



Pre-lodgement Meeting Notes

Application No: PLM2021/0366
Meeting Date: 24 February 2022
Property Address: 38 The Drive, Freshwater
Proposal: Alterations and additions to a dwelling house
Attendees for Council:

- Penny Wood – Planner
- Miller French-Lightfoot – Planner

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

A potential Complying Development design for the site and the merits of the CDC vs previous DA submission and how Council would like to deal with the proposed additions to the existing dwelling.

During the pre-lodgement meeting, the applicant provided images of the potential complying development (CDC) design along with the design to be assessed under Council's controls as a development application. Council did not provide comments in regard to the CDC design.

The below comments are in regard to the potential design to be assessed as a development application against the relevant controls within the Warringah Local Environmental Plan 2011 and the Warringah Development Control Plan 2011.

WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011 (WLEP 2011)

WLEP 2011 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 2011 Dictionary)	Dwelling house means a building containing only one dwelling.
Zone:	R2 Low Density Residential
Permitted with Consent or Prohibited:	Permitted with Consent

Part 4 - Principal Development Standards

Standard	Permitted	Proposed	Compliance
4.3 Height of Building	8.5m	7.9m	Yes

WARRINGAH DEVELOPMENT CONTROL PLAN 2011 (WDCP 2011)

WDCP 2011 can be viewed at:

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

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

Part B Built Form Controls

Control	Permitted	Proposed
B1 Wall Height	7.2m	9.9m

The development proposes a non-compliant wall height of 9.9 along the northern elevation. This non-compliance is taken from the ground level to the underside of the skillion roof located at the ground floor and reduces to a compliant wall height as the site steps up towards the rear.



Part B Built Form Controls

Whilst it is acknowledged that the development proposes a breach to the permissible wall height, it is noted that this portion of the northern elevation is located 4.3m from the northern side boundary. An unroofed balcony is located along the northern and eastern elevations of the ground floor which provides visual relief and an articulated façade.

Given the generous setback to the northern boundary, the development is compliant with the side boundary envelope controls to the northern side.

The breach to the wall height could be supported provided the development retains the proposed generous setbacks to the northern boundary.

B3 Side Boundary Envelope	5m above boundary and 45 degree plane	South west: non-compliant
<p>A minor non-compliance is proposed to the side boundary envelope along the south western elevation. The breach is considered minor and is contained to the south western wall of the sitting room at first floor level for a maximum height of 0.8m and 1.3m in length. This wall plane follows the splayed angle of the south western boundary and the non-compliance is a direct result of the steep slope of the site at this point. The dwelling provides a compliant setback of 1.9m to the south western side boundary and is compliant with the permissible building height prescribed for the site. It is noted that any works to the existing dwelling along the south, south western and eastern elevations will be visible given the prominent location of the dwelling. However due to the siting of this portion of the dwelling and the proximity to adjoining properties, the breach could be supported.</p>		
B5 Side Boundary Setbacks	0.9m	0m (nil) (Patio – North) 0.8m (north) (Existing)
<p>The development proposes to retain an existing minor non-compliant side setback of 0.8m to the northern boundary at ground level (being the landing to the inclinator).</p> <p>The alterations and additions at ground, first and second floor propose compliant side setbacks to both the northern and southern boundaries.</p> <p>It is noted that the proposal has significantly reduced the bulk and scale of the development along the southern elevation through the removal of the additional storey which was proposed in the previous development application (DA2021/0472) and withdrawn at the request of Council.</p> <p>The proposed addition to the south has been designed in keeping with the shape of the lot and maintains acceptable setbacks of 1.9m to 3.0m to the southern boundary. Whilst the development proposes compliant side setbacks, it is noted that works to this portion of the site will have impacts ocean views currently enjoyed by adjoining properties. This is discussed under D7 Views in the notes.</p>		
B7 Front Boundary Setbacks	6.5m	0m (nil)
<p>The development retains a nil setback to the front boundary as a result of the existing garage located at street level. All works proposed to the dwelling will not exceed the 6.5m front building line and therefore is compliant.</p>		
B9 Rear Boundary Setbacks	6m	4.3m (stairs) 5m (dwelling)
<p>The development proposes a non-compliant setback to the rear boundary. The single storey addition proposed towards the southern elevation of the site proposes a 5.0m setback to the rear boundary creating a 16.7% variation to the control. Given this structure is a proposed</p>		



Part B Built Form Controls		
<p>addition, compliance with the rear boundary setback control must be achieved and the rear of the addition is to be setback 6.0m from the rear boundary.</p> <p>Stairs are located 4.3m from the rear setback connecting the level turfed area to a lower private open space within the backyard. Given the changes in levels, the private open space is anticipated to create minimal amenity impacts to the adjoining properties and is therefore considered acceptable.</p>		
Part D Design		
Control	Permitted	Proposed
D1 Landscaped Open Space and Bushland Setting	40% of Site Area (985.9sqm) Therefore, 394.36sqm required	Approx. 460sqm
<p>A detailed landscape plan was not provided with the proposal. An estimated landscape open space calculation has been carried out which indicates compliance with the control. Given the size of the site, any future development application is to provide compliance with the 40% landscaped open space control required.</p>		
D7 Views		
<p>Concern is raised with potential view loss from adjoining properties. It noted that the second storey proposed in the original development application (DA2021/0472) has been removed as part of the current proposal. However, concern is still raised given the width of the site at the rear and the impact on existing view corridors across the site in an easterly and north easterly direction.</p> <p>To ensure view sharing is achieved, the applicant is required to provide a comprehensive view analysis to demonstrate consistency with Clause D7 of WDCP 2011. It is noted that height poles are currently erected on site to indicate the subject proposal and would be required during the assessment of any future development application.</p> <p>The view analysis to address view impacts from the following properties:</p> <ul style="list-style-type: none"> • 1 Seldon Hill Road, • 3 Seldon Hill Road, • 9 Lodge Lane, and • 11 Lodge Lane. <p>The view analysis is to address the views against the planning principles established in the NSW Land and Environment Court case <i>Tenacity Consulting v Waringah [2004] NSWLEC 140</i>. The principles can be accessed here: https://www.caselaw.nsw.gov.au/decision/549f893b3004262463ad0cc6</p>		
Part E The Natural Environment		
Control	Permitted	Proposed
E6 Retaining unique environmental features		
<p>As discussed in the meeting, concern was raised in regard to existing rock outcrops and inconsistency with the provisions of Clause E6 of WDCP 2011. This clause requires development to respond to and work around existing sandstone rock outcrops. It is noted that rock outcrops are located throughout the site, in particular along the southern side boundary at the rear of the site. The location of these rock outcrops may impact on the siting of the</p>		



Part B Built Form Controls

development. Detailed plans are required to indicate the location of any rock outcrops on site providing clearance of the natural rock features.

Specialist Advice

Landscape Comments

A previous application under DA2021/0472 included an arborist report that noted that all existing vegetation within the site is Exempt Species, so technically no arborist report is required.

Any new application shall provide reference / confirmation that all vegetation are Exempt Species, by either re-issue of the report or by reference in the SoEE.

The property contains existing natural sandstone rock outcrops and ledges and where possible these should be incorporated into the proposed scheme to satisfy E6 Retaining Unique Environmental Features.

The proposed development is of a substantial size that the landscape outcomes of D1 Landscaped Open Space should be achieved to reduce the built form.

The DCP objectives of clause D1 require development proposals to provide: the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building; and enhance privacy between buildings, such that a Landscape Plan, as listed under Development Application Lodgement requirements, shall be submitted to demonstrate how the bulk and scale of the development is to be mitigated.

Biodiversity Comments

The Statement of Environmental Effects should consider WDCP 2011 E1 Preservation of Trees or Bushland Vegetation, and provide a response in relation to the siting and design of the proposal, ensuring to minimise the impact on remnant native vegetation, including canopy trees and understorey vegetation, and on remnant native ground cover species.

While not a Biodiversity matter, it is noted that the site is located within the mapped Coastal Use Area under State Environmental Planning Policy (Coastal Management) 2018, and therefore cl. 14 Development on land within the coastal use area must also be addressed.

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 to be prepared by Field Survey**)
- Site Analysis Plan
- Schedule of External Materials and Finishes
- 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



Documentation to accompany the Development Application

- Stormwater Management Plan / Stormwater Plans and On-site Stormwater Detention (OSD) Checklist
- BASIX Certificate
- Geotechnical Engineering Report
- Structural Engineering Report
- View Sharing Analysis (1 Seldon Hill Road, 3 Seldon Hill Road, 9 Lodge Lane and 11 Lodge Lane).

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 24 February 2022 to discuss alterations and additions to a dwelling house at 38 The Drive, Freshwater. The notes reference the plans prepared by Northern Beaches Designs dated 9 December 2021.

The proposal is considered to have merit and could be support subject to the matters raised in these Notes being satisfactorily addressed, and subject to the development delivering a satisfactory outcome with respect to view sharing (when considered against the the planning principles established in the NSW Land and Environment Court case *Tenacity Consulting v Waringah* [2004] NSWLEC 140.

It is anticipated that the development will disturb rock outcrops in the southern portion of the site. Detailed plans are to be provided which demonstrate clearance of the rock outcrops and demonstrate compliance with Clause E6 of the WDCP 2011.

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.