



Pre-lodgement Meeting Notes

Application No: PLM2024/0055
Meeting Date: 20 June 2024
Property Address: 7 Cooleena Road ELANORA HEIGHTS
Proposal: Subdivision of one (1) lot into two (2) lots
Attendees for Council: Clare Costanzo, Planner
Alexander Keller, Principal Planner
Dean Pattalis, Planner
Winny Dong, Development Engineer
Richard Platt, Coasts and Catchment Engineer

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.

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	
The applicant asked if Council would recommend lodging the application with either the construction of a dwelling house on Lot 2 or providing a three-dimensional concept design would assist in the assessment of the application.	<p>Council recommends providing for either of these in any future development applications to assist in overcoming the various reasons for refusal.</p> <p>Please note this does not necessarily mean Council will support the application but it will certainly assist in overcoming reasons for refusal regarding the built form controls and potential future amenity impacts.</p>
Management of stormwater	<p>This was discussed in detail within the prelodgement meeting.</p> <p>Notes from Council's referral bodies have been included within these prelodgement meeting notes. Further information will be required upon the lodgement of any development application.</p>
Vehicular access	<p>This was discussed in detail within the prelodgement meeting.</p> <p>Notes from Council's referral bodies have been included within these prelodgement meeting notes.</p> <p>Issues remain regarding driveway grade and swept paths remain and will need to be addressed. Further information will be required upon lodgement of any development application.</p>
Landscaping and Tree removal	<p>This was discussed in detail within the prelodgement meeting.</p> <p>The site must have a minimum landscaped area of 60% under D5.9 Landscaped Area – Environmentally Sensitive Land. However, the P21DCP allows for up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)) subject to the outcomes of the control being met. This means that a minimum of 54% landscaped area is required in addition to meeting the outcomes.</p> <p>Notes from Council's referral bodies have been included within these prelodgement meeting notes.</p>



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)	Subdivision
Zone:	C4 Environmental Living
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
4.1 Minimum subdivision lot size	Lot Size Map K – 550sqm	Lot 1: 554sqm Lot 2: 593.6sqm	Yes
<p><u>Comment:</u></p> <p>The proposed lot sizes comply with the minimum requirement and correctly exclude the right of access from the calculations.</p> <p>Council's concerns raised previously within DA2022/0448 regarding the development potential of the steep slope remain. The applicant is required to demonstrate the subdivision can meet the objectives of the clause, with specific reference to providing for subdivision where all resulting lots are capable of providing for the construction of a building that is safe from hazards and to ensure lot sizes and dimensions are able to accommodate development consistent with the relevant development controls.</p> <p>Council recommends providing three-dimensional plans and/or a concept design to demonstrate the proposal can achieve the objectives. These plans and concept designs would form part of any future development consent should the application be supported.</p>			
Standard	Permitted	Proposed	Compliance
4.3 Height of buildings	8.5m	n/a	n/a



Part 4 - Principal Development Standards

Comment:

Any new dwelling on proposed lot 2 shall be stepped with the topography of the site to avoid breaching the overall height limit of 8.5m.

Please note that 4.3(2D)(c) for a maximum 10m building height can only be relied upon when the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%).

However, Council is not supportive of the subdivision of a site that will result in a slope of greater than 16.7 degrees (that is, 30%). As such, it is recommended that an attempt to comply with the 8.5m building height is exercised in a future design of the dwelling on Lot 2.

PITTWATER 21 DEVELOPMENT CONTROL PLAN (P21DCP)

P21DCP can be viewed at

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Pages/Plan/Book.aspx?exhibit=P21DCP>

The following notes the identified non-compliant areas of the proposal only.

Part B2.2 Subdivision – Low Density Areas	
Control	Proposed/Comments
Any lot (or lots) to be created by a subdivision of an existing lot (or lots) shall have a minimum lot depth of 27 metres.	Lot 1: approx. 29m Lot 2: approx. 27m Both Lots comply with the minimum depth control.
Any lot (or lots) to be created by a subdivision of an existing lot (or lots) on land identified as Area 1 on the Landscaped Area Map shall have a minimum lot width at the building line of 16 metres.	Lot 1: approx. 17m (not including access handle) Lot 2: approx. 21m Both Lots comply with the minimum width requirements.
Any lot (or lots) are to be capable of providing for the construction of a building which is safe from hazards, does not unreasonably impact on the natural environment, does not adversely affect heritage, and can be provided with adequate and safe access and services.	Council's concerns regarding the future construction of a building on Lot 2 remain. This will need to be addressed in further detail with the lodgement of any future development application.
A person shall not subdivide land if the allotment(s) intended to be created have a slope in excess of 16.7 degrees (30%), measured between the highest and lowest points on any such allotment(s).	As discussed within the prelodgement meeting Council recommends providing further details to show the overall gradient of the site when measured between the highest and lowest points on any such allotments. Subdivision of a site with a slope greater than 16.7 degrees or 30% will not be supported.



<p>The minimum area for building shall be 175m².</p>	<p>The indicative building footprint for Lot 2 is only 113.9sqm which is 61.1sqm less than the requirement.</p> <p>This control is in place to ensure any future Lot created as a result of subdivision can be developed in the future.</p> <p>As discussed within the meeting, the provision of an indicative building footprint of 175sqm as required under the DCP numerous non compliances with setbacks and landscaped areas would most likely arise.</p> <p>Council recommends providing three-dimensional plans and a concept design to demonstrate the proposal can achieve the objectives. These plans and concept designs would form part of any future development consent should the application be supported.</p> <p>Please note this does not necessarily mean the application will be supported. However, it may assist in overcoming some of the reasons for refusal of development application DA2022/0448</p>
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Specialist Advice

Development Engineer Referral

- The proposed inter-allotment drainage easement shall be registered on title, which can be considered to be conditioned as a 'Deferred Commencement' condition subject to providing supporting legal documentation showing mutual agreement has been signed regarding the creation of the inter-allotment drainage easement.
- Details of the proposed inter-allotment drainage system must be designed by a qualified civil/hydraulic engineer and the owners' consent shall be obtained whose property the inter-allotment drainage system will be built upon. This consent is relevant to carrying out physical stormwater drainage works on the neighbouring land and is separate to the agreement of creation of the inter-allotment drainage easement.
- A concept stormwater system shall be designed by a qualified civil/hydraulic engineer based on the indicative future building footprint and the existing dwelling to be retained, which shall be in accordance with Council's 'Water Management for Development Policy'.
- As discussed during the meeting, separate OSD tanks can be provided for each lot. However, a concept design of the OSD system shall be provided for the indicative future building to demonstrate that the proposed inter-allotment drainage system is able to cater for the total post-development flows when the future building would have been built.



Specialist Advice

- A swept path analysis shall be submitted by a qualified traffic engineer demonstrating how a standard B85 vehicle can access all parking spaces and leave the site in a forward direction for both lots. Of note that the swept path analysis shall demonstrate no conflicts to the adjacent car parking in a same parking facility.
- All easements shall be clearly shown on the plan of subdivision. Please note that easements include proposed right of carriageway, easement for drainage, easement for utility services.
- Driveway long-sections shall be provided by a qualified civil/traffic engineer along both sides of the driveway to the parking facility for both lots in accordance with AS/NZS 2890.1:2004.

Traffic Engineer Referral

The proposal is for subdivision of the existing single lot into two lots. The PLM proposal is similar to that which was refused under DA2022/0447 with the garage on the front lot (Lot 1) to be demolished and two new parking spaces created at the rear of Lot 1 to provide parking for that lot. A second lot (Lot 2) of 593.6m² will be created at the rear of Lot 1 with a right of way created over Lot 1 to provide access to Lot 2. An additional 2 parking spaces will be created on Lot 2 for that dwelling.

As was the case when assessing DA2022/0447, under the Pittwater DCP the secondary dwelling would require an additional parking space to be provided (i.e. 3 spaces in total). When the secondary dwelling was approved it was, at the time, deemed unnecessary to provide a third parking space for the secondary dwelling as parking for additional vehicles was available in a tandem arrangement on the driveway. This would no longer be the case if the subdivision were to proceed as the driveway would need to be kept clear to enable access to the rear lot. As there is no indication that the secondary dwelling is not proceeding and noting that both traffic volumes and on-street parking demand on Cooleena Road are high with congested conditions common, it is not considered reasonable to allow a variation to the DCP requirement for the secondary dwelling given that development on the second lot will intensify parking demands. A third off-street parking space on Lot 1 to support the secondary dwelling will therefore be required.

It is noted that swept path plots have been provided in the PLM notes to demonstrate access to the two spaces on Lots 1 and 2. The swept path plots are inconsistent with those required by AS2890.1 as they show only the swept path of the vehicles without any manoeuvring clearance. The Australian Standard requires plots that also show a second set of lines 300mm offset from the vehicle swept path for manoeuvring clearance. Amended plots will be required with the DA consistent with AS2890.1 requirements and demonstrating forwards entry and exit from each of the off-street spaces. The parking spaces, driveway and turning areas shall also be dimensioned to demonstrate compliance with AS/NZS 2890.1.

The access ramp grade on approach to the parking area for Lot 2 appears to be too steep with a grade change of 17.8% at the base of the driveway (in excess of grade changes permitted in AS2890.1 and scraping may therefore occur. A driveway long section consistent with grades and transitions outlined in clauses 2.6 and 2.5.3(d) of AS2890.1 will be required. A clearance plot for a B85 vehicle should also be provided.

Planner comment:



Specialist Advice

Although Lot 1 requires three car parking spaces under the DCP, a merit consideration will be required regarding the deficit of car parking to Lot 1.

Landscape Referral

The site is located in the C4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment with ecological, scientific or aesthetic values, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the C4 Environmental Living zone.

Any development application for subdivision shall provide a description of the physical works as part of the subdivision proposal that may include amongst other physical works: installation new access road and utilities etc, and the location of indicative building layouts.

60% of the total lot area shall be dedicated to landscape area, that is defined in Pittwater LEP as "a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area".

In review of the submitted pre-lodgement plans it is noted that plan number L04 indicates 60.5% landscape area for Lot 1 and 67.6% for Lot 2, and concern is raised that the indicative building footprint occupies much of the permitted built upon area, and the landscape area does not include any external living elements typical of modern living, such as outdoor terraces, decks etc, that would in fact erode the landscape area calculation to be less than the requirement for residential lots in the C4 Environmental Living zone.

The documents presented at pre-lodgement do not indicate the location of the existing rock ledge and outcrops relative to the proposed layout and thus the impact to the natural landscape feature is unknown.

All existing trees within the property are to remain unless impacted by physical subdivision works, if any, ie. installation new access road and utilities etc. Landscape Referral shall provide comments at pre-lodgement regarding expected impacts to existing trees based on physical subdivision works as well as the indicative building layouts regarding capability for tree retention and/or tree replacement. All street trees and trees within adjoining properties shall not be impacted.

It is noted that existing street of amenity value are located in proximity to the existing driveway within the road reserve and this driveway shall remain unaltered. An existing native Swamp Mahogany in the adjoining property to the west at 9 Cooleena Road is in close proximity to the proposed double garage on Lot 2 and concerns are raised that the proposed structure will impact the Swamp Mahogany. Re-alignment away from this tree is advised and a Arborist Report shall be submitted with advice to assist with determination of an appropriate setback distance.

Landscape Referral concerns:

Based on the above, the following concerns are raised:

1. Documentation at development application stage shall be clear on the scope of physical works to allow Landscape Referral to assess any tree impacts.
2. Landscape Area calculations are likely to be reduced with the inclusion of outdoor living amenity provisions such as terraces, decks etc. It is unrealistic to assume that these will not eventuate for residential living.
3. Intent for existing rock ledge and outcrops is not documented.



Specialist Advice

Documents / Reports required:

Arboricultural Impact Assessment in accordance with Council's DA Lodgement requirements.

Biodiversity Referral

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.

- Pittwater LEP clause 7.6 Biodiversity Protection
- Pittwater 21 DCP clause B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor

Required Supporting Documentation

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

- Landscape Plan
- Arboricultural Impact Assessment

Further information on assessment requirements can be found in Council's Biodiversity Guidelines for Applicants.



Understanding the different levels of assessment required			
Is the development footprint on the Biodiversity Values Map?	Level of impact from proposal	Assessment required	Relevant Guides
No	The development will not impact upon any of the following: <ul style="list-style-type: none"> More than four protected (prescribed) native trees* Any threatened species or ecological communities More than 50m² of native vegetation Important resources or habitat features for wildlife. This may include features like tree hollows, rock overhangs or wetlands. In many, some residential properties also provide important habitat for endangered periglacial and birds. 	Compliance with relevant LEP/DCP biodiversity objectives is to be addressed in the Statement of Environmental Effects (SEE) . OR as determined by Council at pre-lodgement meeting. Note: this level of assessment is typical for minor developments with limited impacts such as landscaping works or modification applications.	
No	The development will impact upon any of the following: <ul style="list-style-type: none"> More than four protected (prescribed) native trees* Any threatened species or ecological communities More than 50m² of native vegetation, but less than the applicable Biodiversity Offset Scheme (BOS) area clearing threshold Important resources or habitat features for wildlife. This may include features like tree hollows, rock overhangs or wetlands. In many, some residential properties also provide important habitat for endangered periglacial and birds. 	The application is to be incorporated by a Flora and Fauna Assessment (FFA) prepared by a suitably qualified ecologist. OR as determined by Council at pre-lodgement meeting. Note: this level of assessment is typical for small to medium lot subdivisions, construction of a new dwelling, and other medium to large scale developments (such as a Seniors Living development).	Guideline 1 Guideline 4
No	The development will result in either of the following: <ul style="list-style-type: none"> A significant impact to a threatened species, population or ecological community as determined by a 'threatened species test of significance' Impacts to an area of native vegetation greater than the applicable Biodiversity Offset Scheme (BOS) area clearing threshold 	The application is to be incorporated by a Biodiversity Development Assessment Report (BDAR) prepared by an accredited assessor in accordance with the NSW Biodiversity Assessment Method (BAM). Where developments require a BDAR due to the scale of impacts such as clearing of native vegetation above the Biodiversity Offset Scheme clearing threshold, such developments may also require a Biodiversity Management Plan (BMP) . The requirement for a BMP will be determined by Council.	Guideline 2 Guideline 4 Guideline 3 (if a BMP is required)
Yes	The development will impact upon: <ul style="list-style-type: none"> Areas identified on the NSW Biodiversity Values Map, including the Little Penguin Area of Outstanding Biodiversity value 	Note: this level of assessment is required when the proposal triggers entry into the NSW Biodiversity Offset Scheme (BOS).	
<p>Important Note: Developments should be designed and sited to avoid environmental impacts in the first instance. Assessment against the objectives of relevant Council LEP and DCP controls must consider direct and indirect impacts of the proposal, including vegetation clearing within the development footprint and clearing required to establish bush fire asset protection zones (APZs). The assessment requirements outlined above address biodiversity-related controls only.</p> <p>*Additional reports, such as an Arborescultural (tree) Impact Assessment, may also be required if the proposal is likely to impact upon protected trees. Applicants should consider obtaining detailed advice through Council's DLP pre-lodgement service.</p>			

Figure 1. Triggers for Biodiversity Assessment

General Biodiversity Comments

From review of the documents submitted for the Pre-Lodgement Meeting, it appears that 2 trees will be required to be removed. The proposal must demonstrate compliance with the applicable legislation and planning controls listed above, including P21 DCP cl. B4.4 Development shall result in no significant onsite loss of canopy cover or net loss in native canopy trees.

Avoidance and minimisation of impacts to biodiversity within the site shall be documented in the Statement of Environmental Effects, and should demonstrate if alternative development footprints were considered in order to reduce impacts on biodiversity.

Impacts on any rock outcrops within the site are to be clearly identified and documented within the SEE. Where retention of rock outcrops/boulders is not possible, translocation of rock boulders for use in landscape design should be considered. The Landscape Plan must include suitable native replacements for trees proposed for removal at a 1:1 ratio. Any significant, hollow bearing trees proposed for removal may not be supported by Council's Biodiversity team.

Landscape Plan



Specialist Advice

Development shall ensure that at least 60% of any new planting incorporates native vegetation (as per species listed in the appropriate ward of the Native Planting Guide which is available on the Council website). Landscaping is to be outside areas of core bushland and not include environmental weeds.

Arboricultural Impact Assessment

An Arboricultural Impact Assessment Report, prepared by a qualified AQF5 (or higher) arborist, must be submitted when works are proposed within 5.0m of a tree irrespective of property boundaries. No Arborist Report is required for trees and species within the development site that can be removed without approval under the relevant DCP. The Arborist Report will be essential in identifying native trees that may require removal as a result of the proposed development.

Coasts and Catchments Referral

The site is in the headwaters of Nareen Creek and Nareen wetland.

The proposal is for partial demolition of an existing dwelling, and subdivision of one Torrens Title lot into two Torrens Title lots. No construction is proposed.

A Drainage Design Summary has been provided and indicates that impervious surfaces would increase to more than 40% of the lot area. The proposal must demonstrate that the site can achieve the requisite water quality targets.

Pittwater 21 DCP, Section B5.15 Stormwater

Stormwater runoff must not cause downstream flooding and must have minimal environmental impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake and waterway or the like. Note also the environmental and Water Sensitive Urban Design (WSUD) objectives of this section.

WMD Policy

The proposal would be examined against the WMD Policy Sections 4.0 and 4.1, including Table 5 - General Stormwater Quality Requirements. The proposed water management includes two 3000 litre rainwater tanks and an on-site detention system. On review, it would be good to consider if additional Water Sensitive Urban Design (WSUD) features, such as level spreader or larger rainwater tank size, could be included to assist in achieving the water quality requirements.

A level spreader to capture first flush and low flow events was discussed in the Pre-Lodgement meeting and would likely satisfy water management requirements if added to the proposed water management plan.

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
- Waste Management Plan (Construction & Demolition)
- Driveway Design Plan & Swept path analysis
- Erosion and Sediment Control Plan / Soil and Water Management Plan
- Stormwater Management Plan / Stormwater Plans and On-site Stormwater Detention (OSD) Checklist
- Arboricultural Report
- Landscape Plan
- Water Management Plan
- Geotechnical Report

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 20 June 2024 to discuss the Torrens title subdivision of one (1) lot into two (2) lots at 7 Cooleena Road, Elanora Heights. The notes reference the plans prepared by Wy Design Studio Pty Ltd dated 30 May 2024.

The steep sloping topography limits the future development and landscaping within proposed Lot 2, and this remains a significant concern for Council. If the proposal was lodged as a development application in its current form, it would not be supported.

Council advises that multiple issues as outlined within these notes need to be resolved prior to lodging a new development application. Council recommends making a genuine attempt to address each of the issues within the notice of determination for Development Application DA2022/0448.

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.