

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0129
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Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot B DP 370222, 4 Forest Road WARRIEWOOD NSW 2102
Proposed Development:	Subdivision of one lot into 13 lots and associated works
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	BMN Properties Pty Ltd
Applicant:	BMN Properties Pty Ltd

Application Lodged:	22/02/2023
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	20/03/2023 to 17/04/2023
Advertised:	20/03/2023
Submissions Received:	9
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 1,515,000.00
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EXECUTIVE SUMMARY

The application seeks consent for the Torrens title subdivision of the existing site into 13 lots for future residential dwellings.

The application is referred to the Development Determination Panel (DDP) for determination as the notification of the application attracted 9 submissions in objection to the proposal. Councils DDP charter mandates that applications with 5 or more objections must be determined by the Panel.

The proposal is Integrated Development, requiring an approval from the NSW Rural Fire Service (NSW RFS) under s100B of the *Rural Fires Act 1997*. In the absence of General Terms of Approval (GTA's) from NSW RFS, the application cannot be approved. An initial referral response from the NSW

RFS (26 April 2023) requested additional information. The applicant has provided the additional information in response to the issues raised and the application was referred back to the NSW RFS. However, GTA's have not been provided by the NSW RFS at the time of writing. Given the substantial time elapsed since the initial NSW RFS comments and to avoid further delays in the assessment period, the application is reported to the DDP, and in the absence of the requisite GTA's, the application cannot be approved.

The proposal is contrary to the provisions of Pittwater Local Environmental Plan 2014 (PLEP 2014) and Pittwater 21 Development Control Plan (P21 DCP), with specific concerns relating to earthworks, stormwater management, traffic, biodiversity, bush fire and general amenity. These matters were also raised as issues by respondents in the 9 submissions received in objection to the proposal.

This report concludes with a recommendation that the DDP **refuse** the development application.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the Torrens title subdivision of the existing site into 13 lots for future residential dwelling development.

To facilitate the subdivision, the following works are proposed:

- Construction of roads
- Earthworks, including:
 - Excavation (4,676m³);
 - Fill (8,770m³); and
 - Retaining walls
- Civil drainage works
- Tree removal

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 - 4.3 Height of buildings
 Pittwater Local Environmental Plan 2014 - 6.1 Warriewood Valley Release Area
 Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
 Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
 Pittwater 21 Development Control Plan - A4.16 Warriewood Valley Locality
 Pittwater 21 Development Control Plan - B5.15 Stormwater
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements
 Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill
 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 - C6.8 Residential Development Subdivision Principles
 Pittwater 21 Development Control Plan - C6.9 Residential Land Subdivision Approval Requirements

SITE DESCRIPTION

Property Description:	Lot B DP 370222 , 4 Forest Road WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The subject site consists of one allotment located on the northern side of Forest Road.</p> <p>The site is regular in shape with a width of 80.24m and a length of 121.01m.</p> <p>The site has a surveyed area of 9703m².</p> <p>The site is located within the R3 Medium Density Residential zone and accommodates a dwelling house and associated structures.</p> <p>The site forms part of "Sector 501" of the Warriewood Valley Release Area, as shown on the Warriewood Valley Release Area Map of PLEP 2014.</p> <p>The site slopes down from west to the north-eastern side of the site approximately 25m</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Mater Maria Catholic School is situated to the south, separated from the site by an unmade public road reserve (Forest Road). No. 8 Forest Road, adjoining the site to the west/north-west, forms the balance of Sector 501 of the Warriewood Valley Release Area and comprises a residential development of 81 dwellings currently under construction. The remainder of properties along Forest Road consist of medium density residential development.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time.

A search of Council's records has revealed the following relevant history:

N0539/16 - Staged Development Application under S83B of the Act for a concept proposal comprising a residential flat building with 18 units, 4 attached dwellings, 6 detached dwellings and subdivision - Withdrawn on 30 May 2017.

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)(iii)a) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration	Comments
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>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to site layout, DCP non-compliance, subdivision type, RFS refusal and landscaping.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	This assessment has found the proposal to be contrary to the relevant requirement(s) of the PLEP 2014 and PDGP 21 and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land and the proposed development is for a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes / a special fire protection purpose under Section 100B of the Rural Fires Act 1997. As such, the proposal is integrated development and requires a bush fire safety authority from the NSW Rural Fire Service (NSW RFS)

The application was referred to the NSW RFS as integrated development. The RFS does not support the current application and GTA's have not been provided by the NSW RFS.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 20/03/2023 to 17/04/2023 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 9 submission/s from:

Name:	Address:
Ms Kristin Zindel	24 Grandview Drive NEWPORT NSW 2106
Ms Kate Holly Whipp	38 / 2 Forest Road WARRIEWOOD NSW 2102
Mater Maria Catholic College Warriewood	5 Forest Road WARRIEWOOD NSW 2102
Mr Stephen John Lumley Rebecca Jane Lumley	68 / 2 Forest Road WARRIEWOOD NSW 2102
Mr Ashley Brett Craig Hillsley	70 / 2 Forest Road WARRIEWOOD NSW 2102
Lee Jonathon Jackson-Price Chloe Anna Jackson	61 / 2 Forest Road WARRIEWOOD NSW 2102
Mrs Nicole Eileen Matthews	62 / 2 Forest Road WARRIEWOOD NSW 2102
Ms Natalie Norma Betty Parsons Jack Gregory Parsons	60 / 2 Forest Road WARRIEWOOD NSW 2102
Ms Sally Jane Fahey Mr Charles Napier Birks	2/222 Sydney Road FAIRLIGHT NSW 2094

The following issues were raised in the submissions:

- **Traffic and Access**
- **Amenity**
- **Stormwater**
- **Threatened species**
- **Loss of trees**
- **Future construction impacts.**

The above issues are addressed as follows:

- **Traffic and Access**

The submissions raised concerns that the proposed development will lead to unreasonable traffic and safety issues due to the increase density on site.

Comment:

Council's Traffic Engineer has reviewed the proposal. While no issue is raised with the subdivision proposal from a general traffic assessment perspective, the referral response is not supportive of the proposed application. The proposed development does not adequately address concerns with the additional traffic load the can access the proposed carriageway (related to traffic volumes from adjoining properties). This issue forms a reason for refusal.

- **Amenity**

The submissions raised concerns with regard to the amenity impacts from the future development of this site.

Comment:

While it anticipated that this site is developed into the future as as dwelling houses, the proposed new lots have the potential to have adverse amenity impacts on neighbouring properties when developed in the future if approved as proposed. The fill proposed across the northern and eastern portions of the site will exacerbate the overall height and impact of future dwellings on this site for adjoining residential properties.

- **Stormwater**

The submissions raised concerns with the proposed stormwater management across the site.

Comment:

Council's internal referral sections have reviewed the proposed development and are not supportive the proposed stormwater management design or titling arrangements. This issue forms a reason for refusal.

- **Biodiversity (Loss of trees and threatened species)**

The submissions raised concerns regarding the extent of tree removal.

Comment:

Council's Biodiversity Officer has reviewed the proposed development and does not support the proposal in its current form as the designs do not avoid or minimise impacts to native vegetation, especially the areas within and adjoining the southern and western boundaries of the site. This issue forms a reason for refusal.

- **Future construction impacts**

The submissions raised concerns about potential impact of future construction on neighbouring residential properties.

Comment:

Development of any site will undoubtedly cause disruption to adjoining properties. In order to reduce the potential disruption, standard conditions would be included, were the application recommended for approval, to ensure compliance with the relevant Australia Standards and to

allow for respite for neighbouring properties by imposing set operation/construction hours. This issue does not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
<p>Environmental Health (Unsewered Lands)</p>	<p>Supported with Conditions General Comments</p> <p>The proposed development comprises:</p> <ul style="list-style-type: none"> ▪ The subdivision of land legally described as Lot B in Deposited Plan 370222 from 1 Lot of total site area 9,709.8424m² (Parent Lot) into 13 individual lots. <p>To facilitate the suitability and functionality of the resultant lots, this Development Application concurrently seeks approval for:</p> <ul style="list-style-type: none"> – Demolition of the existing dilapidated dwelling and associated ancillary structures situated on the site. – Construction of roads – including a connection to the approved road through to 8 Forest Road. – Earthworks –to create the associated road hierarchy and to facilitate the future construction of dwelling houses under separate applications. – Civil drainage works – to support the proposed subdivision and facilitate future residential use. – Tree removal – to facilitate the proposed development and future residential land uses on the resultant lots, the proposed development necessitates the removal of twenty-three (23) high category trees and 14 (fourteen) low category trees. Twelve (12) of the low category trees are exempt from Northern Beaches Council’s Tree Preservation Order. ▪ The proposed development is integrated development for the following reasons: <ul style="list-style-type: none"> – The proposed development seeks consent under s 138 of the Roads Act 1993 for works that include relevant activities listed under Division 4.8 (Integrated Development) of the Environmental Planning and Assessment Act 1979. – The proposed development comprises the subdivision of bushfire prone land and therefore requires authorisation under Section 100B in respect of bush fire safety in accordance with the Rural Fires Act 1997. <p>Council has designated the land as unsewered. The SEE does not adequately address proposed disposal of human waste water. Any approval by Council cannot assume that AWTs systems or sewer will become available. Council would need Sydney Water Tap in Certificates that the proposal will be accepted into the Sydney Water Mains.</p> <p>Environmental Health does not support the proposal at this time.</p> <p>UPDATED COMMENTS (24 October 2023)</p>

Internal Referral Body	Comments
	<p>The applicant has advised :</p> <p>"Acor confirms that Sydney Water has made provision for a sewer connection. The civil plans have been updated to reflect the sewer main as shown in image below. Council's development consent would include a standard condition to this matter"</p> <p>A copy of related sewer main plan has been supplied.</p> <p>On this basis Environmental Health supports the proposal without additional conditions.</p>
Landscape Officer	<p>Supported with Conditions</p> <p>The application seeks consent to the subdivision of land of total site area 9,709.8 m² into 13 individual lots that involves: Demolition of the existing dwelling and associated ancillary structures; construction of roads including a connection to the approved road through to No. 8 Forest Road; earthworks to create the associated road hierarchy and to facilitate the future construction of dwelling houses under separate applications; civil drainage works to support the proposed subdivision and facilitate future residential use; and tree removal to facilitate the proposed development and future residential land uses on the resultant lots (removal of twenty-three high category trees and fourteen low category trees).</p> <p>Council's Landscape Referral staff have assessed the proposal against Pittwater Local Environmental Plan clause 6.1 Warriewood Valley Release Area, as well as the Warriewood Valley Landscape Masterplan and Design Guidelines, and Warriewood Valley Roads Masterplan; and the following Pittwater 21 DCP controls (but not limited to): C6 Design Criteria for Warriewood Valley Release Area, with reference to C6.2 Natural Environment and Landscaping Principles, C6.4 The Road System and Pedestrian and Cyclist Network, C6.7 Landscaped Area, and D16 Warriewood Valley Locality.</p> <p>The proposed road network includes dimensions typical of a Access Street under the Warriewood Valley Roads Masterplan, whereby a 12.5 metre wide road reserve is proposed with 2.5 metre verge either side of the carriageway and the inclusion on a 1.5 metre wide footpath on side side of the carriageway, and street tree planting, and this matter shall be deferred to the relevant Council Officer. Updated Landscape Plans are submitted that include connected footpath arrangements and street tree planting in accordance with both the Warriewood Valley Landscape Masterplan and Design Guidelines, and Warriewood Valley Roads Masterplan, and all other plans shall be co-ordinated to include this information. All utility services shall be located under footpaths and not located on the side to be dedicated for street tree planting, where possible.</p> <p>The submitted Arboricultural Impact Assessment (AIA) report recommendations are noted, and should the application be approved</p>

Internal Referral Body	Comments
	the existing trees nominated in the AIA report require removal for the subdivision works. The AIA report includes tree protection measures for existing trees not impacted by the proposed subdivision works.
NECC (Bushland and Biodiversity)	<p>Not Supported <u>Revised Comments</u></p> <p>The amended subdivision design is noted, showing a reduction in the heights of some retaining walls, changes to Lot 13, and also a revised layout of Road MC01. The revised Arborist Report, Landscape Plan and letter from the Bushfire Consultant are also noted. As previously identified, the majority of biodiversity impacts are within the unmade road reserve due to construction of road ways, retaining walls and the proposed off site bushfire asset protection zones.</p> <p>The amended proposal has not fully addressed the previous concerns and issues raised, and cannot be supported in its current form. Additional information is required in order to demonstrate how the proposal has avoided and/or minimised impacts to biodiversity values, including native vegetation. Where a proposal cannot avoid or minimise impacts to biodiversity, then additional justification is required in order to support the likely impacts, and additional compensatory measures should be proposed.</p> <p>Specifically, in addition to the lack of avoidance and minimisation of impacts, the proposal cannot be supported due to inconsistencies or lack of information including:</p> <ul style="list-style-type: none"> • The numbers of trees to be removed is greater than that noted by Urbis, with the revised plans and Arborist indicating the removal of 19 high value trees. Of the 19 trees to be removed, 14 are located off-site. • Based on a site visit of the road reserve, additional trees and native vegetation is likely to be impacted as part of the development proposal (e.g <i>Syncarpia glomulifera</i>, <i>Allocasuarina torulosa</i>). • The letter from Travers has not addressed the revised plans, especially the reduction in retaining wall heights between the building platforms and the hazard. • APZ are proposed off site which is only considered under exceptional circumstances, and section 3.2.5 of Planning for Bushfire Protection (PBP) must be addressed as part of the application. • Road gradients proposed exceed the maximum slope allowed for under PBP. • No total area of clearing has been stipulated in the FFA report and additional information is required to complete the assessment, including a map showing the calculated area of native vegetation removal. The report also states that the retention of trees 21, 23 and 24 will be possible after alteration of the cut and fill works proposed for the peripheral

Internal Referral Body	Comments
	<p>road which will constitute part of the Asset Protection Zone. Clarification as to what trees are to be retained and removed is required due to conflicting reports. The FFA has used an earlier revision of the Arborist assessment as well as an outdated Subdivision Plan, and therefore the conclusions of the report are invalid.</p> <ul style="list-style-type: none"> • The FFA is to review the previous assessments (Anderson, Sclerophyll and Dominic Fanning) for the adjoining 8 Forest Road site, and include a summary of relevant information. The Report lacks details on surveys conducted, especially survey of existing man made structures on site for the presence of threatened microbat species. Figure 3.2 maps a record of Fishbone Fern as a threatened species. • The FFA does not assess the direct and indirect impacts of the proposal adequately, with the plans indicating cut and fill across the entire site and adjoining areas and retaining wall > 8 metres in height. The proposed safeguard measures are not specific or relevant to the proposal and must be revised and updated. The Habitat assessments are to be reviewed as the majority indicate 'No Habitat' for the majority of species, however Assessments of Significance have been completed for several of these species. The information is also incorrect in some sections, for example the Powerful Owl assessment indicates 4 trees to be removed, and the microbat assessment talks about surveys of building however this has not be detailed within the body of the report. • The landscape proposal has included a range of species based on the Warriewood Valley Masterplan. However recommendations within the AIA and FFA recommend like for like replacements for the removals proposed within the site. This issue must be clarified, and suitable areas or locations for like for like replacements identified, or other measures, in order to mitigate and compensate for the potential impacts to biodiversity values. <p><u>Original Comments</u></p> <p>The proposal seeks approval for subdivision and associated works, including extensive cut and fill, road construction, retaining walls and tree removals both on and off the subject site.</p> <p>The comments on this referral relate to the following controls and provisions:</p> <ul style="list-style-type: none"> • NSW Biodiversity Conservation Act 2016 • Planning for Bushfire Protection 2019 • Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection • Pittwater 21 DCP - Clause B4.18 Heathland/Woodland vegetation <p>The subdivision proposal has been submitted with an Arboricultural</p>

Internal Referral Body	Comments
	<p data-bbox="528 309 1374 409">Impact Assessment report (AIA), a Flora and Fauna Assessment report (FFA), a Bushfire report, Civil Engineering Plans and a proposal for landscaping.</p> <p data-bbox="528 450 1433 902">The Biodiversity Planning team cannot support the subdivision proposal in its current format as the designs do not avoid or minimise impacts to native vegetation, especially the areas within and adjoining the southern and western boundaries of the site. The need to extensive cut and fill and retaining walls up to 8 metres high will not avoid or minimise the direct and indirect impacts or the proposal. An alternate lot and road layout is recommended to avoid and minimise these impacts, and the need for larger APZ's as highlighted by the NSW Rural Fire Service should also be factored into a revised layout. The use of the existing turning head at the end of Forest Road and current location of site entry/driveway should be utilised instead of the layout proposed as this will further avoid and minimise impacts.</p> <ul data-bbox="563 969 1437 2112" style="list-style-type: none"> <li data-bbox="563 969 1437 1417">• The AIA report concludes that a total of 23 high category trees and 14 low category trees would be lost if the proposal is approved. No objection is raised in regards to the removal of twelve trees on the basis of the current Northern Beaches Councils' exemption list by species (Trees numbered 1,3,4,5,7,8,9,10,12,14,15,16,C). However, objections are raised as to the removal of trees 13,20,21,22,23,24,30,31,32,33,34,37,38,39 as these are located outside of the boundary of the lot which is the subject of this subdivision (As per the survey and page 28 of the AIA). Particularly noting that this includes proposed removal of trees 21,22,23,24,25 and 26 which are high value retention trees on a road reserve. <li data-bbox="563 1458 1437 2045">• The results of the FFA accompanying this application have been noted. No threatened flora or fauna have been detected on site and entry into the Biodiversity Offsets Scheme is not triggered by removal of native vegetation, however the area of clearing should include the proposed removal of vegetation for the purposes of establishment of APZs. No total area of clearing has been stipulated in the FFA report and additional information is required to complete the assessment, including a map showing the calculated area of native vegetation removal. The report also states that the retention of trees 21, 23 and 24 will be possible after alteration of the cut and fill works proposed for the peripheral road which will constitute part of the Asset Protection Zone. Clarification as to what trees are to be retained and removed is required due to conflicting reports. The FFA has used an earlier revision of the Arborist assessment as well as an outdated Subdivision Plan, and therefore the conclusions of the report are invalid. <li data-bbox="563 2049 1437 2112">• The FFA is to review the previous assessments (Anderson, Sclerophyll and Dominic Fanning) for the adjoining 8 Forest

Internal Referral Body	Comments
	<p>Road site, and include a summary of relevant information. The Report lacks details on surveys conducted, especially survey of existing man made structures on site for the presence of threatened microbat species. Figure 3.2 maps a record of Fishbone Fern as a threatened species.</p> <ul style="list-style-type: none"> • The FFA does not assess the direct and indirect impacts of the proposal adequately, with the plans indicating cut and fill across the entire site and adjoining areas and retaining wall > 8 metres in height. The proposed safeguard measures are not specific or relevant to the proposal and must be revised and updated. The Habitat assessments are to be reviewed as the majority indicate 'No Habitat' for the majority of species, however Assessments of Significance have been completed for several of these species. The information is also incorrect in some sections, for example the Powerful Owl assessment indicates 4 trees to be removed, and the microbat assessment talks about surveys of building however this has not be detailed within the body of the report. • The BF report has stated that the proposed Asset Protection Zones (APZs) would be partially within the road reserve to the South and the adjoining lot on the North-Western edge of the property and indicates that all other parts of the APZs outside of the site would comprise public road, nature strips and associated infrastructure. Objections are raised as the subdivision shall ensure that all APZs to achieve BAL 29 construction of future dwelling is contained on site, as opposed to clearing additional trees for these purposes on adjoining land. The use of a Performance solution is also questioned, and Acceptable Solutions should be adopted for the subdivision proposal. The NSW RFS have also noted issues with the APZs proposed and also question the use of Method 2 in this circumstance to achive a BAL less than 29. • The landscape proposal has included a range of species based on the Warriewood Valley Masterplan. However recommendations within the AIA and FFA recommend like for like replacements for the removals proposed within the site. This issue must be clarified, and suitable areas or locations for like for like replacements identified. The numbers of proposed trees are adequate for the area but do not offset the approved removals. <p>Planner Comment: Included as a reason for refusal</p>
NECC (Development Engineering)	<p>Not Supported Please Note: 1. The assessment has not focused on road layout and geometry, as it is assumed that the Traffic Section will be providing comment on</p>

Internal Referral Body	Comments
	<p>these matters. Excessive vertical grade for one road has however been noted.</p> <p>2. The proposal to provide OSD for the road component of the entire development on Lot 7 and provide individual on site detention for lots on the individual lots is not supported. This would place the responsibility of maintaining the on site detention of the road area for the whole development on to one private owner. This is seen by the as an unacceptable risk to downstream properties.</p> <p>The following amendments are required</p> <p>1. Provide DRAINS models to Council for perusal of the following:</p> <ul style="list-style-type: none"> (i) Existing conditions for the 20%, 5% and 1% AEP events. (Confirm whether the upstream catchment is proposed to drain through the site and OSD basin for road runoff). (ii) Developed conditions for the 20%, 5% and 1% AEP events. The model should estimate built conditions on each lot including on-lot on-site detention. (iii) Developed conditions for the 20%, 5% and 1% AEP events with the proposed OSD tank on lot 7 only. Assume there is no on lot detention. <p>2. Civil Engineering drawings by Acor rev B dated 20.01.23.</p> <ul style="list-style-type: none"> (i) DWG No. C1.201. Manly Council standard drawings do not apply to development in Region 1. Refer to the Warringah Council Development Engineering Minor Works Specification which are applicable for works in Northern Beaches (ii) DWG No. C2.101. Given the grade separation between road level and majority of lot area, please advise on the proposed vehicle access into property/ garage. (iii) DWG No. C7.001 & DWG No. C7.202. - Drainage Channel Detail. Provide a 1D HEC-RAS model to confirm the proposed overland flow channel can safely convey flows up to the 1% AEP. Provide 100mm freeboard. It is noted that the drainage channel has a proposed dual use as a access road for the on site detention/ WSUD basin. This is not feasible in the proposed form and is not supported. (iv) DWG No. C7.201 & C7.202. Provide top of pit levels for all pits shown on Section A & B and walls to justify the selected emergency overflow route through stairs. Provide pipe invert levels at all inlet pipes in to OSD system. (v) DWG No. C5.201. The proposed vertical grade of 18% is not supported. Design should be amended to provide an absolute maximum vertical grade of 15% in line with Austroads guidance. (vi) DWG No. C7.402. Maintain 6% pipe grade from Pit 07/2 to Pit 07/4 to reduce pipe drop at Pit 07/4. <p>3. DWG No. SKC2.01 - Subdivision Plan. The proposed maintenance access needs to be reviewed in line with comments below asking for an operation manual. Any vehicle using the access road is to be provided with front in, ingress and egress. A turning path for the proposed vehicle should be provided with amended plans.</p>

Internal Referral Body	Comments
	<p>4. A maintenance and operation manual in regard to the GPT and BIO Retention/detention basin operation is to be submitted for Councils review.</p> <p>Engineering Comments (24.11.23) The following amendments are required:</p> <p>1. Provide DRAINS models to Council for perusal of the following:</p> <ul style="list-style-type: none"> (i) Existing conditions for the 20%, 5% and 1% AEP events. (Confirm whether the upstream catchment is proposed to drain through the site and OSD basin for road runoff). (ii) Developed conditions for the 20%, 5% and 1% AEP events. The model should estimate built conditions on each lot including on-lot on-site detention. (iii) Developed conditions for the 20%, 5% and 1% AEP events with the proposed OSD tank on lot 7 only. Assume there is no on lot detention. <p>2. Civil Engineering drawings by Acor dated 16.10.23.</p> <ul style="list-style-type: none"> (i) DWG No. C1.201. Manly Council standard drawings do not apply to development in Region 1. Refer to the Warringah Council Development Engineering Minor Works Specification which are applicable for works in Northern Beaches (ii) DWG No. C7.001 & DWG No. C7.202. - Drainage Channel Detail. Provide a 1D HEC-RAS model to confirm the proposed overland flow channel can safely convey flows up to th1 1% AEP. Provide 100mm freeboard. It is noted that the drainage channel has a proposed dual use as a access road for the on site detention/ WSUD basin. This is not feasible in the proposed form and is not supported. (iii) DWG No. C7.201 & C7.202. Provide top of pit levels for all pits shown on Section A & B and walls to justify the selected emergency overflow route through stairs. Provide pipe invert levels at all inlet pipes in to OSD system. (iv) DWG No. C5.201. The proposed vertical grade of 18% is not supported. Design should be amended to provide an absolute maximum vertical grade of 15% in line with Austroads guidance. (v) DWG No. C7.402. Maintain 6% pipe grade from Pit 07/2 to Pit 07/4 to reduce pipe drop at Pit 07/4. <p>3. DWG No. SKC2.01 - Subdivision Plan. The proposed maintenance access needs to be reviewed in line with comments below asking for an operation manual. Any vehicle using the access road is to be provided with front in, ingress and egress. A turning path for the proposed vehicle should be provided with amended plans.</p> <p>4. A maintenance and operation manual in regard to the GPT and BIO Retention/detention basin operation is to be submitted for Councils review.</p> <p><u>Stormwater Assets Section Comments</u> Based on the information that can be found, it appears that the</p>

Internal Referral Body	Comments
	<p>subdivision will result in Torrens title lots, with lot 7 being community title to accommodate the OSD. Based on this, its assumed that the stormwater infrastructure shown in the stormwater management plan is planned to be handed over to Council's ownership. As such, Council's stormwater assets team cannot support the proposal due to the below:</p> <p>A. The proposed stormwater infrastructure is collecting stormwater runoff from the public roadway as shown in MC01 - Forest Road and MC02. These stormwater pipes then connect into an OSD/ WSUD tank that is under the care and control of the community title. This cannot be supported as public stormwater infrastructure cannot discharge into a privately managed stormwater asset.</p> <p>B. Council will not support taking ownership of any OSD/ WSUD tanks as part of the subdivision.</p> <p>Planner Comment: Included as a reason for refusal</p>
NECC (Flooding)	<p>Supported - No conditions</p> <p>The property is not identified as flood affected. There are no applicable flood related development controls from Clause B3.11 of the Pittwater 21 DCP.</p>
NECC (Water Management)	<p>Not Supported</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy; • Warriewood Valley Urban Land Release Water Management Specification 2001; and • Relevant LEP and DCP clauses. <p>The report is lacking clarity on the proposed subdivision of the dedicated lots in regards to water quality and the ultimately ownership of the water management system (raingardens on the road reserve and the detention basin) and should be updated to reflect the latest sub-division changes (community title).</p> <p>In addition the proposed stormwater management strategy is unclear on the split between the detention and retention function of the rainwater tanks for each lot. Volumes for each function is to be reported on the drawings and report.</p> <p>The lots pervious/impervious area used to model the water quality/balance is to be stated in the report and must be clearly</p>

Internal Referral Body	Comments
	<p>defined for "in perpetuity" management of the lots.</p> <p>The amended water quality model and water balance model are to be supplied to Council for review.</p> <p>Planner Comment: Included as a reason for refusal</p>
<p>Strategic and Place Planning (Urban Design)</p>	<p>Not Supported Urban Design Comments (Nov 2023)</p> <p>The applicant has submitted revised drawings on October 2023 with additional sections indicating:</p> <ul style="list-style-type: none"> • how each dwelling lot platform relates to the natural ground level, • the 'cut and fill' required to achieve the road layout and • how each dwelling lot addresses the road. <p>Urban Design cannot support the proposed modifications because of the following issues:</p> <ol style="list-style-type: none"> 1. No detailed house design has been considered on the housing lots. The proposed earthworks rely on high retaining walls within each lot (height ranging up to 4.2m) and on the common boundaries (height ranging up to 2.8m). Site grading and retaining walls do not respect the existing terrain and instead, large 'cuts and fills' are used to create flat platforms on each lot without consideration of future house design and layout. Retaining walls should be used to reduce slope disturbances, rather than modify the natural terrain. As such, larger lot sizes should be considered as the natural slope increases. 2. The proposal should exhibit building designs that are integrated into the hillside context. Dwellings should incorporate stepped designs that follow the natural terrain and should not stand out vertically from the hillside. Exposed retaining walls should be designed with a natural-looking finish and buffered with landscaping elements. Significant natural scenic features, such as rock outcrops, should be retained where possible. 3. Retaining structures for roads, footpaths and planting verges proposed should integrate well with the onsite architectural character and natural environment. <p>Previous Urban Design Comments:</p> <p>This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment.</p>

Internal Referral Body	Comments
	<p>The application seeks consent to the subdivision of land of total site area 9,709.8 m² into 13 individual lots that involves:</p> <ul style="list-style-type: none"> • Demolition of the existing dwelling and associated ancillary structures, • Construction of roads including a connection to the approved road through to No. 8 Forest Road, • Earthworks to create the associated road hierarchy and to facilitate the future construction of dwelling houses under separate applications, • Civil drainage works to support the proposed subdivision and facilitate future residential use, • Tree removal to facilitate the proposed development and future residential land uses on the resultant lots (removal of twenty-three high category trees and fourteen low category trees). <p>Urban Design cannot support the proposed modifications for the following reasons:</p> <ol style="list-style-type: none"> 1. The proposal involves substantial cut and fill of the hill slope resulting in a series of stepped terraces with increases to ground levels by up to 7 meters (approximately) using retaining walls up to 3.5m high. Some of the structural retaining walls (up to 2.8m high) proposed are right on the common boundaries to neighbouring developments. All new structures including retaining walls should comply with site setback requirements. 2. There are inadequate information provided with the proposed architectural built forms. Some of the proposed overall height of the individual houses will breach the 10.5m height control as building height is measured from the natural ground level, not the elevated fill levels. Clause 4.3 of the PLEP2014 sets a maximum building height limit of 10.5m. The proposed building heights should be shown on the architectural plans (using sections, elevations, 3D illustrations and etc.) demonstrating compliance with the building envelope and site setback controls. 3. Issues such as overlooking and privacy between proposed houses and neighbouring developments should be addressed. 4. A shadow impact study should be submitted with the proposed future built forms to be built on the elevated terrace levels. <p>Please note: Regarding any view impacts and any impacts on solar amenity and overshadowing these matters will be dealt with under the evaluation of Councils Planning Officer. Any impacts of non-compliances regarding heritage will be dealt with under the</p>

Internal Referral Body	Comments
	evaluation of Councils Heritage Officers, and any Landscape non-compliances will be dealt with under the evaluation of Councils Landscape Officers.
Strategic and Place Planning (Development Contributions)	<p>Not Supported</p> <p>INTRODUCTION On 23 October 2023, Strategic and Place Planning received a referral request based on additional information now submitted for application (DA2023/0129), for the subdivision of 4 Forest Road into 13 lots and associated works. On 31 July 2023, Strategic and Place Planning (Development Contributions) provided referral comments that identified several deficiencies (TRIM 2023/479475).</p> <p>SUBJECT SITE 4 Forest Road Warriewood (Lot B DP 370222) contains a dwelling and associated ancillary structures and is bounded by residential properties at its rear and eastern (side) boundary. 8 Forest Road abuts the western (side) boundary of 4 Forest Road (the 'development site') and has a development consent on the portion of this property for residential development involving 81 dwellings/lots. The Warriewood Valley Urban Release Area boundary traverses this property. Forest Road is a closed road at the southern end. Vehicular access into the development site is from Forest Road, via the head-of the cul-de-sac. The development site is zoned R3 Medium density residential under Pittwater Local Environmental Plan 2014 (PLEP). This land and 8 Forest Road are Sector 5 under the PLEP Urban Release Area Map and Sector 501 under the Warriewood Valley Strategic Review Addendum Report.</p> <p>PROPOSED DEVELOPMENT The existing dwelling and associated ancillary structures are to be demolished. The site involves land subdivision to create 13 residential allotments under Torrens Title (with each lot proposed to accommodate a single dwelling house on each lot subject to future consent). Earthworks includes:</p> <ul style="list-style-type: none"> • Construction of internal roads connecting from Forest Road to the approved road on adjoining 8 Forest Road. • Civil drainage works for the subdivision and associated infrastructure including water management facilities. <p>The applicants' response to Councils' request was received on 16 October 2023 and includes:</p> <ul style="list-style-type: none"> • Discussion against the DCP provisions. • Details of proposed subdivision, 'The OSD will be a community lot.' • Amended Landscape Plan • Amended Master Set Plan • 3D Impression Plans • Amended Civil Engineering Plans • Transport Impact Assessment, JMT Consulting dated 16 October

Internal Referral Body	Comments								
	<p>2023.</p> <ul style="list-style-type: none"> • Bushfire Addendum, Travers Bushfire and Ecology dated 16 October 2023 . • Amended Arboricultural Report, Naturally Trees dated 16th October 2023. <p>UPDATED RESPONSE</p> <p>Originally, additional information requested by S&PP (Development Contributions) sought details to identified deficiencies with the application.</p> <table border="0"> <tr> <td data-bbox="528 701 1161 734">Number Deficiencies Identified(2023/479475)</td> <td data-bbox="1177 701 1409 768">Response as at 9 November 2023</td> </tr> <tr> <td data-bbox="528 779 1161 1093"> 1a <i>Details on the future ownership of internal roads and associated water management facilities (raingardens on the road reserve and the detention basin) for the subdivision. Clarification is required on the proposed road being connected to the approved road (being constructed as a public road) on 8 Forest Road.</i> </td> <td data-bbox="1177 779 1433 1059"> <i>Only the lot containing the OSD tank is confirmed as being a Community lot. Concerns originally raised have not been addressed.</i> </td> </tr> <tr> <td data-bbox="528 1104 1161 1272"> 1b A plan showing the site coverage for the individual lots based on the modelling assumptions for impervious fractions under the submitted water management plan. </td> <td data-bbox="1177 1104 1369 1137">Not submitted</td> </tr> <tr> <td data-bbox="528 1283 1161 1563"> 1c Provide demonstration of the mechanism/approach to be applied on the subdivision to ensure this subdivision is only accommodating 13 dwellings and that the site cover for each lot as modelled in the submitted water management report will be maintained. </td> <td data-bbox="1177 1283 1369 1317">Not submitted</td> </tr> </table> <p>Since the issues remain unresolved, the application is not supported.</p> <p>RECOMMENDATION</p> <p>A. The deficiencies originally identified have not been addressed by the applicant's additional information.</p> <p>B. This application is not supported for the following reasons:</p> <ol style="list-style-type: none"> 1. Uncertainty on the proposed future ownership of internal roads and associated water management facilities (raingardens on the road reserve and the detention basin) for the subdivision remains, making it difficult to undertake a complete assessment of the DA. 2. The applicant has not demonstrated that the site coverage for the individual lots is based on the modelling assumptions for impervious fractions under the submitted water management plan. 3. Uncertainty that only a maximum 13 dwellings will be 	Number Deficiencies Identified(2023/479475)	Response as at 9 November 2023	1a <i>Details on the future ownership of internal roads and associated water management facilities (raingardens on the road reserve and the detention basin) for the subdivision. Clarification is required on the proposed road being connected to the approved road (being constructed as a public road) on 8 Forest Road.</i>	<i>Only the lot containing the OSD tank is confirmed as being a Community lot. Concerns originally raised have not been addressed.</i>	1b A plan showing the site coverage for the individual lots based on the modelling assumptions for impervious fractions under the submitted water management plan.	Not submitted	1c Provide demonstration of the mechanism/approach to be applied on the subdivision to ensure this subdivision is only accommodating 13 dwellings and that the site cover for each lot as modelled in the submitted water management report will be maintained.	Not submitted
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Internal Referral Body	Comments
	<p>accommodated on the site to ensure compliance with Objective (a) of Part 6.1(1) {Note to Planner – understand this can be rephrased to be a condition of consent if the Planner is recommending the DA for approval.}</p> <p>In conjunction with point 2 above, the DA does not demonstrate that the individual lot's site cover will be maintained in perpetuity (or the mechanism by which it would be maintained). This responsibility for water management is undefined.</p> <p>C. If the Assessment Officer deems it appropriate to recommend approval of the DA, a referral is to be sent to Strategic and Place Planning (Development Contributions) to provide a calculation of development contributions payable to Council, for inclusion in a future consent.</p>
Traffic Engineer	<p>Not Supported <u>Amended and additional information referral:</u></p> <p>The application has been reassessed against the Warriewood Valley Roads Masterplan, Austroads, and Councils technical documents. The applicant has provided amended documents that address some of the previous concerns raised. Comments from the previous referral in <i>bold italics</i> and response below previous response.</p> <ul style="list-style-type: none"> <p><i>With reference to the future connectivity through this site would require the proposed Forest Road extension to be constructed as a Collector Road category. The road pavement shall be designed to be 8.4m carriageway with suitable 2.1m parking bays adjoining lots 11,12,13. The proposed road (noted as MC02) shall be a one way road generally heading northbound with suitable parking provided on alternating sides to act as traffic calming.</i></p> <p>When assessed as a standalone development the road network is suitable for the yield proposed. However as the road (MC01) is designed to connect with the project at 8 Forest Road it needs to consider that additional load when designing the road carriageway. The additional traffic that can also potentially (subject to further approvals) access the carriageway from the development at 120 Mona Vale Road (based on previous prelodgements) which needs to be considered as well. This is why the construction was requested at collector road category in relation to width. The alternative is to remove any future potential parking along this section of carriageway to allow for the potential volume in the future. This could result in additional actions required to reduce speeds should it become an issue. As the road (MC01) provides connection through the subject site it is likely to be a public road dedicated to Council as the roads authority.</p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li data-bbox="563 315 1401 584"> <p>• The vertical curve adjoining the existing cul-de-sac in Forest Road needs to be adjusted to allow for the appropriate safe stopping distance to be provided on approach to the existing roundabout at the school adjoining the site with no approval to remove the traffic device currently in place. The design drawings are incorporate the adjoining driveways to the school and residential properties for assessment.</p> <p>This matter has largely been addressed with the exception of the first 25 metres of the proposed road MC01 at the connection point to the existing road network.. Updated plans indicate the locations of access to the adjoining properties. The existing roundabout will remain as a device to reduce speeds at this location.</p> <li data-bbox="563 898 1430 994"> <p>• A suitable crossing is to be provided to connect the proposed shared user path within the development to the existing network in Forest Road along the southern kerb.</p> <p>This is currently being addressed as a separate project to support improvements to safety at the adjoining school.</p> <li data-bbox="563 1167 1385 1229"> <p>• The proposed driveway to lot 1 is not supported at the location shown at the existing roundabout approach.</p> <p>This has been relocated to a more appropriate location on the boundary of lot 1.</p> <li data-bbox="563 1364 1409 1498"> <p>• It is also noted the proposed maintenance access to the OSD WSUD facilities are from an private (community titled) roadway and all servicing of the subject site is to be wholly contained on the subject site.</p> <p>Issues not addressed in updated plans.</p> <li data-bbox="563 1637 1422 1872"> <p>• <i>The traffic modelling provided indicates that each lot will be a single dwelling, however lots 11-13 maybe considerably larger allowing for other development potential or consolidation which would further effect the modelling undertaken, especially when considered with the adjoining development areas that gain road access through this site.</i></p> <p>Largely addressed with revised design.</p> <p>Additional traffic modelling does not address the issue with adjoining properties gaining access through proposed road MC01. It is noted that these are separate applications and therefore whilst the assessing officer is aware of the intent they cannot be considered as</p>

Internal Referral Body	Comments
	<p>part of this assessment directly. The applicant is required to address the road design issue raised in relation to MC01 the primary access through the site towards the northwest boundary. The application is currently not supported.</p> <p>Initial Referral: The application has been assessed against the Warriewood Valley Roads Masterplan, with reference to the future connectivity through this site would require the proposed Forest Road extension to be constructed as a Collector Road category. The road pavement shall be designed to be 8.4m carriageway with suitable 2.1m parking bays adjoining lots 11,12,13. The proposed road (noted as MC02) shall be a one way road generally heading northbound with suitable parking provided on alternating sides to act as traffic calming.</p> <p>The vertical curve adjoining the existing cul-de-sac in Forest Road needs to be adjusted to allow for the appropriate safe stopping distance to be provided on approach to the existing roundabout at the school adjoining the site with no approval to remove the traffic device currently in place. The design drawings are incorporate the adjoining driveways to the school and residential properties for assessment.</p> <p>A suitable crossing is to be provided to connect the proposed shared user path within the development to the existing network in Forest Road along the southern kerb.</p> <p>The proposed driveway to lot 1 is not supported at the location shown at the existing roundabout approach.</p> <p>It is also noted the proposed maintenance access to the OSD WSUD facilities are from an private (community titled) roadway and all servicing of the subject site is to be wholly contained on the subject site.</p> <p>The traffic modelling provided indicates that each lot will be a single dwelling, however lots 11-13 maybe considerably larger allowing for other development potential or consolidation which would further effect the modelling undertaken, especially when considered with the adjoining development areas that gain road access through this site.</p> <p>These matters need to be addressed prior to the development being further assessed.</p>
Waste Officer	Supported with Conditions

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Supported with Conditions 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</p>

External Referral Body	Comments
	Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<p>Supported with Conditions <u>AHO Comment</u></p> <p>There are known Aboriginal sites in this area. No sites are recorded in the current development area, however, the area of the proposed development is considered as having high potential for unrecorded Aboriginal sites.</p> <p>Given the high potential, the AHO recommends a full and comprehensive Aboriginal heritage assessment be carried out for the land by a qualified Aboriginal heritage professional, including consideration for subsurface archaeological testing. This would provide an assessment of any unrecorded or potential Aboriginal sites within the allotment, and advice on potential (direct or indirect) impacts to any Aboriginal site.</p> <p>Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Department of Planning, Industry and Environment (DPIE) and the Metropolitan Local Aboriginal Land Council should be contacted.</p>
Integrated Development - Rural Fire Service - Rural Fires Act, s100B - Subdivisions and Special Fire Protection Purposes	<p>Not Supported - General Terms of Approval not issued</p> <p>The application is for a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes / a special fire protection purpose under Section 100B of the Rural Fires Act 1997. As such, the proposal is integrated development and requires a bush fire safety authority from the NSW Rural Fire Service (NSW RFS). The application was referred to NSW RFS, who advised that additional information is required before they can issue General Terms of Approval, as follows:</p> <p><i>1. Preliminary assessment of the site and surrounds has identified inconsistencies in relation to the effective slopes as below:</i></p> <ul style="list-style-type: none"> • <i>The effective slope to the west of the subject site is assessed in the 0-5° downslope range as opposed to upslope considered in the submitted bushfire report. As such, larger Asset Protection Zones (APZ) which meets the requirements of 5.3a of Planning for Bushfire Protection (PBP) 2019; and</i> • <i>Gentler effective slope to the south west of the subject site is assessed as compared 10° upslope considered in the submitted bushfire report, therefore requiring more than the currently assessed 20 metres.</i> <p><i>Any future referrals for the proposed development must consider the above assessed effective slopes in determining the appropriate APZ.</i></p> <p><i>2. The hazard to the south and south west of the proposed lot 13 has</i></p>

External Referral Body	Comments
	<p><i>a connectivity to the broader hazard and does not comply with the requirements of section A1.11.1 of PBP 2019 to be downgraded to remnant hazard. As such, appropriate APZs with appropriate vegetation classification which meets the requirement of table 5.3a of PBP 2019 shall be provided.</i></p> <p><i>3. Table 5.3a of PBP 2019, requires that the potential building footprints must not be exposed to radiant heat levels exceeding 29 kW/m² on the proposed lots. Further information such as a suitable building envelope plan complying with minimum council requirements and meeting the requirements of table 5.3a of PBP 2019 shall be provided for the proposed lots lot 10-13 with the future referrals when considering larger APZs required due to above identified variations in the assessed effective slopes.</i></p> <p><i>4. The separation distance to the south and south west of the subject is considered beyond the proposed road carriageway with no evidence of management provided. Where offsite APZ is proposed, further information in accordance with section 3.2.5 of PBP 2019 shall be provided with the section 37 application.</i></p>
<p>Integrated Development - Roads and Maritime Services - Roads Act 1993, s138 - Works on classified road where Council is not the consent authority</p>	<p>Not Applicable This application does not trigger any referral to TfNSW under the Roads Act as it does not involve any civil works on a classified road and also does not trigger any referral to TfNSW under SEPP (Transport and Infrastructure) 2021.</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 (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 have been included in the recommendation of this report.

Transport for NSW (TfNSW)

Section 2.119 - Development with frontage to classified road states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Comment:

The application was referred to TfNSW. TfNSW responded stating that this application does not trigger any referral to TfNSW under the Roads Act as it does not involve any civil works on a classified road and also does not trigger any referral to TfNSW under SEPP (Transport and Infrastructure) 2021.

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. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

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?	No
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	10.5m	The application proposes retaining walls on the site, however insufficient information has been provided to accurately measure height.	N/A	No

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	No
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	No
7.6 Biodiversity protection	No
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

4.3 Height of buildings

While the proposed retaining wall structures are likely to comply with the 10.5m building height standard, insufficient information has been provided to enable Council to verify the maximum height of those structures. This lack of information is included as a reason for refusal.

6.1 Warriewood Valley Release Area

Clause 6.1(3) of PLEP 2014 identifies a dwelling yield of not more than 94 dwellings or less than 75 dwellings for Sector 501 of the Warriewood Valley Release Area, which comprises both 4 and 8 Forest Road, Warriewood. N04440/15 at 8 Forest Road, Warriewood was approved for 81 dwellings. Therefore, the 13 dwellings proposed with this application for a total of 94 dwellings in the Sector is

compliant with this control.

7.2 Earthworks

The objective of Clause 7.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required 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: The proposed excavation will have an unreasonable impact on the future redevelopment of the land. The extent of excavation and fill proposed will result in significant changes of levels across the site and alter the 'existing ground level' from which the building height of future dwellings would be measured.

(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 for the development. 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: The proposed earthworks and 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 for the development. 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 and conditions that can be imposed if the application is to be approved.

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

Comment: The proposed development will not have unreasonable impact on any waterway, drinking water catchment or environmentally sensitive area

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

development.

Comment: The proposed cut and fill proposed on the site will exacerbate amenity issue for future residents of the subject site and adjoining properties.

(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 is unsupportive of the proposal as it does not avoid or minimise impacts to native vegetation as detailed in the Internal Referrals section of this report. This issue forms a reason for refusal.

Pittwater 21 Development Control Plan

Built Form Controls

No building works are proposed with the exception of retaining walls.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	No	No
A4.16 Warriewood Valley Locality	No	No
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.18 Heathland/Woodland Vegetation	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	No	No
B5.15 Stormwater	No	No
B6.3 Off-Street Vehicle Parking Requirements	No	No
B8.1 Construction and Demolition - Excavation and Landfill	No	No
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	Yes	Yes
C6.1 Integrated Water Cycle Management	No	No
C6.2 Natural Environment and Landscaping Principles	No	No

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C6.7 Landscape Area (Sector, Buffer Area or Development Site)	Yes	Yes
C6.8 Residential Development Subdivision Principles	No	No
C6.9 Residential Land Subdivision Approval Requirements	No	No
D16.11 Form of construction including retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

A4.16 Warriewood Valley Locality

The proposed development is found to be incompatible with the desired future character of the Warriewood Valley Locality by virtue of its various non-compliances with the applicable PLEP and PDCP controls.

B5.15 Stormwater

The proposal does not make adequate provision for stormwater management to comply with the requirements of this control or Council's Water Management for Development Policy. Detailed comments are provided in the Internal Referrals section of this report. This issue forms a reason for refusal.

B6.3 Off-Street Vehicle Parking Requirements

The application fails to provide sufficient information to demonstrate that the proposed subdivision is capable of compliance with the requirements of this control. Detailed comments are provided in the Internal Referrals section of this report. This issue forms a reason for refusal.

B8.1 Construction and Demolition - Excavation and Landfill

The listed Outcomes of *Clause B8.1 Construction and Demolition - Excavation and Landfill* are as follows:

- *Site disturbance is minimised.*
- *Excavation, landfill and construction not to have an adverse impact.*
- *Excavation and landfill operations not to cause damage on the development or adjoining property.*

Comment:

This proposal includes significant excavation and fill works across the majority of the site.

The proposed excavation and fill volumes are considered to be excessive and do not minimise

disturbance of the site or the resulting impacts to surrounding land.

As such, the proposal is found to be **inconsistent** with the Outcomes of the control.

C6.1 Integrated Water Cycle Management

The proposal does not make adequate provision for water management to comply with the requirements of this control. Detailed comments are provided in the Internal Referrals section of this report. This issue forms a reason for refusal.

C6.2 Natural Environment and Landscaping Principles

The proposed alteration of the natural landform and removal of high value trees and biodiversity values, as discussed by Council's Biodiversity Officer, precludes compliance with the requirements of this control. Detailed comments are provided in the Internal Referrals section of this report. This issue forms a reason for refusal.

C6.4 The Road System and Pedestrian and Cyclist Network

Council's Traffic Section is unsupportive of the proposal for the reasons outlined in the Internal Referrals section of this report. This issue forms a reason for refusal.

C6.8 Residential Development Subdivision Principles

Clause C6.8 of P21 DCP highlights key principles to be addressed for residential subdivisions.

The proposed development fails to address a number of key provisions of this development control, including:

- The subdivision layout including the lot size must respond to the physical characteristics particular to each sector, such as slope and existing significant vegetation, and site constraints including bushfire risk.
- Lots must have the appropriate area, dimensions and shape to accommodate the housing product proposed as well as canopy trees and other vegetation, an private outdoor open space, rainwater tanks, vehicular access and onsite parking.
- Lots are to be orientated to optimise solar access for dwellings and areas of private open space. Widest or deepest lots are to be oriented with north to the front, with the narrowest orientated with north to the rear.
- Larger lots should be located on corners.

Notably, the proposal does not provide an appropriate response to the constrains presented by the existing vegetation, topography or bushfire affectation of the site. In this regard, the application is not supported by Council's Bushland and Biodiversity or Landscape sections, includes excessive earthworks that are not reflective of the natural topography and has not received GTA's from the NSW RFS.

Additionally, the building envelopes provided with the application fail to demonstrate the following:

- that a suitable housing product can be provided on the site, with adequate consideration of necessary canopy tree plantings, the provision of private open space, vehicular access, car

- parking, rain water tanks and stormwater management facilities, and
- that suitable titling arrangements are in place for the ownership and maintenance of essential services and infrastructure,

Without such information, the suitability and reasonableness of the proposed subdivision cannot be accurately determined, and Council cannot ensure that a high level of amenity is achieved for the individual allotments.

C6.9 Residential Land Subdivision Approval Requirements

Clause C6.9 of P21 DCP provides a series of approval pathways for development application seeking consent for subdivision only.

The proposal is consistent with 'Pathway 1', being a proposal for subdivision of land only, with no dwellings proposed. However, the application fails to provide the necessary information, as outlined by this development control, including a building envelope plan which demonstrates the following:

- Retaining walls
- maximum permissible building envelope (including site coverage for a dwelling under the provisions of SEPP Exempt and Complying), specifying setbacks, storeys and articulation zones,
- landscaped areas and deep soil areas,
- preferred location for private open space,
- driveway location and location of any hardstand areas,
- garage size and location,

Without such information, Council cannot be satisfied that the proposed subdivision will provide for future dwelling house development that is consistent with the provisions of P21 DCP or a development outcome that reflects the desired future character of the Warriewood Valley Locality.

It is noted that Council's advice in its Pre-lodgement Meeting notes and Request for Further Information recommended that a Pathway 2 application for Integrated Housing be pursued given the constraints presented by the site.

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.

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
- Consistent 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

The application seeks consent for the Torrens title subdivision of the existing site into 13 lots for future residential dwellings at 4 Forest Road, Warriewood.

The proposal cannot be approved in the absence of General Terms of Approval from NSW RFS.

Nevertheless, even if this legislative obstacle in relation to RFS approval was overcome, there are still significant planning concerns with the proposal relating to poor planning outcomes associated with the extent of cut and fill across the site and potential impacts on neighbouring properties.

Additionally, there are numerous unresolved issues in relation to stormwater, traffic, landscaping, road design, urban design and biodiversity matters that prevent the proposal from being supported.

This report recommends that the application be **REFUSED**.

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 Council, as the consent authority REFUSE Development Consent to Development Application No DA2023/0129 for the Subdivision of one lot into 13 lots and associated works on land at Lot B DP 370222,4 Forest Road, WARRIEWOOD, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Pittwater Local Environmental Plan 2014.
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 4.3 Height of buildings of the Pittwater Local Environmental Plan 2014. Specifically, insufficient information is provided to enable the calculation of the maximum height of structures proposed within the development.
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 7.2 Earthworks of the Pittwater Local Environmental Plan 2014 and Clause B8.1 Construction and Demolition - Excavation and Landfill of the Pittwater 21 Development Control Plan.
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 7.6 Biodiversity Protection of the Pittwater Local Environmental Plan 2014, Clause B4.22 Preservation of Trees and Bushland Vegetation and Clause C6.2 Natural Environment and Landscaping Principles of the Pittwater 21 Development Control Plan.
6. In accordance with the provisions of s.4.47(2) of the Environmental Planning and Assessment Act, consent cannot be granted as general terms of approval have not been obtained from NSW RFS for subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes/a special fire protection purpose under Section 100B of the Rural Fires Act 1997.
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 B5.15 Stormwater and Clause C6.1 Integrated Water Cycle Management of the Pittwater 21 Development Control Plan.
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 B6.3 Off-Street Vehicle Parking Requirements and Clause C6.4 The Road System and Pedestrian and Cyclist Network 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 C6.8 Residential Development Subdivision Principles and Clause C6.9 Residential Land Subdivision Approval Requirements of the Pittwater 21 Development Control Plan.