



Pre-lodgement Meeting Notes

Application No: PLM2023/0049
Meeting Date: 8 June 2023
Property Address: 13 Lodge Lane FRESHWATER
Proposal: Development Application Prelodgement Meeting

Attendees for Council: Julie Edwards – Planner
Thomas Prosser – Senior Planner
Daniel Milliken – Manager
Mia Battisti - Student Planner
David Hellot - Senior Environment Officer - Catchments
Ray Creer - Waste Services Officer

General Comments/Limitations of these Notes

These notes have been prepared by Council's Development Advisory Services Team on the basis of information provided by the applicant and a consultation meeting with Council staff. Council provides this service for guidance purposes only.

These notes are an account of the advice on the specific issues nominated by the Applicant and the discussions and conclusions reached at the meeting.

These notes are not a complete set of planning and related comments for the proposed development. Matters discussed and comments offered by Council will in no way fetter Council's discretion as the Consent Authority.

A determination can only be made following the lodgement and full assessment of the application.

In addition to the comments made within these Notes, it is a requirement of the applicant to address the relevant areas of legislation, including (but not limited to) any State Environmental Planning Policy (SEPP) and any applicable sections of the Warringah Local Environmental Plan 2011 and Warringah Development Control Plan 2011, within the supporting documentation including a Statement of Environmental Effects, Modification Report or Review of Determination Report.

You are advised to carefully review these notes and if specific concern have been raised or non-compliances that cannot be supported, you are strongly advised to review your proposal and consider amendments to the design of your development prior to the lodgement of any development application.



SPECIFIC ISSUES RAISED BY APPLICANT FOR DISCUSSION

Response to Matters Raised by the Applicant

Landscaping of the public reserve

Any works to improve the public reserve would have to be outside of the Development Application process. Planning does not have any objections to the works.

If you would like to pursue the works proposed by DSAP, please contact Tom Prosser to facilitate the process.

Existing Use Rights

The applicant stated that the proposal does not strictly meet the setback requirements of the WDCP but will provide increased amenity (sunlight and views) to the site as well as retaining the existing amenity (views, access to sunlight and privacy) of the adjoining properties.

As the proposal relies on Existing Use Rights, the built form controls of the WDCP do not strictly apply. However, the proposal must fit the context of the R2 Low Density Residential Zone, with the local planning controls being a starter for the design. The R2 zone in the area is generally made up of two storey development with a basement level.

Council has concern with the design of the four storey building being presented to the street and adjoining neighbours. The proposal should be amended to retain some of the natural features of the site, such as the rock outcrop at northern frontage and reducing the amount of excavation required by reducing the size of the basement. The overall bulk and scale is excessive and a reduction in the size of the building is required. This can be achieved through the stepping in of the upper levels from the eastern boundary, as the building increases in height. The building should also be setback a minimum 6.5m from the Coastview Place. An increased setback from the boundaries and reduced excavation would help to increase the landscaped open space on the site, which is currently deficient.

If the application was lodged in its current form, Council would be unable to support it. When assessing the application against Existing Use Rights principals, Council will be looking at what is currently on the site and what would reasonably be expected on the site. The more aspects of the design that comply with the built form controls of the WDCP and WLEP, the easier it will be to support the aspects of the proposal that do not comply.

SEPP 65 AND THE Apartment Design Guidelines (ADG)

SEPP 65 and the Apartment Design Guide applies to the development (being for four units). A summary of ADG controls which are not compliant, follows:

Control/ Standard	Requirement	Compliance/Comments
2F – Building Separation	6m (non-habitable) 12m (habitable)	No (2m between proposal and no. 2 Coast view Place)
3D - Communal open space	160sqm	No communal space is provided.
3F- Visual Privacy	Approximately 12m (6m between non-habitable)	No (for eastern elevation)



4B – Natural Ventilation	18m	No (up to 23m)
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WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011 (WLEP)

WLEP can be viewed at <https://www.legislation.nsw.gov.au/view/html/inforce/current/epi-2011-0649>

Part 2 - Zoning and Permissibility	
Definition of proposed development: (ref. WLEP Dictionary)	Residential Flat building <i>means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing</i>
Zone:	R2 Low Density Residential
Permitted with Consent or Prohibited:	Prohibited – Existing Use Rights

Clause 4.6 - Exceptions to Development Standards

Clause 4.6 enables the applicant to request a variation to the applicable Development Standards listed under Part 4 of the WLEP pursuant to the objectives of the relevant Standard and zone and in accordance with the principles established by the NSW Land and Environment Court.

A request to vary a development Standard is not a guarantee that the variation would be supported as this needs to be considered by Council in terms of context, impact and public interest and whether the request demonstrates sufficient environmental planning grounds for the variation.

Part 4 - Principal Development Standards			
Standard	Permitted	Proposed	Compliance
Building Height	8.5m	13.6m	Non-compliant – 37.5% variation

WARRINGAH DEVELOPMENT CONTROL PLAN 2011 (WDCP)

WDCP can be viewed at <https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/pages/plan/book.aspx?exhibit=DCP>

The planning principle established under *Fodor Investments v Hornsby Shire Council (2005) NSWLEC 71* provides that built form planning controls for existing use rights do not apply. However, the built form controls are relevant when establishing context and potential of future surrounding development. As such, the development is assessed against the built form controls. The following notes the identified non-compliant areas of the proposal only.



Built form controls		
Control	Permitted	Proposed
B1 Wall Height	7.2m	Exceeds the requirement
<p><u>Comment:</u> From the plans submitted it can be assumed that the development substantially exceeds the wall height along the eastern elevation.</p> <p>Council has concern with the four storey wall located off the eastern boundary with regard to bulk and scale, as well as amenity impacts to the adjoining properties – over shadowing, privacy and view loss etc.</p> <p>The upper storeys of the development should be stepped in from the eastern boundary as the building increases in height. This will help to reduce the visual impact of the proposal and minimise amenity impacts to the adjoining properties.</p>		
B3 Side Boundary Envelope	5m	East – Outside South - Within
<p><u>Comment:</u> As no elevations were provided it is difficult to determine the extent of the breach. However, based on the height of the proposal and lack of setbacks from the side boundary it is assumed the breach is excessive.</p> <p>As mentioned previously in the report, Council has concern with the four storey wall located off the eastern boundary with regard to bulk and scale, as well as amenity impacts to the adjoining properties – over shadowing, privacy and view loss etc.</p> <p>The planning control requires the upper stories to be stepped in from the side boundary as the proposal increases in height. Council would like to see this occur with this development. While some encroachment into the side boundary envelope can be supported, the current extent of the breach is excessive, does not meet the objectives of the control and is out of character with the area.</p>		
B7 Front Building Setbacks	Primary Street Frontage – 6.5 Secondary Frontage – 3.5m	<u>Basement level</u> <ul style="list-style-type: none"> • Primary – 3.3m • Secondary – 1.1m <u>Lower Ground Floor</u> <ul style="list-style-type: none"> • Primary – 4.1m • Secondary – 2m <u>Ground Level</u> <ul style="list-style-type: none"> • Primary – 4.1m • Secondary – 2m <u>Level 1</u> <ul style="list-style-type: none"> • Primary – 10.4m • Secondary – 2m <u>Level 2</u> <ul style="list-style-type: none"> • Primary – 10.3m



Built form controls		
		<ul style="list-style-type: none"> • Secondary – 2m
<p><u>Comment:</u> The proposal does not comply with the primary and secondary street frontage requirement of the WDCP.</p> <p>The existing carports on the site, are approximately 4m from the northern boundary and the existing RFB is approximately 17.6m.</p> <p>Council would like to see the proposal setback a minimum of 6.5m from Coastview Place. This is to maintain consistency with the setbacks of the adjoining properties to east at nos. 2 and 4 Coastview Place and allow for substantial planting within the front setback.</p> <p>A reduced setback to Lodge Lane can be supported if it can be demonstrated in the SEE and through the submitted plans how the objectives of the Part B7 Front Boundary Setback Area will be met. The proposal will need to include details of the use of colours and materials as well as landscaping to screen minimise any non-compliances from view.</p>		
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	33.44% (213.61m²)
<p><u>Comment:</u> The proposal is deficient in LOS. The submitted plans show areas of planter boxes and green roof included in the LOS calculation. However, for landscaped area to be included in the LOS calculation, landscaping is to be at ground level with a minimal depth of 1m.</p> <p>The existing RFB on the site complies with the LOS requirement of 40%. Council expects the proposal to comply with this requirement.</p> <p>Council can look at supporting a non-compliance with the LOS, if other non-compliances with the WDCP have been minimised or made compliant as noted earlier in this report. Please note, if the proposal is significantly deficient in landscaped area, it will be very difficult to justify the large basement area which impacts on the LOS for the site.</p>		
D7 Views		
<p><u>Comment:</u> A view analysis is to be provided. The applicant is to provide as much details as possible to demonstrate that the proposal will not result in unreasonable view loss from the surrounding properties.</p>		
E6 Retaining unique environmental features		
<p><u>Comment:</u> Council wants to see as much of the existing rock feature at the front of the site to be retained and integrated into the design of the proposal. This may require the basement and driveway to be redesigned to accommodate the retention of the rock feature.</p> <p>It is noted that the applicant mentioned that the rock feature had been heavily modified by the existing development and the adjoining property. However, Council does not hold the same opinion. Any claim that the rock is floating or disturbed will need to be backed up by</p>		



Built form controls

geotechnical information and appropriate evidence before the removal of the rock can be supported.

Specialist Advice

Landscape

The landscape component of the development proposal shall be planned and designed to satisfy the following relevant landscape controls and policies:

- *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP65)* under clause 28(2) (a) (b) and (c), including Schedule 1, Principle 5: Landscape,
- the associated Apartment Design Guide, including the objectives of control 3E Deep Soil Zones, 4O Landscape Design, 4P Planting on Structures, and
- WLEP and the following WDCP controls (but not limited to): D1 Landscaped Open Space and Bushland Setting, E1 Preservation of Trees or Bushland Vegetation, E2 Prescribed Vegetation, and E6 Retaining unique environmental features.

Landscape Comments

- Deep soil area under control 3E Deep Soil Zones of the Apartment Design Guide is satisfied.
- Landscape area under WDCP is reported to satisfy control D1, and this is to be assessed based on submitted development application plans, and the following advice is provided on landscape calculation requirements to measure the area of landscaped open space: a) driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation; b) the water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation; c) landscaped open space must be at ground level (finished); and d) the minimum soil depth of land that can be included as landscaped open space is 1 metre.
- Existing natural environmental features such as the rock shelf should be responsibly integrated into the landscape design to satisfy WDCP control E6.
- The submitted Landscape Plans are noted and proposed trees shall be native species, and planted at a suitable distance away from building and other trees (3.0 metres minimum). Exempt species shall not be nominated and species currently self-seeding (such as Tuckeroo and Rhipiolepis) shall not be proposed in the landscape scheme.
- All proposed landscape calculation areas shall be planted.

Impact to existing trees

- No concerns regarding proposed removal of exempt Palm species and the Bay Tree as noted in the Arboricultural Impact Assessment.
- All existing trees within adjoining properties shall be protected and tree protection measures are noted in the Arboricultural Impact Assessment.
- All existing street trees within road reserve shall be retained.



Specialist Advice

Information required at DA stage:

- Additional compliance with the Apartment Design Guidelines for landscape including the objectives of control 3E Deep Soil Zones, 4O Landscape Design, 4P Planting on Structures.
- In accordance with Council's DA Lodgement Requirements: Landscape Plans and Arboricultural Impact Assessment.

Development Engineers

These comments are only preliminary in nature and a detailed assessment can only be provided upon DA lodgement: -

Access:

Proposal is for driveway leading from Coastview Place to the basement parking level, 7 basement car parking spaces (2 x double garages, 2 x single garages and 1 x visitor space and Pedestrian access from Lodge Lane to the lobby area on Level 1

1. The internal driveway access grades, driveway crossing widths must be in accordance with AS2890.1. Internal parking layout must be addressed by Council's Traffic Engineers.
2. All proposed works within road reserve are to be shown on the plans including all existing services.
3. A long section and cross sections for the proposed driveway with chainage, grades and existing & proposed levels are to be included in the submission.
4. Details of Pedestrian access from Lodge Lane
5. Vehicle should be restricted to forward in and forward out movement.

Stormwater:

The applicant is to demonstrate how stormwater from the proposed development shall be disposed of in accordance with Northern Beaches Council's Water Management for Development Policy. The policy is available in Council's web page.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/policies-register/water-management/water-management-development-policy/water-management-development-policy-aug2020.pdf>

Traffic Engineers

The prelodgement proposal is for demolition of the existing residential flat building at 13 Lodge Lane, Freshwater and construction of a new residential flat building with basement parking accessed from Coastview Place.

The existing flat building comprises 2 x 1 bedroom units and 2 x 2 bedroom units with parking for 8 vehicles in a tandem parking arrangement. The existing parking area is not deep enough to accommodate the front row of parking offstreet and vehicles therefore overhang the front boundary protruding onto the road reserve. The proposed development is for 4 x 3 bedroom units with offstreet parking for 7 vehicles, all parking spaces will be able to be accessed independently and entirely offstreet.



Specialist Advice

The WDCP parking requirement associated with the existing development is 5.4 parking spaces and the existing development therefore provides parking in excess of WDCP requirements if it were being built today despite that parking not being consistent with AS2890.1 requirements in terms of parking space size. The proposed development is required to provide 7 parking spaces including one visitor space and the quantum of parking therefore meets DCP requirements. It is however noted that the pre-lodgement plans indicate that 3 parking spaces are proposed for allocation to unit 2 and no parking spaces to unit 3. Each unit should be allocated at least one parking space. The visitor parking space must also be accessible via an intercom to ensure that visitors can make use of the space. Details demonstrating the above should be provided on the DA Plans.

Although not dimensioned, the driveway appears to be single width, in this location, noting the low speed of traffic and low number of vehicle movements in Coastview Place, this is supported. As Coastview Place is narrow with an existing high parking demand for the few spaces on-street. The DA plans shall provide details with regard to kerb lengths between the development's driveway and adjacent driveways and/or No Stopping restrictions to confirm that at least one parking space can be reinstated.

The width and length of the off-street parking spaces, driveway and parking aisle width must be marked on the DA plans to confirm compliance with AS/NZS 2890.1. In addition, swept path plots must be provided showing a B99 vehicle turning into and out of the driveway with vehicles parked either side of and opposite the driveway to confirm that the driveway will be accessible without the need for parking restriction adjustments in Coastview Place. A swept path plot for a B85 vehicle turning into and out of parking spaces 01 and 07 shall also be provided to confirm that forwards ingress/egress is feasible in accordance with AS/NZS 2890.1 requirements.

A driveway long section is also required between the kerb alignment and the carparking area to confirm that grades are acceptable and vehicle scrapping will not occur.

The redundant section of driveway on the site's frontage should be marked on the DA plans for reinstatement to kerb and gutter.

The roll kerb on the development's Lodge Lane frontage should be removed and replaced with kerb and gutter to prevent vehicles parking illegally with one-wheel up on the nature strip which would impede pedestrian access to the lobby area on level 1. This should be noted on the DA plans and/or will be required by a condition of consent

Coast and Catchments

The project is subject to the following controls specific to water quality, riparians lands and creeks:

- Northern Beaches Water Management for Development Policy (WM) section 4 Protecting the environment, and section 7 Water Conservation
- Warringah DCP 2011 sections C4 Stormwater and G9.9 Water management Objective A and B, Requirements 1, 2 and 3

With reference to the Water Management for Development Policy (WM Policy):

- The proposal must demonstrate how it will meet the required water quality targets of the WM Policy, in this case Table 5 – General Stormwater Quality Requirements.
- The water quality requirements must be achieved through a Water Sensitive Urban Design (WSUD – see below). Cartridges are permitted to form part but not all of what must be a



Specialist Advice

treatment chain for meeting the water quality requirements. Council will not accept only cartridges as a strategy for managing water quality. Possible treatment method that could be included in the treatment chain is a green roof, which may be possible in this circumstance.

- To demonstrate compliance with the relevant stormwater performance requirements, a model preferably through the Model for Urban Stormwater Improvement Conceptualisation (MUSIC), or an equivalent, widely accepted model or methodology must be provided.
- Groundwater. The proposal includes significant below ground works, such as excavation for a basement. The geotechnical report to be submitted must include information on likely groundwater interference and any likely dewatering requirements.

In summary:

- The project is to demonstrate an integrated water management strategy to manage stormwater flows in quality and quantity.
- The proposal should be using water WSUD principles to achieves an adequate treatment chain, refer attached WSUD strategy.
- The WDCP is stating that Integrated Water Sensitive Urban Design measures in new developments should address stormwater and floodplain management issues, maximise liveability and reduce the impacts of climate change.
- The aim is to mimic natural stormwater flows by minimising impervious areas, reusing rainwater and stormwater and providing treatment measures that replicate the natural water cycle and to reduce the consumption of potable water by encouraging water efficiency, the reuse of water and use of alternative water sources.

Planning

It is acknowledged that the application will seek to use the provisions of Existing Use Rights under the Act, given the existing residential flat building on site.

The application will need to address the planning Principle for Existing use rights *Fodor Investments v Hornsby Shire Council (2005) NSWLEC 71*. In its current form, the proposal will need to significantly reduce overall bulk and scale to better relate to what is permissible on surrounding sites. In particular, the upper level requires greater stepping from the street and from the eastern neighbour, overall excavation should be reduced, and greater separation between the whole building and the eastern neighbour should be provided.

To comply with Clause E6 Retaining unique environmental features under the WDCP, the building should also be redesigned to respond to the rock feature at the front of the site by integrating built form in with the rock.

The five-storey presentation of the building at the street is unacceptable. Along with the reduction to the built form and greater stepping, further landscaping should also be provided within the front setback area to reduce the presentation of building bulk.

Documentation to accompany the Development Application



- Lodge Application via NSW Planning Portal
- Statement of Environmental Effects
- Scaled and dimensioned plans:
 - Site Plan;
 - Floor Plans;
 - Elevations; and
 - Sections.
- Certified Shadow Diagrams (depicting shadows cast at 9am, Noon and 3pm on 21 June).
- Cost of works estimate/ Quote
- Survey Plan (Boundary Identification Survey)
- Site Analysis Plan
- Demolition Plan
- Excavation and fill Plan – plan is to include the amount of soil being removed or brought to the site. Details of any fill being brought to the site needs to be included in the waste management plan
- Waste Management Plan (Construction & Demolition)
- Driveway Design Plan (if any change is proposed to the driveway)
- Erosion and Sediment Control Plan / Soil and Water Management Plan
- Stormwater Management Plan / Stormwater Plans and On-site Stormwater Detention (OSD) Checklist
- View Analysis

IMPORTANT NOTE FOR DA LODGEMENT

Please refer to the Development Application Lodgement Requirements on Council's website (link details below) for further detail on the above list of plans, reports, survey and certificates.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/development-application-da-modification-or-review-determination/2060-da-modification-lodgement-requirements-mar21.pdf>

The lodgement requirements will be used by Council in the review of the application after it is lodged through the NSW Planning Portal to verify that all requirements have been met for the type of application/development.

Concluding Comments

These notes are in response to a pre-lodgement meeting held on 8 June 2023 to discuss construction of a residential flat building at 13 Lodge Lane FRESHWATER. The notes reference the plans prepared by Studio Johnston dated 30/3/23.

If the application was to be lodged in its current form, the proposal would not be supported. It is strongly recommended that the current proposal not be lodged as a DA.

Council has several fundamental issues with the proposal, including bulk and scale, excessive excavation and retention of the rock feature at the front of the site. Given the extent of these issues, it is recommended that the advice provided be incorporated into a significantly amended and reduced design. Given the scope of the redesign that would result in a development Council could support, a further prelodgement meeting is likely to be required.

Question on these Notes?

Should you have any questions or wish to seek clarification of any matters raised in these Notes, please contact the member of the Development Advisory Services Team at Council referred to on the front page of these Notes.

