



Pre-lodgement Meeting Notes

Application No: PLM2024/0078
Meeting Date: 30 July 2024
Property Address: 36 Cabbage Tree Road BAYVIEW
Proposal: Alterations and additions to a Seniors Housing development
Attendees for Council: Alex Keller – Principal Planner
Fatima Shajar – Student Planner
James Brisbois – Team Leader, Catchments
Robert Blackhall – Environment Officer Bushland & Biodiversity
Richard Platt – Environment Officer, Coasts and Catchments

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 Pittwater Local Environmental Plan 2014 and Pittwater 21 Development Control Plan, 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:

Owner's consent (Council land)

It appears from the PLM concept plans that the works may not be encroaching over the boundary of Lot 7 DP260157. However, if it is identified that some ancillary or incidental works will (e.g. foundation supports / excavation / creek-bank protection / retaining walls) then owner's consent will be required for lodgement of the DA for works within the council drainage reserve / creek line lot that passes through the centre of the retirement village.

Please note that if there are building works as part of the DA, Council may use an independent external consultant for the assessment process (due to conflict-of-interest management procedures). The DA would still be co-ordinated / administered by Council. To acquire owner's consent (for Lot 7) a letter (requesting owners consent to facilitate DA lodgement) should be sent attention of the CEO, so that the appropriate Manager Property / Bushland Reserves can reply. Include concept outline details of the intended works, such as a site plan.

Bushfire

The site is 'tagged' as part of the bushfire buffer hazard. This is a very small and narrow overlap in the western corner of the site across Annam Road. Since the site is used for *seniors housing* this would trigger integrated development under Section 100B of the *Rural Fires Act 1997* and *Planning for Bushfire Protection* may result in conditions requiring the entire site to be managed as an APZ. This could have significant consequences for APZ management including tree removal, ground cover thinning, garden planting and the like, if the NSW RFS places standard conditions on any referral for the DA works. It is strongly recommended the applicant engage a qualified bushfire consultant to engage with the NSW RFS prior to lodgement to establish if the NSW RFS will require a referral (given the narrow overlap) and what the outcomes of that referral may be required pursuant to *Planning for Bushfire Protection*. The RFS may consider if the automated mapping "snippet" of the site does not warrant referral on advice / consultation with the applicant's fire expert. Given the minor works and that the site is also mapped as having Biodiversity Values (BDAR), including littoral rainforest type (and tree removal may trigger designated development / including Environmental Impact Statement procedures) written advice / prior clearance from the NSW RFS is critical, given the overlaying Biodiversity values mapping within the site.

Biodiversity (forest habitat)

For minor or low value works the *Biodiversity Conservation Act* has a mechanism for 'exemptions' to be issued following consideration by a suitably qualified ecologist. To facilitate this the applicant will need to provide supporting documentation to the Department prior to lodgement for any particular requirements seeking if an exemption may be appropriate. Given the minor work component and small location, advice from an ecologist will be required to address matters referred to the *Department of Climate Change, Energy, the Environment and Water*, pursuant to



section 7.7(2) of the *Biodiversity Conservation Act 2016*. Preliminary advice from the department may assist in establishing if formal DA referrals will be required and the depth of assessment that the Department may need, if there is native tree clearing and the like required. (See referral comments below regarding ‘test of significance’ also).

Riparian Zone (works within 40m of watercourses)

The proposed works being pathways, lift infrastructure, excavation and retaining structures and the like are within the riparian buffer. Therefore, it is advised that prior referral advice be sought from the *Department of Climate Change, Energy, the Environment and Water* to ascertain if Department does not consider the works nominated integrated due to the domestic nature of the works and minor impact if there is no significant risk / no change intended to the natural watercourse. The Department may advise if they do not consider a referral (at DA stage) to be warranted under the circumstances.

Original Consent

The original consent is No.87/8 for the ‘erection of 51 hostel suites and village centre.

There have been numerous other consents following on from No.87/8 for various development on the land since 1987. The applicant / owner should keep a complete record of all development consents on site within the site management office. A “GIPA” search may be requested via Council’s website to recover past files / relevant consents and documents.

PITTWATER LOCAL ENVIRONMENTAL PLAN 2014 (PLEP 2014)

PLEP 2014 can be viewed at <https://www.legislation.nsw.gov.au/view/html/inforce/current/epi-2014-0320>

Part 2 - Zoning and Permissibility	
Definition of proposed development: (ref. PLEP 2014 Dictionary)	Senior’s housing (alterations and additions to a Senior’s housing development)
Zone:	R2 Low Density Residential (Lot 121) (The drainage reserve creek line lot is zoned RE1 Public Recreation)
Permitted with Consent or Prohibited:	Permitted with consent

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 LEP 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 Pittwater LEP	8.5m	8.4m (To be confirmed in section details)	Yes. To be confirmed.
SEPP (Housing) 2021 height controls for Seniors Housing prevail over the LEP height controls. (The proposal complies with those also)			

PITTWATER 21 DEVELOPMENT CONTROL PLAN (P21DCP)

P21DCP can be viewed at

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Pages/Plan/Book.aspx?exhibit=PDCP>

The Pittwater DCP has a desired future character statement for the suburbs. The SEE should address the DFC in brief.

Part		
Control	Permitted	Proposed
Setbacks		Satisfactory, subject to details to be provided.
Setback to the boundary of the property where the creek line is and for the principal building works fronting Annam Road is to be shown on the site plan.		
Colours and materials		Satisfactory, subject to details to be provided.
Pittwater DCP has a colour schedule for building works. It is expected that for the additional works they will generally match or blend in with the existing building material colours.		
Landscaping		Satisfactory, subject to details to be provided.
Removal of landscaping is minimal for the pathway connections and relative to the site as a whole. The landscape buffer to residents opposite the site in Annam Road should be retained to provide protective screening of the alfresco terrace.		



Part

Other relevant parts of the DCP to be addressed:

A4.4 Bayview Locality,
Part B3 Landslip (H1), Bushfire and Flood prone land,
Part B5 Water management,
Part B8 Site work management

Part C1 Landscaping, C1.21 Seniors Housing C1.25 Plant, Equipment and Lifts
Part D4 Bayview Locality, D4.1 Character viewed from public place, D4.3 Colours and materials, D4.5 Front building line, D4.6 Side and rear building line, D4.8 Building envelope, D4.9 Landscape area general, D4.13 Construction, walls, terracing.

(Requirements of SEPP (Housing) 2021 prevail over DCP controls in the event of any inconsistency)

Specialist Advice

Parks Reserves and Foreshores

- Any proposed works across the RE1 Public Recreation land will require Council approval for access and undertaking works under a *Working and Access to Reserve Permit*.
- Impacts to natural landscape features (rock outcrops, trees, watercourse etc) shall be identified for consideration.
- Impacts to Council's physical infrastructure shall be identified for consideration.

Subject to preservation of Council's physical infrastructure, access to, and minimisation of impacts to natural landscape features, no initial concerns are raised.

Landscape Assessment

- Proposed works within 5 metres of any tree or native vegetation shall be identified.
- An Arboricultural Impact Assessment in accordance with Council's DA Lodgement requirements is required to provide clarification on which trees are to be retained, including tree protection measures, and which trees are to be removed. The Arboricultural Impact Assessment report shall indicate the impact of development upon the existing trees within the site, and for any existing tree on adjoining properties located 5 metres from the site (building and associated excavation or fill zones). The report shall be prepared by a qualified Arborist AQF Level 5 and shall cover assessment of excavation and construction impacts upon the SRZ and TPZ, tree protection requirements, and recommendations. Recommendations shall include the setback distance from each tree where no construction impact is to occur to ensure the long-term retention of the tree.



Specialist Advice

- It is noted that works are proposed in the area mapped as Biodiversity Values and this matter shall be deferred to Council's Bushland and Biodiversity Referral. Any removal of native vegetation from within the mapped areas may trigger the *Biodiversity Offset Scheme* (BOS).

Development Application Documents

- An Arboricultural Impact Assessment.
- Plans indicating tree replacement should any existing trees be proposed for removal.

Biodiversity

Biodiversity Planning Controls

The following biodiversity related legislation and planning controls apply to the subject lot. Compliance with applicable provisions will need to be demonstrated within the submitted *Statement of Environmental Effects* (SEE) and/or supporting documentation.

- *Biodiversity Conservation Act (BC Act) 2016*
- *Biodiversity Conservation Regulation (BC Reg) 2017*
- *SEPP (Resilience and Hazards) 2021 – Part 2.2 Division 1 Coastal Wetlands and Littoral Rainforest Area*
- *Pittwater LEP – Clause 7.6 Biodiversity Protection*
- *Pittwater DCP – Clause B4.6 Wildlife Corridors*

Required Supporting Documentation

On review of the submitted pre-lodgement plans, the following documentation is required to accompany the Development Application (DA):

- An Arboricultural impact assessment will be required as prescribed trees are found within 5 metres of proposed areas of works.
- Landscape Plans
- A Report that considers the proposed development, and whether or not it will significantly impact on—
 - (a) the biophysical, hydrological or ecological integrity of the adjacent littoral rainforest, or
 - (b) the quantity and quality of surface and ground water flows to and from the adjacent littoral rainforest.
 - (c) the requirements of cl 7.6 of Pittwater LEP
 - (d) the requirements listed with P21 DCP Control B4.6 Wildlife Corridors

Dependent on impacts to Littoral Rainforest and/or the Biodiversity Values Map area, the following documentation may be required to accompany the Development Application (DA):

- Environmental Impact Statement (if Designated Development)



Specialist Advice

- Biodiversity Development Assessment Report (impacts to the BV Map area)

As discussed in the meeting portions of the site are identified on the Littoral Rainforest and Littoral Rainforest (Proximity) mapping under the SEPP (c11 2.7 and 2.8), and also the Biodiversity Values Map (BV Map).

Impacts to trees and native vegetation may trigger the need for more detailed assessment such as an EIS and/or BDAR, so the relevant planning pathways and reporting requirements of the *Biodiversity Conservation Act (BC Act) 2016* and the *SEPP (Resilience and Hazards) 2021* must be carefully considered as part of project design.

General Biodiversity Comments

- The proposal has to demonstrate that the hierarchical principles of avoidance and minimisation of impacts to biodiversity have been fully explored and look for alternatives to maximise retention of prescribed vegetation and unique environmental features.
- An Arboricultural Impact Assessment is required to determine whether impacts to trees from the proposed works are acceptable or not.
- If prescribed (protected) trees are to be removed for the purposes of the proposed works, like for like replacement plantings will have to be considered. Trees found outside of the property boundary must always be considered as constraints.
- New landscaping is to incorporate a minimum 60% locally native vegetation species as a proportion of the total number of plants. Development shall ensure that at least 60% of any new planting incorporates native vegetation to be selected from the Pittwater Ward species list available on Council's Website:
<https://www.northernbeaches.nsw.gov.au/environment/native-plants/native-planting-guide/narrabeen-ward>.

Documentation to accompany the Development Application

- Lodge Application via NSW Planning Portal
- Statement of Environmental Effects (proposals that trigger "designated development" requires EIS procedures which are different to an SEE)
- SEE will address SEPPs also (SEPP Housing, SEPP RH & BC Act)
- Owners, including ASIC and Body Corporate consent as applicable.
- Written consent from Council for works within Lot 7 DP260157 (as applicable).
- Scaled and dimensioned plans:
 - Site Plan;
 - Floor Plans;
 - Elevations; and
 - Sections.
- Landscape details / works plan.



- Cost of works estimate/ Quote
- Arborist report
- Ecology report
- Bushfire report as applicable
- BCA / Accessibility / Fire engineering safety (summary)
- Survey Plan (Boundary Identification Survey)
- Site Analysis Plan
- Demolition Plan
- Excavation and fill 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 Details / Stormwater Plans for any inclusion for re-use, runoff management and connections.

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 30 July 2024 to discuss alterations and additions to a Seniors Housing development at 36 Cabbage Tree Road Bayview. The notes reference the plans prepared by *Boker Architects* dated 24.7.2024.

In summary, the alterations and additions are relatively minor works to the external parts of the community centre building and for the improvement of accessibility access between the northern and southern part of the site which is bisected by a forested creek-line gully. There are various internal renovations to the community centre building and ancillary areas which are general modernisations and improvements to assist the living environment for retirement village residents and the like. The proposal is supported, however the applicant is strongly advised to "sound out" the NSW Departmental referral bodies, in advance of lodging a DA, to ensure the works intended (as low impact) do not inadvertently trigger high-impact and high-cost (dis-proportionate) conditions or adverse environmental requirements under the Water Management Act, Biodiversity Conservation Act or Rural Fires Act.

Question on these Notes?



Concluding Comments

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.