area of 645.3m and 634.1m², will be of sufficient size and configuration to accommodate multiple dwellings and there needs to be certainty that the dwelling range is not exceeded. It is worth noting that:

1. the residue lot created by this DA is the subject of assessment of related DA 2021/0053 (not yet determined), and if DA2021/0053 is eventually approved with 31 dwellings/lots, the balance of

2. dwellings permitted for the subject properties are 2 dwellings under Clause 6.1 of Pittwater LEP.
2. On the basis of point 1 above, these 2 proposed residential lots can only have 1 dwelling per lot regardless of their size and zoning as the dwelling yield is not a development standard (see Lotus at Pittwater Council, and Karimbla at Pittwater Council).
3. As the number of dwellings is unknown and to ensure the applicant seeks advice from Council prior to developing the 2 residential lots, the total development contribution amount will not be calculated. The applicant should be advised that the development contribution payable to Council will be applied when the number of dwellings on these 2 proposed lots is certain.

Updated S&PP Advice

At Council's request, a bushfire report has now been provided and considered by NSW RFS given that the DA is for subdivision of bushfire prone land.

There remains uncertainty on how the water management for these two residential lots will be established or maintained particularly as two referral responses contradict each other, namely:

- The Development Engineer's response is indicating this will be subject to a S138A approval however this DA does not involve any road works for the purpose of obtaining a Roads Act approval under S138. (TRIM 2021/306609)

Additionally, there needs to be certainty on the maintenance of the grass swales on the southern property boundaries to collect upstream overland flows up to a 1 in 100 AEP Event. The catch drain/swale is to be connected into the site drainage system.

- NECC (Water Management) raises deficiencies with the submitted DA and has not provided its conditions. (TRIM 2021/268070)

The Water Management for the subdivision will need to address the specific requirements for the two residential lots under Pittwater DCP Control C6.1, as this will have modelled the impervious areas for each residential lot.

Depending on the recommendations of the above BU responsible for water management, and the responsibility of the Assessing Officer to confirm whether the 2 residential lots can accommodate a dwelling house based on a modelled impervious area and water management for each residential lot (as developed by the water management for this subdivision) in accord with Pittwater DCP Controls D16.4 and 16.5 respectively, as well as the Asset Protection Zone for same. If the Assessing Officer is of the mind to recommend approval of the subdivision, the creation of the 2 residential lots and a residue lot must account for the infrastructure requirements for the 2 residential lots stated above (and if required, should be included in an updated Plan of Subdivision and Section 88B Instrument) whilst the requirements for the maintenance of the grass swales on the southern property boundaries needs to be conditioned.

Nonetheless, the applicant should be advised that this DA will result in 2 residential lots.

RECOMMENDATION

A. It is the Assessing Officer's responsibility to ensure that the two residential lots can reasonably accommodate the Asset Protection Zone, water management and based on the impervious area requirements for each residential lot, a dwelling house on each (particularly having regard of the Exempt and Complying Development SEPP).

B. If approval is proposed, the following conditions are to be imposed:

1. Prior to the issue of any Subdivision Certificate, the obligations specified in the Executed Planning Agreement registered on this land are to be completed.
2. Before the issue of a Construction Certificate or Subdivision Certificate if a Construction Certificate is not required, the applicant must pay a total development contribution to Council of \$143,096.00 in accordance with the Warriewood Valley Section 94 Contributions Plan Amendment 16 Revision 3.

The contribution is based on two additional residential lots, which will result in a dwelling in each lot only.

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

The Applicant may negotiate with Council for the direct provision of other facilities and services, and/or the dedication of land (other than land identified above) in lieu of the monetary contribution above (or any portion of that monetary contribution) or the deferral of payments through a Material Public Benefit Agreement between Council and the Applicant in accordance with the Warriewood Valley Development Contributions Plan (as amended). The agreement for Material Public Benefit between the Applicant and Council must be finalised, formally signed and in place prior to the payment of the monetary contribution.

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

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

C. The applicant should be advised that Lots 1 and 2 under this subdivision can only have 1 dwelling per lot regardless of lot size and zoning as the dwelling yield is not a development standard (see Lotus at Pittwater Council, and Karimbla at Pittwater Council).

The proposal is therefore supported.

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

Strategic Planning Conditions:

FEES / CHARGES / CONTRIBUTIONS

Warriewood Valley Contributions Plan - No creekline corridor

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