

Strategic Planning Referral Response

Application Number:	DA2024/1079
Proposed Development:	Community title subdivision into five (5) lots and civil works
Date:	17/06/2025
To:	Adam Richardson
Land to be developed (Address):	Lot 3 DP 1115877 , 53 B Warriewood Road WARRIEWOOD NSW 2102 Lot 3 DP 942319 , 53 Warriewood Road WARRIEWOOD NSW 2102 Lot 2 DP 1115877 , 53 A Warriewood Road WARRIEWOOD NSW 2102

Officer comments

INTRODUCTION

DA2024/1079 seeks development consent for a community title subdivision into five lots and civil works at 53, 53A and 53B Warriewood Road, Warriewood.

SITE DESCRIPTION

The subject site consists of the whole area of 53 Warriewood Road, Warriewood (Lot 3 DP 942319) (Council owned drainage reserve), 53A Warriewood Road, Warriewood (Lot 2 DP 1115877) and 53B Warriewood Road, Warriewood (Lot 3 DP 1115877).

All the subject sites are zoned R3 Medium Density Residential under Pittwater Local Environmental Plan (LEP) 2014 and are flood affected.

The subject sites are known as Buffer 1d (53 Warriewood Road), Buffer 1b (53A Warriewood Road) and Buffer 1c (53B Warriewood Road) in the Pittwater LEP 2014 and the endorsed Warriewood Valley Strategic Review Report.

The site fronts and is accessed from Warriewood Road, while a section of Narrabeen Creek is at the rear boundary.

The properties adjoining the subject sites on either side have been subdivided into individual residential allotments, and Lorikeet Grove is located along the outer 25 meters of the creek line corridor of the adjoining properties, abutting either side of the subject site.

The site has approximately 78m of frontage along Warriewood Road.

A dwelling and shed exists on each allotment at 53A and 53B Warriewood Road, Warriewood.

CHRONOLOGY

Since 2014, several consents were issued for the subject site however these consents have since been surrendered.

The current proponents for this DA purchased 53A Warriewood Road and 53B Warriewood Road, Warriewood in 2021 and 2023 respectively. Northern Beaches Council owns 53 Warriewood Road, Warriewood (drainage reserve).

On 8 August 2024, the subject DA was lodged with Council.

On 29 November 2024, Council requested further information and several matters to be addressed by the Applicant.

On 28 March 2025, a response to the matters raised by Council was submitted by the Applicant.

This referral reviews the Applicant's response to Council's request for further information and the documentation relevant to the subject DA.

OFFER TO ENTER INTO A PLANNING AGREEMENT

On 28 April 2025, an Offer to Enter into a Planning Agreement (the Offer) for the subject site was lodged with Council, offering to deliver the following as Works-in-Kind infrastructure:

- Bus Bay and shelter – Warriewood Road between Manooka Place and Alameda Way (Item 5.5 of the Works Schedule (Appendix B) in the Traffic and Transport Strategy in the Warriewood Valley Contributions Plan).
- Shared Paths (Item 28B of the Works Schedule (Appendix B) in the Traffic and Transport Strategy in the Warriewood Valley Contributions Plan).
- Rehabilitation Works of Narrabeen Creek at 53A, 53B (53 optional) Warriewood Road, Warriewood (Item 2.71B, 2.71C and 2.71D Multi-functional Creek Line Strategy).

The Offer also proposes the following dedication of land to Council:

- The inner 25m of the creek line corridor (1B & 1C Multi-functional Creek Line Strategy (Land Acquisition)).

The applicant has stated the offer is associated to DA2024/1079. A preliminary assessment of the Offer is underway. Assessment of Offer needs to remain separate to the DA.

ASSESSMENT OF DEVELOPMENT APPLICATION

In principle, SPP3 does not object to the subdivision of the land as shown on plan titled "Plan of Proposed Community Scheme Subdivision of Lot 2, in Unreg. DP. Being 53A&53B Warriewood Rd, Warriewood Northern Beaches LGA" Reference 6321/15 (TRIM 2025/210469), provided the following matters are addressed:

1. Confirmation that the total quantum of dwellings that will eventually be accommodated across the development site is consistent with the total dwelling range assigned for Buffer Areas 1b, 1c and 1d (being from 31 to 42 dwellings). The Assessing Officer is to be certain of the total number of dwellings being delivered across the subject property is within the dwelling range or at best minimum 31 dwellings otherwise it is prohibited development as established by the Land & Environment Court in Lotus Project Management Pty Ltd v Pittwater Council [2015] NSWLEC 166 and Karimbla Constructions Services (NSW) Pty Ltd v Pittwater Council [2015] NSWLEC 83. Greater certainty on the total dwelling quantum being consented to for this development is required first, to enable calculation of development contributions.
2. That the Development Site has an overall impervious area of 50%, and this is applied at the lot scale. Control C6.7 Landscape Area (Sector, Buffer Area or Development Site) in the Pittwater

21 DCP, requires 50% impervious area for a sector, buffer area or development site. This DCP provision relates to the 50% impervious fraction used in the modelling of water management for this development. A site plan showing the pervious and impervious areas including dimensions and area should be demonstrated to demonstrate compliance with this control, and stated in control C6.1 Integrated Water Cycle Management.

3. Clarification on intent of proposed Lot 6 since it is within the outer creek line corridor that is generally considered to be the developer's responsibility.
4. Proposed lots 4 and 5 will contain boundary fencing and landscaping that are vertical structures within the outer 25m creek line corridor. Control C6.1 (Integrated Water Cycle Management) in the Pittwater 21 DCP states: *'Any part of residential lots, dwellings, garages, fences and other vertical built structures are not permitted within the 25 metre wide Outer Creekline Corridor.'*
5. Infrastructure-related matters:
 - Proposed Lot 1 "Future Public Reserve" and is to form the inner 25m of the creek line corridor is not to contain any infrastructure. For Council to accept the dedication of the inner 25m creek line land under the adopted Warriewood Valley Contribution Plan, the inner 25m creek line land is required to carry the flow of the 1% AEP flood event following rehabilitation of the creek line land (objectives of the Multi-functional Creek Line Strategy).

Council's Executive Manager, Environment & Resilience, as the future asset Manager of the inner creek corridor land, advised as follows:

Given that the inner creekline corridor is not containing the 1% AEP flood event as required by the Contributions Plan, an assessment of likely liability must be carried out first and determination on likely acceptance by the Contributions panel. I note the developer has submitted an Offer to Council, and that assessment of the Offer is underway. It would be good for the offer's assessment being completed first to provide greater certainty on the inner and outer creekline corridor land for this development. I confirm that there is no flood related risk in accepting the inner creek line corridor, assuming that the transfer of land is deferred until rehabilitation is satisfactorily completed. Additionally, Manager S&PP advises that, on the basis that the risk imposed is accepted by Council, proposed Lot 1 should only be dedicated to Council when these two circumstances are satisfied:

- Creek rehabilitation works in this inner corridor has been completed in accordance with plans subsequently approved for this portion of land, and
 - 90% of dwellings are completed across that portion of the development site between Lorikeet Grove road reserve and Warriewood Road.
- The following infrastructure are at developer's cost as they are required by the development and not identified infrastructure in the adopted contributions plan:
 - Infrastructure to service the subdivision development including the internal road network and water management facilities under community association.
 - Half road construction on Warriewood Road to the full length of the development site and the section of Lorikeet Grove road reserve including a footpath as public road.
 - Council's Transport Network team should confirm footpath details including location and width, noting this is not the shared path that is required under the adopted contributions plan.

- The 2.5m wide shared path is to be located within the outer 25m of the creek line corridor and align with approved shared paths on adjoining properties. The shared path is also to be located above the 20% AEP flood level.

The above is provided for your consideration first. Given the matters raised, it is appropriate to refer the DA back to S&PP3 (Development Contributions). The total quantum of dwellings being approved under this DA needs to be confirmed, to calculate the development contributions applicable.

RECOMMENDATION

The Development Application is not supported.

SPP3 should be re-referred this DA should it be deemed that development contributions cannot be levied as part of this DA.

This referral response has been peer-reviewed in accordance with agreed procedures.

The proposal is therefore unsupported.

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

Strategic Planning Conditions:

Nil.