### DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2016/0834	
Responsible Officer:	David Auster	
Land to be developed (Address):	Lot 2127 DP 752038, 8 Nargong Road ALLAMBIE HEIGHTS NSW 2100	
Proposed Development:	Subdivision of land, including demolition of the existing dwelling house	
Zoning:	LEP - Land zoned R2 Low Density Residential	
Development Permissible:	Yes	
Existing Use Rights:	No	
Consent Authority:	Northern Beaches Council	
Land and Environment Court Action:	No	
Owner:	Sonia Maree Pascuzzo	
Applicant:	David Pender	

Application lodged:	15/08/2016	
Application Type:	Local	
State Reporting Category:	Subdivision only	
Notified:	31/08/2016 to 15/09/2016	
Advertised:	Not Advertised, in accordance with A.7 of WDCP	
Submissions:	0	
Recommendation:	Approval	

Estimated Cost of Works:	\$ 55,000.00
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### ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

### SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.1 Minimum subdivision lot size Warringah Development Control Plan - C1 Subdivision

### SITE DESCRIPTION

Property Description:	Lot 2127 DP 752038 , 8 Nargong Road ALLAMBIE HEIGHTS NSW 2100
Detailed Site Description:	The subject site is identified as Lot 2127 DP 752038, is generally rectangular in shape and has an area of 1087.5m <sup>2</sup> with a street frontage of 26.83m to Nargong Road.
	A one storey dwelling house and detached garage occupies the mid portion of the site. Vehicular access to the site is provided by a driveway which runs adjacent to the eastern boundary.
	Vegetation contained within the front and rear setback areas of the site includes grass lawn areas interspersed by medium size canopy trees and understorey shrubs.
	Under WLEP 2011 the site is zoned R2 Low Density Residential and adjoining and surrounding development is characterised by a mixture of modern and traditional dwelling house style in landscape settings.

### Map:



### SITE HISTORY

Development Consent DA2001/1699 for a deck was granted 19 December 2001.

### PROPOSED DEVELOPMENT IN DETAIL

DA2016/0834



The proposal is for the following works:

- Demolition of the existing dwelling, detached garage on the east side of the site
- Subdivide the existing allotment into two new Torrens Title allotments with areas as follows:
   Proposed Lot 1 west side being 540 square metres
  - Proposed Lot 2 east side being 547.5 square metres
- Provide onsite storm drainage system for the new allotments
- Provide a new driveway entrance to proposed Lot 1 and replace the existing driveway entrance to proposed Lot 2 with a new design

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.
	<u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.
	<u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.
	<u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.
	<u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to

Section 79C 'Matters for Consideration'	Comments
	this application. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition
	of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
	<u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<ul> <li>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</li> <li>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</li> <li>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</li> </ul>
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development as the two (2) residential lots can each accommodate a dwelling, provide access and associated infrastructure whilst maintaining an appropriate landscape setting when developed for dwelling houses in the future.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received in response to the notification of this application are addressed in the Public Exhibition section in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

### **EXISTING USE RIGHTS**

Existing Use Rights are not applicable to this application.

### **NOTIFICATION & SUBMISSIONS RECEIVED**

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

### MEDIATION

No requests for mediation have been made in relation to this application.

### REFERRALS

Internal Referral Body	Comments
Development Engineers	The proposal meets the requirements of the DCP for subdivision. The applicant has provided a design for two new crossings and a drainage connection to the kerb for each lot. As there are no dwellings proposed with the application, it is considered that these works are not required as they will be constructed as part of any future works with the construction of the dwellings. No objection to approval, subject to conditions as recommended.
Landscape Officer	Landscape Officer Comments
	The proposal includes engineering works to provide 2 driveway crossovers and storm water infrastructure.
	The proposed driveway crossover on the western side of the site will impact upon the root zone of an existing <i>Melaleuca</i> sp (Paperbark) tree located in the road reserve forward of the property.
	The verge area contains rock outcrops and numerous surface roots are evident in the location of the new driveway.
	It is considered that such works have the capacity to significantly destabilize the tree and if approved, the tree will be required to be removed, with suitable replacement species provided.
	The storm water plans indicate installation of drainage pipes adjacent to a mature <i>Eucalyptus</i> sp. located in the front yard of the site. The stormwater plan will need to be amended to accommodate the tree root system and facilitate retention of the tree.
	No objections are raised subject to conditions as recommended.
	Planner Comments Council's Landscape Officer has included a suitable condition in the Recommendation requiring the stormwater plan to be amended so that the mature Eucalypt tree located in the front yard of the site will be protected from the impacts of the development.
Traffic Engineer	The proposed subdivision is to be in compliance with the DCP with regards to the proposed new driveway. The development Engineers are to provide comments on the proposed driveways.
	No objection is raised on the proposal with traffic regards subject to the development engineers approval.

External Referral Body	Comments	
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received	

External Referral Body	Comments
	within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

### State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

### SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

### SEPP (Infrastructure) 2007

### <u>Ausgrid</u>

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

### Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

### Warringah Local Environment Plan 2011

Is the development permissible?
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aims of the LEP?	Yes
zone objectives of the LEP?	Yes

### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	600m²	Lot 1: 540m <sup>2</sup> Lot 2: 547.5m <sup>2</sup>	10.0% (60m²) 8.75% (52.5m²)	No No

### Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
2.6 Subdivision - consent requirements	Yes
2.7 Demolition requires consent	Yes
4.1 Minimum subdivision lot size	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.4 Development on sloping land	Yes

### **Detailed Assessment**

### 4.6 Exceptions to development standards

The following assessment of the variation to Clause 4.1 - Minimum subdivision lot size development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	600sqm
Proposed:	Lot 1: 540sqm Lot 2: 547.5sqm
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	10.0% (60m²) 8.75% (52.5m²)

The proposal must satisfy the objectives of Clause 4.1 - Minimum subdivision lot size, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the WLEP 2011. The assessment is detailed as follows:

### Is the planning control in question a development standard?

The prescribed Minimum subdivision lot size limitation pursuant to Clause 4.1 of the WLEP 2011 is a development standard.

### What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.1 – 'Minimum subdivision lot size' of the WLEP 2011 are:

(1) The objectives of this clause are as follows:

(a) to protect residential character by providing for the subdivision of land that results in lots that are consistent with the pattern, size and configuration of existing lots in the locality.

### Comment:

Although the proposal falls short of the minimum requirement, there are numerous other lots in the near vicinity which are also well below the required 600sqm, including the following:

1 Maneroo - 330.8 sq m 3A Maneroo - 487.6 sg m 11 Maneroo - 556.4 sq m 1 Nargong - 588.10 sq m 2 Nargong - 579.1 sg m 3 Nargong - 524 sq m 10 Nagong - 512.6 sg m 2 Kirra - 499.5 sq m 59A Allambie - 435.4 sq m 61A Allambie - 435.4 sq m 63 Allambie - 484 sq m 63A Allambie - 556.5 sq m 66 Allambie - 518.5 sq m 68 Allambie - 424.8 sq m 69 Allambie 512.2 sq m 70 Allambie 575.4 sq m

The proposed non-compliance will not create any precedent in this regard, and will be generally consistent with the existing size of lots in the locality. The proposed subdivision is a standard type subdivision, which will result in two lots with direct access to Nargong road, and similar in size and shape to many surrounding properties. The proposal is considered to be consistent with the existing subdivision pattern in this regard, and is considered to achieve the objective.

(b) to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development.

### Comment:

Not applicable. The site is a low density residential area.

(c) to protect the integrity of land holding patterns in rural localities against fragmentation.

Comment:

Not applicable. The site is a low density residential area.

(d) to achieve low intensity of land use in localities of environmental significance.

### Comment:

Not applicable. The site is not an area of environmental significance.

(e) to provide for appropriate bush fire protection measures on land that has an interface to bushland.

### Comment:

Not applicable. The site is not identified as being bushfire prone.

(f) to protect and enhance existing remnant bushland.

### Comment:

There is no existing remnant bushland on site.

(g) to retain and protect existing significant natural landscape features.

### Comment:

Council's Landscape Officer has provided conditions of consent to ensure that one large eucalyptus is retained. There are some small rocky outcrops in the road reserve that may be partially removed as a result of eventual development of the site, however these are not particularly significant.

### (h) to manage biodiversity.

Comment:

The site falls within a wildlife corridor. However, the site has been mostly cleared in the past, and the one large eucalyptus tree in the front setback area is to be retained. The proposed subdivision will not have any negative impacts on biodiversity.

### (i) to provide for appropriate stormwater management and sewer infrastructure.

### Comment:

Council's Development Engineers have assessed the provisions for stormwater and are satisfied. The site slopes down towards the road and future development will drain to there. Conditions are provided to connect to utilities.

### What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R2 zone.

### The underlying objectives of the R2 Low Density Residential zone:

• To provide for the housing needs of the community within a low density residential environment.

#### Comment:

The two new lots will remain zoned R2, and will provide for housing needs in a low density environment, consistent with the generally varied lot size and pattern of subdivision in the area.

It is considered that the development satisfies this objective.

• To enable other land uses that provide facilities or services to meet the day to day needs of residents.

#### Comment:

The proposal will not prevent other land uses from taking place in the area, consistent with the zoning controls.

It is considered that the development satisfies this objective.

 To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.

### Comment:

The proposal demonstrates that minimum building footprints are possible on both new lots, while providing ample landscaped area on site to create a landscaped setting for future development.

It is considered that the development satisfies this objective.

# Is the variation to the development standard consistent with the objectives of Clause 4.6 of the WLEP 2011?

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.

Comment:

A degree of flexibility is considered acceptable in the circumstances, for the reasons discussed above.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

### Comment:

As discussed above, the proposal is considered to achieve the objectives of the control, despite the numerical non-compliance. The proposed new lots are consistent with the generally varied subdivision pattern in the immediate area, and the varied lot sizes, many of which are also noncompliant. Allowing flexibility is considered to be acceptable under the circumstances, and the proposed lot sizes will allow for good future outcomes when the lots are developed.

(2) Development consent may, subject to this clause, be granted for development even though the

development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

### Comment:

The Clause 4.6 statement provided with the application sufficiently demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and* 

### Comment:

The applicant's written request adequately addresses the matters required to be demonstrated by subclause (3). It sufficiently demonstrates that the non-compliance with the minimum lot size requirements is reasonable in the circumstances.

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

### Comment:

For reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 zone in the WLEP 2011.

### (b) the concurrence of the Director-General has been obtained

### Comment:

Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Director-General for the

variation to the Minimum Subdivision Lot Size Development Standard is assumed.

### Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall Height	7.2m	Indicative Building Footprint: Lot 1		
		Not provided	N/A	Capable of
				complying*
		Indicative	Building Fo	otprint: Lot 2
		Not provided	N/A	Capable of
				complying*
B3 Side Boundary Envelope	4.0m x 45°	Indicative	Building Fo	otprint: Lot 1
		Not provided	N/A	Capable of
				complying*
		Indicative	Building Fo	otprint: Lot 2
		Not provided	N/A	Capable of complying*
B5 Side Boundary Setbacks	0.9m	0.9m Indicative Building Footprint: L		
		East: 2.0m	N/A	Yes
		West: 2.0m	N/A	Yes
		Indicative	Building Fo	otprint: Lot 2
		East: 2.0m	N/A	Yes
		West: 2.0m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	Indicative	Building Fo	otprint: Lot 1
		6.5m	N/A	Yes
		Indicative	e Building Fo	otprint: Lot 2
		6.5m	N/A	Yes
B9 Rear Boundary Setbacks	6.0m	Indicative	Building Fo	otprint: Lot 1
		12.6m	N/A	Yes
		Indicative	Building Fo	otprint: Lot 2
		18m	N/A	Yes
D1 Landscaped Open Space (LOS) and	40%	Indicative	Building Fo	otprint: Lot 1
Bushland Setting		68.7% (371m²)	N/A	Capable of
				complying*
		Indicative	Building Fo	otprint: Lot 2
		69.2%	N/A	Capable of
		(378.6m²)		complying*

\***Note:** The above relates to indicative building footprints for each lot which were submitted with the development application. The building footprints are conceptual only and do not form part of any consent for this development application. Compliance is to be achieved under a separate development application.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1 Subdivision	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction		Yes
C9 Waste Management	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

### **Detailed Assessment**

### C1 Subdivision

Component	Requirement	Proposed	Compliant
Lot requirements	R2 Low Density Residential zone requirements: Proposed new allotments: a) Minimum width: 13 metres	-	Yes.
	b) Minimum depth: 27 metres; and c) Minimum building area: 150m <sup>2</sup>	boundary) depth: 37.795m (east/west boundary) building area: 150m <sup>2</sup>	
Access	Motor vehicle access to each residential allotment is required from a constructed and dedicated public road.		Yes.

Where access is proposed to a section of unconstructed public road, then the subdivision will need to provide legal, constructed access to the Council's satisfaction.

Access for Council service vehicles, emergency vehicles and garbage collection vehicles must be provided.

Driveways, accessways, etc, to allotments should have a gradient not exceeding 1:4 and allow for transitions at a minimum length of 1.5m and at a grade no steeper than 1:10.

Driveways in excess of 200 metres will not be allowed for residential development.

Driveways that are 30m or more in length require a passing bay to be provided every 30m. To provide a passing bay, driveways shall be widened to 5.0m for a distance of at least 10m.

Passing bays should have regard to sight conditions and minimise vehicular conflict.

Vehicular ingress/egress points to internal lots may be used as passing/turning bays, subject to extension of a right-of-carriageway over the passing/turning bay.

Rights-of-carriageway

Council's Development Engineers have assessed the proposal and are satisfied that future driveway development is possible in accordance with Council policy. Driveway and drainage works are not required to be constructed as part of the subdivision application, as these will be part of any future development of the new lots.

Provision of s rights of carri follows: Number of lots to be serviced Up to 3 lots 4 or more	accordance with Council standard specifications for engineering works (AUSPEC 1)	
Number of lots to be serviced 1 - 5 6 - 10 in excess of 10	Width of clear constructed accessway (m) 3.5 5.0 Access is to be provided by a private or public road constructed with a width that is in	
should be loc accommodate turning faciliti Width of acce be as follows	e all vehicle es. essways are to	

	Council's policy requirements including; AUSPEC 1 - Council's Specification for Engineering Works, Development Engineering Minor Works Specification, On Site Stormwater Detention (OSD) Technical Specification and Council's Water Sensitive Urban Design Policy. Additionally, internal roads must be designed in accordance with the relevant Australian Standards.	to the proposal subject to conditions which address stormwater drainage and disposal, and certification of utility services. The subdivision design will not have any adverse impact upon the solar access of each dwelling due to the satisfactory orientation, shape and size.	
	Subdivision design needs to maximise and protect solar access for each dwelling by considering factors such as orientation, shape, size and lot width.		
Drainage	the land should not be altered to adversely affect the natural drainage patterns. Stormwater should drain directly to a Council-approved drainage system and not via adjoining properties unless via a formalised interallotment drainage system. The proposed allotments are to be drained to the direction of the natural fall of the land. Interallotment drainage easements will be required through adjoining properties to adequately drain land to Council's downstream system.		Yes
Restrictions	Any easement, right-of- carriageway, or other restriction that is placed on	No new easements required. Council's Development Engineers	Yes

	the title of any land as a requirement of the approval of the subdivision is to be protected by a positive covenant or like instrument with the Council nominated as a party.	have assessed the proposal and are satisfied with drainage.	
Environmentally constrained land	In areas subject to constraints such as flooding, tidal inundation, threatened species, landslip risk, bushfire or any other matter, adequate safe area for building, where the risk from hazard is minimised, is to be provided within an allotment. Where possible, lot boundaries should utilise natural land features such as creeks, escarpments and rock outcrops.	nor does it contain any notable environmental features or threatened	Yes, subject to conditions for protection of Eucalyptus tree, and replacement planting in the road reserve.
Bushfire	Subdivision should be designed to minimise the risk from potential bushfire. Asset protection zones should be contained within the property boundaries of the new subdivision.	N/A	N/A

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

### THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

### POLICY CONTROLS

### Warringah Section 94A Development Contribution Plan

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

### CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

### RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2016/0834 for Subdivision of land, including demolition of the existing dwelling house on land at Lot 2127 DP 752038, 8 Nargong Road, ALLAMBIE HEIGHTS, subject to the conditions printed below:

### **DEVELOPMENT CONSENT OPERATIONAL CONDITIONS**

### 1. **Approved Plans and Supporting Documentation** The development must be carried out in compliance (except as amended by any other

condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp			
Drawing No.	Dated	Prepared By	
Reference: 16-68 Sheet 1 of 1	20-7-2016	Base Surveying	
Reference: 16-68 Sheet 1 of 2 - Demolition Layout Plan	16-6-2016	Base Surveying	

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

d) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No.	Dated	Prepared By
Demolition and Waste Management Plan	12 August 2016	David Pender

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

### 2. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and

(ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

A. the name and licence number of the principal contractor, and

B. the name of the insurer by which the work is insured under Part 6 of that Act, (ii) in the case of work to be done by an owner-builder:

A. the name of the owner-builder, and

B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

(i) protect and support the adjoining premises from possible damage from the excavation, and

(ii) where necessary, underpin the adjoining premises to prevent any such damage. (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

(iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

### 3. General Requirements

(a) Unless authorised by Council: Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

• 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

(b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(f) Where works are to be carried out to a Class 1a building, smoke alarms are to be installed throughout all new and existing portions of that Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(j) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(I) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erectedii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition.

Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(m) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at www.warringah.nsw.gov.au

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools

(vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

(o) New solid fuel burning heaters or existing solid fuel heaters affected by building works must comply with the following:

(1) AS 2918:2001 Domestic Solid Fuel Burning Appliances – Installation.

(2) AS 4013:2014 Domestic Solid Fuel Burning Appliances – Method of Determination of Flue Gas Emissions.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

### FEES / CHARGES / CONTRIBUTIONS

### 4. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.warringah.nsw.gov.au/your-council/forms).

Reason: To ensure adequate protection of Council's infrastructure.

### CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

### 5. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with Parts C8 and C9 of the WDCP 2011 and Council's Waste Management Guidelines (that apply to land covered by the WLEP 2011).

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

### 6. Tree protection

(a) Existing trees which must be retained

i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation

ii) 1 x Eucalyptus sp. located in the front yard

iii) Trees located on adjoining land, with the exception of 1 x *Melaleuca* sp (Paperbark) located in the Nargong Road road reserve forward of the property, which is to be removed.

### (b) Tree protection

i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.

ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.

iii) All tree protection to be in accordance with the approved Tree Protection Plan and AS4970-2009 Protection of trees on

development sites, with particular reference to Section 4 Tree Protection Measures.

iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause

E1 Private Property Tree Management and AS 4373 Pruning of amenity trees v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting

on the site. (DACLAC01)

### 7. **Tree Protection Plan**

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

(a) A Tree Protection Plan prepared by a AQF Level 5 Arborist (or equivalent) showing the following:

- Layout of the approved development
- Location of trees identified for retention
- Extent of canopy spread, Tree Protection Zone and Structural Root Zone (Calculated as per AS4970-2009 Protection of trees on development sites)
- Location of tree protection fencing / barriers (fencing in accordance with AS2470 2009)
- General tree protection measures

(b) The Tree Protection Plan is to be submitted to the Principal Certifying Authority for approval prior to issue of a Construction Certificate.

(c) Tree protection measures identified on the plan are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

### 8. Amended Stormwater Plans

i) Stormwater plans re to be amended to indicate the Tree Protection Zone and Structural Root Zones of protected trees as indicated on the approved Tree Protection Plan.
ii) All proposed pipework and pits are to be located outside the Tree Protection Zone unless approved by a qualified Arborist or as identified on the approved a Tree Protection Plan.
iii) Amended plans are to be submitted to the Principal Certifying Authority for approval prior to issue of a Construction Certificate.

Reason: Tree protection (DACLACPCC1)

### 9. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate. Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 Demolition of Structures\*\*
- (b) AS4361.2 Guide to lead paint management Residential and commercial buildings\*\*
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting\*\*
- (d) AS 4373 2007 'Pruning of amenity trees' (Note: if approval is granted) \*\*
- (e) AS 4970 2009 'Protection of trees on development sites'\*\*

\*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability\_rights/buildings/good.htm

\*\*Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

### CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 10. **Tree removal within the road reserve**

i) This consent includes approval to remove the following trees located within the road reserve:

Species	Location
1 x <i>Melaleuca</i> sp. (Paperbark Tree)	Nargong Road road reserve, adjacent to the new driveway crossover

ii) Removal of approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor.

iii) Details of currently approved tree contractors can be obtained from Northern Beaches Council (Central) Public Trees Section prior to removal.

Reason: Public liability

### CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

### 11. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety. (DACENE09)

### 12. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

### 13. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.

(h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.

(i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLAE03)

### 14. Protection of rock and sites of significance

a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features (DACLAEOG1)

### 15. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACPLE02)

# CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

### 16. **Required Planting**

Trees shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Pot Size
2	Tristaniopsis laurina	Nargong Road road reserve, forward of the property	25 litre

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To maintain environmental amenity. (DACLAF01)

### 17. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management. (DACPLF01)

### 18. Waste Management Confirmation

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

### CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVSION OR SUBDIVISION CERTIFICATE

### 19. Stormwater Drainage and Utility Services Plan

A plan of subdivision identifying the location of water, gas, telephone, electricity and stormwater drainage in relation to boundaries and/or relevant easements, prepared by a registered surveyor is to be submitted to Council.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that services have been provided with appropriate easements as required by the Conveyancing Act 1919. (DACENH10)

### 20. Sydney Water Compliance Certification

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <a href="http://www.sydneywater.com.au">http://www.sydneywater.com.au</a> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACENH13)

### 21. Certification of Utility Services

The provision or availability of all utilities/services are to be provided by the relevant authority (s) and/or authorised contractor.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.



Reason: To ensure services have been provided in accordance with the relevant authorities requirements. (DACENH15)

### 22. Subdivision Certificate Application

Prior to the issue of the Subdivision Certificate, a completed Subdivision Certificate form, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919 are to be submitted to Council. Nine copies of the final plan of subdivision are to be submitted. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919. (DACENH24)

I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

### Signed

### **David Auster, Planner**

The application is determined under the delegated authority of:

### Anna Williams, Development Assessment Manager

### ATTACHMENT A

Notification Plan 2016/272539	<b>Title</b> Plan - Notification	<b>Date</b> 17/08/2016
	ATTACHMENT B	

### ATTACHMENT C

	Reference Number	Document	Date
X	2016/272471	Plans - Survey	29/06/2016
X	2016/272476	Plans - Subdivision	21/07/2016
X	2016/272484	Report - Design Compliance	11/08/2016
K.	2016/272846	Plans - Engineering	11/08/2016
K.	2016/272841	Plans - Demolition	11/08/2016
K.	2016/272488	Report - Waste Management	11/08/2016
K.	2016/272481	Report - Statement of Environmental Effects	11/08/2016
	DA2016/0834	8 Nargong Road ALLAMBIE HEIGHTS NSW 2100 - Development Application - Subdivision	15/08/2016
	2016/269928	DA Acknowledgement Letter - David Pender	15/08/2016
X	2016/272460	Development Application Form	17/08/2016
X	2016/272464	Applicant Details	17/08/2016
X	2016/272539	Plan - Notification	17/08/2016
X	2016/280019	Traffic Engineer Referral Response	24/08/2016
	2016/286248	Notification Letter - DA - 17 Letters Posted	30/08/2016
	2016/286258	Notification Map	30/08/2016
×.	2016/288222	Development Engineering Referral Response	01/09/2016
X	2016/303881	Landscape Referral Response	09/09/2016
	2016/343510	Request for update on DA - 8 Nargong Street Allambie Heights	19/10/2016
	2016/344164	Email response	19/10/2016
K.	2016/379883	da2016/0834	21/11/2016
A	2016/384798	Working Plans	24/11/2016
	2016/398545	Request for update on DA - 8 Nargong Road Allambie Heights	07/12/2016
	2016/407906	DA update	15/12/2016