

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2017/0579
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<b>Responsible Officer:</b>	Alex Keller
<b>Land to be developed (Address):</b>	Lot 1 DP 1230126, 4 Cambridge Avenue NARRAWEENA NSW 2099
<b>Proposed Development:</b>	Residential subdivision of one (1) Lot into two (2) Lots, including demolition, site works, construction of a driveway and carparking structure
<b>Zoning:</b>	LEP - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Xi Zhang
<b>Applicant:</b>	Vaughan Milligan Development Consulting Pty Ltd

<b>Application lodged:</b>	16/06/2017
<b>Integrated Development:</b>	No
<b>Concurrence Required:</b>	No
<b>State Reporting Category:</b>	Subdivision only
<b>Notified:</b>	20/06/2017 to 06/07/2017
<b>Advertised:</b>	Not Advertised, in accordance with A.7 of WDCP
<b>Submissions Received:</b>	2
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$ 71,950.00
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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 the subject site and adjoining, surrounding and nearby properties;

- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - C1 Subdivision

Warringah Development Control Plan - C2 Traffic, Access and Safety

Warringah Development Control Plan - C5 Erosion and Sedimentation

Warringah Development Control Plan - D7 Views

Warringah Development Control Plan - E1 Preservation of Trees or Bushland Vegetation

Warringah Development Control Plan - E6 Retaining unique environmental features

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 1230126 , 4 Cambridge Avenue NARRAWEENA NSW 2099
<b>Detailed Site Description:</b>	<p>The subject site is in a cul-de-sac position and has an elongated wedge shape and contains a part-two storey dwelling in a landscaped hilltop setting that affords ocean views toward Dee Why Beach. The site has a maximum width of 35.6m and a maximum depth of 67.7m, with an area of 1,411.6 sqm. A narrow concrete driveway is located along the north-western boundary and the land falls steeply into a gully head that covers the southern part of the Lot. This gully head is a significant feature of the property with retaining walls and rock outcrops / ledges forming a natural amphitheatre shape with mature trees and grassed areas. Due to the rocky hilltop location, the site falls away steeply near the eastern, northern and western boundaries, however the majority of natural drainage falls to the south, toward No.5 Cambridge Avenue. A 12m long drainage easement is located within No. 5 Cambridge Avenue to take water from the cul-de-sac, but the easement does not extend through to the low point of the pipe junction at the gully line. The highest point on the site is RL63.93 with the lowest point being RL57.64, giving a cross-fall of 6.29m. The land is classified as being within "Area B" for geotechnical slope hazard.</p>

Adjacent and surrounding development consists of low density residential housing in landscaped settings, with numerous properties having some ocean views due to the elevated topography. Some views are broad but others are partly obscured by trees or buildings with narrower view lines. The site is not bushfire prone and is not identified as containing any threatened flora or critical habitat. No aboriginal relics have been identified along the rocky outcrops and bushland features of the site.

Map:



## SITE HISTORY

**Subdivision Certificate No.SC2017/0007** for a boundary adjustment to transfer 44.5sqm of land from No.13 Rowena Road to No.4 Cambridge Avenue, pursuant to SEPP Exempt and Complying Development 2008, was approved by Council on 28 April 2017. This subdivision increased the Lot area of No.4 Cambridge Avenue to 1,411.6 sqm and created a new Lot and DP description of Lot 1 DP 1230126 for No.4 Cambridge Avenue.

**Development Application No.DA2016/0846** for demolition works, subdivision of 2 Lots into 3 Lots (involving a boundary adjustment), construction of two (2) dwelling houses and a Secondary dwelling with associated garage and access driveways was refused by Council on 22 December 2016.

### **Pre-lodgment Meeting No.PLM2016/0033**

This pre-DA was for demolition works, subdivision of land and construction of dwellings was held on 19 April 2016. The meeting notes advised of the difficulties of the site and was not supportive of possible overdevelopment of the land given the potential amenity impacts.

**Building Application No.B494/71** for weatherboard additions was approved by Council in 1971.

**Building Application No.154/54** for a weatherboard dwelling was approved by Council in 1954.

## PROPOSED DEVELOPMENT IN DETAIL

The development application proposes the following:

### a) Demolition and Civil Works

- Demolition of one (1) dwelling house (No.4 Cambridge Avenue).
- Site preparation works, including selected tree removal.
- Excavation and drainage works.
- Concrete driveway within the right of carriageway for Lot 1.
- Construction of an elevated parking platform within Lot 2.
- Drainage works including a concrete on-site detention tank.
- Ancillary engineering works.

### b) Subdivision

- Torrens Title subdivision of one (1) Lot into two (2) Lots, for future residential use with the following Lot areas:

Proposed Lot 1 - 600 sqm (666.3 sqm including the right of carriageway)

Proposed Lot 2 - 745.0 sqm

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	<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.

Section 79C 'Matters for Consideration'	Comments
Regulation 2000 (EP&A Regulation 2000)	<p>Clauses 54 and 109 of the EP&amp;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. The applicant was sent a letter, dated 5 September 2017, requesting withdrawal of the proposal due to insufficient information, engineering and planning concerns with proposal. The applicant has declined to withdraw the development application.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter can be suitably addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter can be suitably addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter can be suitably addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;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.</p>
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	<p>(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.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 79C (1) (c) – the suitability of the site for the development	<p>The site is not considered suitable for the proposed development in that the proposal has not provided a satisfactory subdivision design response for natural topography and site constraints of the land. Issues of concern include legal and practical access for future dwelling construction, impact on trees from engineering works, vehicle access, erosion control and inadequate information to address view loss. These subdivision issues cannot be "passed on" for future land owners to resolve, having been identified as concerns for the suitability of the site. This is reflected in judgement of <i>Parrot v Kiama Council [2004] NSW LEC 77</i> addressing when a residential subdivision application should imposed constraints on future development.</p> <p>While the proposal is principally for subdivision works with some minor</p>



Section 79C 'Matters for Consideration'	Comments
	building construction, the irregular shape of the lots and physical constraints require a detailed design response to ensure future development of the land is consistent with the expected environmental impacts. The identified concerns are discussed in detail within this report and warrant refusal of the application.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	A number of issues have been raised by adjacent land owners / occupants objecting to the development proposed. These issues include view impact, overdevelopment, property impacts, amenity and privacy. In summary, the application contains insufficient information to adequately assess the proposal, demonstrate consistency with the Warringah DCP 2011 and address the relevant concerns raised in the public submissions received.

## 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 process council is in receipt of 2 submission/s from:

Name:	Address:
Mr John William Patrick Benson Mrs Catherine Francoise Thomas	9 Rowena Road NARRAWEENA NSW 2099
Ms Natalie Mary Morton	3 Cambridge Avenue NARRAWEENA NSW 2099

The following issues were raised in the submissions and each have been addressed below:

- View impact
- Privacy and amenity
- Loss of property value
- Building bulk of future development
- Suitability of Lot density
- Overdevelopment

- ***Concern that the development will create view loss impacts on coastal views from No.5 Cambridge Avenue.***

Comment:

The proposal will result in view impacts associated with the future construction of two (2) dwelling houses, where at present there is only one dwelling on the site. This will change the easterly outlook from the internal and external living areas of No.3 Cambridge Avenue. The views include the coastal area toward Dee Why Beach and the ocean horizon. Focal elements of the coastline, including headland areas are interrupted from specific viewing points due to the obstructions created by the open tree canopy and pattern of surrounding development.

A view assessment has been made under the heading *Part D7 Views* within this report. In summary, considerations have been made as set out in the Planning Principle established by the *NSW Land and Environment Court in Tenacity Consulting v Warringah Council (2004) NSWLEC 140*. View lines across the site will be substantially affected due to the subdivision layout and minimal spatial separation between the new dwelling houses. Therefore the existing coastal views being experienced from No.3 Cambridge Avenue will change in quality and quantity. However, no details have been provided from the applicant as the extent of that view impact. Additionally no details, have been provided by the applicant apart from proposing a ridge height restriction of RL69.04m for Lot 1. This leaves view impact issues unresolved for adjacent Lot 1 and no suitable terms in the form of a restrictive covenant on the subject land to ensure the expected view impact assessment is misleading or not inconsistent with future housing development on the site.

Therefore, insufficient information has been provided in the application to demonstrate that the proposal satisfies the view sharing requirements of *Part D7 Views* under the Warringah DCP 2011.

This issue has determining weight and is included as a reason for refusal of the application.

- ***Concern that the development will reduce adjacent property values due to view impacts.***

Comment:

No evidence is provided to support this issue and the assessment of future property values is speculative and not a matter that can be objectively assessed pursuant to Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*. Notwithstanding this, view impact issues have been assessed in detail under *Part D7 Views* within this report.

Therefore, property values cannot be addressed by conditions and view issues are addressed separately under the view assessment.

- ***Concern that the subdivision will result in a loss of privacy and amenity to No.5 Cambridge Avenue and No.5, No.7 and No.9 Rowena Avenue.***

Comment:

The proposed subdivision has included concept dwelling designs to demonstrate no unreasonable privacy impacts on adjacent land by orienting private open space (POS) away from side boundaries and by the separation distances that are consistent with the usual setbacks and pattern of low density residential development in the locality. However, the building designs for Lot 1 and Lot 2 are concept only and not for approval with the subdivision. Therefore, while privacy considerations have been made by the use of highlight

windows, privacy screens, location of decks and room orientation, the concept plans have no effect without an appropriate restrictive covenant to address future housing development. A building envelope would assist in ensuring POS is located to ensure not unreasonable impacts on adjacent land.

A compliant landscaped open space area (40%) is achievable for the new Lots to enable opportunity for screen trees and shrub replanting to replace trees removed for the subdivision works and future dwelling construction.

In summary, the concern raised does not warrant refusal of the application, subject to conditions.

- ***Concern with the building bulk of the dwellings when viewed from surrounding land due to the downslope position of neighbouring properties.***

Comment:

The hilltop location of the site will naturally result in dwellings that will be positioned higher and above other adjacent dwellings. This is a common occurrence in the surrounding area due to the sloping topography. The applicant as provided concept dwelling designs to demonstrate compliance with building envelope, height controls and setbacks required under the Warringah LEP and DCP 2011. This information however has no effect since the house plans are not for approval. Future dwellings on the site are not proposed to be required to conform to a detailed building envelope in order to address this issue and maintain compliance with the DCP.

In summary, the concern raised does not warrant refusal of the application, as it may be addressed by future development applications for housing on the site.

- ***Concern that the density and Lot layout is not consistent with the R2 Low Density Residential zone.***

Comment:

This issue has been addressed within this report under the detailed considerations pursuant to the Warringah LEP 2011 for the objectives of the R2 Low Density Residential Zone. In summary, the proposal is inconsistent with the zone objective "to ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah". More detailed consideration of issues with the subdivision are made under the heading *Part C1 Subdivision*, addressing requirements of the Warringah DCP 2011.

This issue cannot be addressed by conditions and has determining weight as a reason for refusal of the application.

- ***The proposal is an overdevelopment and unsuitable for the natural site constraints on the land.***

Comment:

A number of critical issues have not been adequately addressed and hence resolved for the proposal, including stormwater drainage, erosion and sediment control and density within the available buildable area on the site. Particular issues are raised in reference to the additional site works on Lot 2 with respect to associated access issues and the suitability of the land to accommodate the extent of associated building works. The applicant has not provided



sufficient details to demonstrate impacts on the features of the site including the steep terrain and native canopy trees will be minimised.

Concerns were raised with the applicant that the proposal was not supportable in its present form and the issues raised regarding the subdivision are symptomatic of an unsuitable design response to enable the orderly development of the land for future housing.

In summary, this issue cannot be addressed by conditions an insufficient information warrants reason for refusal of the application.

## MEDIATION

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

## REFERRALS

Internal Referral Body	Comments
Development Engineers	<p><u>Engineering Assessment</u></p> <p><i>"There is no subdivision plan prepared by a registered surveyor. The plans do not show the proposed lot dimensions and bearings. The applicant has not demonstrated that the minimum lot size and dimensions proposed for the subdivision satisfies the requirements set in Council's Subdivision DCP.</i></p> <p><i>The front lot shows a suspended slab for a car space and a building area with no driveway access. The suspended car parking slab is not suitable arrangement for the proposed subdivision and must be deleted, however formed access driveway from the proposed right of way will be required to the proposed indicative building area for the front lot. Engineering plans showing a formation of an access to the proposed indicative building area is to be provided.</i></p> <p><i>As a result Development Engineers cannot support the proposed subdivision for the reasons stated below:-</i></p> <ul style="list-style-type: none"> <li><i>The proposed development does not comply with Part C1 Subdivision of the WDCP in regards to the proposed lot size requirements and access controls."</i></li> </ul> <p><u>Planning Comment</u></p> <p>The above engineering matters cannot be resolved by conditions and would otherwise require amended plans and additional information including re-notification. The issues raised have determining weight and warrant refusal of the application.</p>
Landscape Officer	<p><u>Landscape Assessment</u></p> <p><i>The proposed car space indicated for Lot 2 requires removal of a significant "Angophora costata" within the proposed location. Relocation of the car space toward or attached to the proposed dwelling would appear to enable retention of this and other trees on site.</i></p>

Internal Referral Body	Comments
	<p><i>The resultant elevated structure is not considered to be in harmony with the natural features of the site or landscape setting in harmony with the natural environment.</i></p> <p><i>If the carport were relocated, no objections would be raised subject to conditions.</i></p> <p>Planning Comment: The issues raised within the landscape assessment cannot be addressed by conditions as it requires significant redesign work and warrants refusal of the application.</p> <p>The proposal is inconsistent with <i>Part E1 Preservation of Trees</i> and <i>Part E6 Retaining unique environmental features</i> pursuant to WDCP 2011.</p>
Traffic Engineer	No objection is raised to the proposal on traffic grounds subject to the development engineers approval.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to <i>Ausgrid</i> . 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.

## 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 continued residential land use.

## SEPP (Infrastructure) 2007

### Ausgrid

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 application was referred to *Ausgrid* who did not raise any objection to the proposal.

### Other Service Infrastructure Authorities

The proposal was not required to be referred to the *Roads and Maritime Services* (RMS) and no other Service Authority referral issues are raised pursuant to the SEPP.

## Warringah Local Environment Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

### Principal Development Standards

#### **Proposed Lot 1**

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	600 sqm	600 sqm (666.3 sqm including the right of carriageway)	N/A	Yes
Height of Buildings:	8.5 m	No buildings proposed (Dwelling concept not for approval)	N/A	Yes

#### **Proposed Lot 2**

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	600 sqm	745.0 sqm	N/A	Yes

Height of Buildings:	8.5 m	5.7m carport (Dwelling concept not for approval)	N/A	Yes
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WLEP 2011: "In calculating the size of a lot the area of any access corridor (including any right of carriageway, access way or other area that provides for vehicle access) is to be excluded".

#### Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision - consent requirements	Yes
2.7 Demolition requires consent	Yes
4.1 Minimum subdivision lot size	Yes
5.3 Development near zone boundaries	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

#### Warringah Development Control Plan

##### Built Form Controls

##### Proposed Lot 1 (Dwelling concept design only - not for approval)

Built Form Control	Requirement	Proposed	% Variation*	Complies
<b>B1 Wall height</b>	7.2m	7.0m (Dwelling)	N/A	Yes
<b>B3 Side Boundary Envelope</b>	45 degrees at 4m (North)	Within envelope	N/A	Yes
	45 degrees at 4m (South)	Within envelope	N/A	Yes
<b>B5 Side Boundary Setbacks</b>	0.9m (North)	1.0m to 3.5m (Ground floor)	N/A	Yes
		3.9m to 5.5m (Upper floor)	N/A	Yes
	0.9m (South)	1.5m to 4.4 (Ground floor)	N/A	Yes
		1.5 to 4.4m (Upper floor)	N/A	Yes
<b>B7 Front Boundary Setbacks</b> (Battle Axe shaped Lot)	6.5m	36.7m (Battle axe shaped Lot)	N/A	Yes

<b>B9 Rear Boundary Setbacks</b>	6.0m	8.4m (Lower floor deck) 9.9m (Upper floor)	N/A	Yes
<b>D1 Landscaped Open Space (LOS) and Bushland Setting</b>	40% (266.5 sqm)	46% (306.5 sqm)	N/A	Yes

**Proposed Lot 2 (Dwelling concept design only not for approval. Carport is part of subdivision DA)**

<b>Built Form Control</b>	<b>Requirement</b>	<b>Proposed (Carport only)</b>	<b>% Variation*</b>	<b>Complies</b>
B1 Wall height	7.2m	5.6m (Dwelling not for approval) 5.4m (Carport)	N/A	Yes
B3 Side Boundary Envelope	45 degrees at 4m	Within envelope	N/A	Yes
	45 degrees at 4m	Within envelope	N/A	Yes
B5 Side Boundary Setbacks	0.9m (North)	1.0m to 1.6m (Dwelling)  1.5m (Carport)	N/A  N/A	Yes  Yes
	0.9m (South)	1.0m to 6.9m (Dwelling)  2.0m (Carport)	N/A	Yes  Yes
B7 Front Boundary Setbacks	6.5m	27.7m (Dwelling)	N/A	Yes
		7.7m (Carport)	N/A	Yes
B9 Rear Boundary Setbacks	6.0m	6.0m (Dwelling)	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (298 sqm)	61% (455 sqm)	N/A	Yes



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#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C1 Subdivision	No	No
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	No	No
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	No	No
D8 Privacy	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	No	No
E6 Retaining unique environmental features	No	No
E10 Landslip Risk	Yes	Yes

#### Detailed Assessment

##### **C1 Subdivision**

Component	Requirement	Proposed	Compliant
<b>Lot requirements</b>	R2 Low Density Residential zone requirements:	<b>Proposed Lot 1</b> a) Minimum width: <b>4.0m</b> to 13m up to 15.9m	<b>No</b> (measured at road frontage - Battle axe

	<p>Proposed new allotments:</p> <p>a) Minimum width: 13 metres (m)</p> <p>b) Minimum depth: 27 metres; and</p> <p>c) Minimum building area: 150 square metres (sqm)</p>	<p>b) Minimum depth: 31.4m; and</p> <p>c) Minimum building area: 225 sqm</p> <p><b>Proposed Lot 2</b> a) Minimum width: <b>5.13m</b> to 9.16m up to 14.4 m</p> <p>b) Minimum depth: 40.4 m; and</p> <p>c) Minimum building area: 180 sqm</p>	<p>shaped Lot) (However, property is 13m measured across the central building area / axis through to a minimum 27m depth)</p> <p>Yes (27m measured across central building area)</p> <p>Yes (nominal building area shown)</p> <p><b>No</b> (measured at road frontage - Battle axe shaped Lot) (However, property is 13m or more measured across the central building area / axis through a minimum 27m depth)</p> <p>Yes (measured across 27m depth)</p> <p>Yes (nominal building area shown)</p>
<b>Access</b>	<p>Motor vehicle access to each residential allotment is required from a constructed and dedicated public road.</p> <p>Where access is proposed to a section of unconstructed public road, then the subdivision will need to provide legal,</p>	<p>Yes, but includes use of a Right of Way</p> <p>No, subdivision includes legal constructed access and a right of way is too short for practical access to Lot 2 from Cambridge Avenue (proposed Lot 1 and Lot 2). The design is not to</p>	<p>Yes</p> <p>No</p>

constructed access to the Council's satisfaction.	Councils satisfaction.	Yes
Access for Council service vehicles, emergency vehicles and garbage collection vehicles must be provided.	Adequate width is not provided to enable practical access for the construction of dwelling on Lot 2. A passing bay is not required for the access handle. No change is required to garbage the collection within the cul-de-sac of Cambridge Avenue.	Yes
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 and access to allotments comply with gradient standards.	Yes
Driveways in excess of 200 metres will not be allowed for residential development.	Driveway is from a Council public road frontage	No. The right of way does not extend far enough to enable practical access for house construction.
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.	Reciprocal right of way is used for access along the driveway area.	Yes
Passing bays should have regard to sight conditions and minimise vehicular conflict.	The right of carriage was is capable of accommodating 2 cars per household and domestic service vehicles.	Yes
Vehicular ingress/egress points to internal lots may be used as	Complies with requirement for a 1-5 Lot subdivision access way.	Yes
	Complies with requirement for 'up to 3 Lots' additional width of 0.5 for services.	Yes

passing/turning bays, subject to extension of a right-of-carriageway over the passing/turning bay.

Complies.

Rights-of-carriageway should be located so as to accommodate all vehicle turning facilities.

Width of accessways are to be as follows:

Number of lots to be serviced	Width of clear constructed accessway (m)
1 - 5	3.5
6 - 10	5.0
in excess of 10	Access is to be provided by a private or public road constructed with a width that is in accordance with Council standard specifications for engineering works (AUSPEC 1)

Provision of services in rights of carriageway are as follows:

Number of lots to be serviced	Additional width to be provided in Right of Carriageway (m)
Up to 3 lots	0.5



	4 or more lots	1.0		
<b>Design and construction</b>	<p>All roads, rights of carriageway, drainage design and construction is to be in accordance with 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.</p> <p>Subdivision design needs to maximise and protect solar access for each dwelling by considering factors such as orientation, shape, size and lot width.</p>	<p>Proposed Lot 1 and 2. Unsatisfactory design for practical and legal access to enable suitable access for future construction of a dwelling on Lot 2. Legal access has not be acquired and no "agreement in principle" provided to access through Lot1 once the subdivision has been effected land. This would make construction of a dwelling on Lot 2 very difficult. No appropriate alternative details are</p> <p>Dwelling concepts plans demonstrate compliance is achievable.</p>	<p>No</p> <p>Yes</p>	
<b>Drainage</b>	<p>Provision should be made for each allotment to be drained by gravity to a Council-approved drainage system. The topography of 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</p>	<p>Proposed Lot 1 and 2: Inter-allotment drainage is to Council system including connections to cross through to an easement within No.5 Cambridge Avenue.</p>	<p>Yes</p>	



	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.		
<b>Restrictions</b>	Any easement, right-of-carriageway, or other restriction that is placed on 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.	<p>Unsatisfactory. Insufficient details have been provided by the applicant to address the necessary legal and practical access for construction of a dwelling on Lot 2.</p> <p>Insufficient details have been provided to address view sharing issues in the form of an appropriate building envelope.</p>	<p>No</p> <p>No</p>
<b>Environmentally constrained land</b>	<p>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.</p> <p>Where possible, lot boundaries should utilise natural land features such as creeks, escarpments and rock outcrops.</p>	<p>Satisfactory. Conditions are appropriate where recommended to ensure compliance with subdivision certificate.</p> <p>The Lot shape and boundaries respond to the natural topography for the concept dwelling house platforms. However, the location the garage and future building area on Lot 2 have difficult construction access, being across the steep gully head. Further details are required to address cross-boundary issues of backfilling, drainage, tree protection and erosion. Insufficient information has been provided to adequately address these considerations.</p>	<p>Yes</p> <p>No</p>

<b>Bushfire</b>	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.	Satisfactory. (Not bushfire prone land)	Yes
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### **Merit consideration**

With regard to the consideration for a variations detailed above, the development is considered against the underlying Objectives of the Control as follows:

- ***To regulate the density of development***

Comment:

Each proposed Lot will comply with the minimum area requirement (excluding any right of way) for subdivision. While the subdivision pattern is irregular for proposed Lot 1 and proposed Lot 2, the natural topography of the site and cul-de-sac location precludes a more regular shape from being a practical outcome. The non-compliance with lot frontages to Cambridge Avenue do not preclude the ability of the site to provide access or a 27m x 13m rectangular area. Insufficient details have been submitted to address the difficult site constraints and risks of erosion, from construction, traffic access to Lot 2, view loss and appropriate tree protection.

- ***To limit the impact of new development and to protect the natural landscape and topography***

Comment:

The proposal has been designed to minimise impacts of excavation for the two (2) main dwellings by demonstrating the use of "pier and beam" footings as much as possible. However, the ancillary buildings and development impacts will not protect the natural landscape or topography of the site due to the additional impacts, namely tree clearing required for the car parking structure on proposed Lot 2. The essential engineering works and subdivision pattern is influenced by the hill top position of the existing dwelling and the steep gully head on the southern half of the site. Insufficient information has been provided to adequately address the impacts of the development. Therefore, it has not been demonstrated that the proposal is consistent with this objective, to ensure the development will not unreasonably impact on the natural landscape and topography.

- ***To ensure that any new lot created has sufficient area for landscaping, private open space, drainage, utility services and vehicular access to and from the site***

Comment:

Each lot is required to be provide adequate area for landscaping, future private open space,

new drainage management, provision of services and new driveway access to comply with the Warringah DCP 2011. Inadequate information has been provided to fully address this objective to ensure suitable management of erosion, construction works, drainage connections, and management of cross boundary issues where the subject site falls steeply toward adjacent private open space of No. 5 Cambridge Avenue.

- ***To maximise and protect solar access for each dwelling***

Comment:

The proposal has demonstrated the ability to satisfy this requirement to based on the concept house designs and carport location.

- ***To maximise the use of existing infrastructure.***

Comment:

The proposal will require the construction of a new driveway and stormwater detention basin and drainage connections. The driveway and stormwater system will be shared infrastructure and therefore provide efficiency of use and maintenance.

- ***To protect the amenity of adjoining properties***

Comment:

The proposed density of the development will adversely affect the amenity of surrounding residential development by-way-of view impacts, loss of site canopy trees and increased density of development on steeply sloping land. Insufficient information has been provided by the applicant demonstrate that the proposed development will protect adjoining properties from unreasonable amenity impacts of the development.

- ***To minimise the risk from potential hazards including bushfires, land slip and flooding***

Comment:

The site is not subject to flooding, however properties below the site are affected by overland flow that is currently partly contained by the stormwater line from Cambridge Avenue and partly uncontrolled where overland flow paths exist. The subdivision will provide an OSD basin and connection lines to better manage stormwater runoff from the site and reduce nuisance runoff. Therefore risks to adjacent land from stormwater runoff will be minimised.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of 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 not supported, in this particular circumstance.

## **C2 Traffic, Access and Safety**

### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To minimise traffic hazards.*

Comment:

The proposal will not create unreasonable traffic hazards within the public carriageway.

- *To minimise vehicles queuing on public roads.*

Comment:

Suitable access is able to be provided to ensure no need for queuing on public roads that may hinder access to other properties or the convenient passing of traffic.

- *To minimise the number of vehicle crossings in a street.*

Comment:

The subdivision proposed a single driveway for shared access to the two new lots. No additional vehicle crossings are proposed.

- *To minimise traffic, pedestrian and cyclist conflict.*

Comment:

The subdivision is located within a cul-de-sac position and will not interfere with any public cycleways or public walkways. The right of way and access area of the site however does not cater the future practical construction of a dwelling on proposed Lot 2. Practical access will be difficult due to the steep gully on the south side of the right of way whereby the proposed car parking area is separated from the future dwelling area on proposed Lot 2. The delivery of construction materials will be hindered by the narrow access and is likely to force illegal access across proposed Lot 1 (outside the right of way) thereby creating traffic conflict. Once either of the proposed Lots is under separate ownership legal and practical access is essential. This issue has not been adequately addressed by the applicant and warrants refusal of the application.

- *To minimise interference with public transport facilities.*

Comment:

The proposal is for a two lot residential subdivision within an established low density area and will not create interference with public transport facilities.

- *To minimise the loss of "on street" kerbside parking.*

Comment:

The proposal does not rely on kerbside parking for the future subdivision as sufficient lot size is proposed to ensure

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of 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 not supported, in this particular circumstance.

## C5 Erosion and Sedimentation

### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To reduce the potential for soil erosion and adverse sedimentation impacts upon the environment***

#### Comment:

The subject land is steeply sloping in parts and the development works will require demolition of all existing structures and selected tree removal with excavation for engineering works, including drainage and building works. A "first order" drainage line begins within the southern half of the site that joins a Council stormwater drainage line from Cambridge Avenue. The natural gully head formation on the site will require detailed erosion protection to minimise potential risks to Council infrastructure and adjacent land. No erosion and sediment control plans have been provided with appropriate detail to comply with the requirements of the DCP given the risk of erosion and sediment for the subdivision works. (The SEE states that "no construction" will take place however extensive engineering works are proposed on the DA plans).

- ***To prevent the migration of sediment off the site onto any waterway, drainage systems, public reserves, road reserves, bushland or adjoining private lands***

#### Comment:

The steep slope of the land on a hill top position creates a high risk of erosion for adjacent land and therefore comprehensive erosion and sediment control measures are required to address this objective. Insufficient details, prepared specifically for the site topography, have been provided with the development application to address this issue.

- ***To prevent any reduction in water quality downstream of the development site***

#### Comment:

The subject site drains to Dee Why Lagoon, and provided comprehensive details are submitted by the applicant to address erosion and sedimentation risks for the site, this matter may be addressed by conditions to protect downstream water quality.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of 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 not supported, in this particular circumstance.



## D7 Views

### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To allow for the reasonable sharing of views***

#### Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd vs Warringah Council (2004) NSWLEC 140*, are applied to the proposal.

#### **1. Nature of the views affected**

*"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".*

#### Comment to Principle 1:

The views affected are water views of the ocean and coastal fringe eastwards, toward Dee Why Beach. The views are from a hinterland position and are shared to principally affect land to the immediate west of the subject site. The property most affected and concerned is the adjacent property of No.3 Cambridge Avenue. A site inspection was made to evaluate the views available and the context of the proposed development work. The view is across a broad easterly angle, but overlooking across a side boundary and the central area of No.4 Cambridge Avenue.

The owners of No.3 Cambridge Avenue have made a submission, dated 6 July 2017, to identify the views affected and the general relationship as to those views being identified as ocean views and coastal fringe views. Therefore, the general focal interest is toward Dee Why Beach coastal interface and the ocean horizon beyond.

Other properties adjacent the site and to the rear, also have district and coastal views especially from the first floor level, and view sharing varies by the topography and existing development pattern. These other surrounding properties are either on a less obstructed angle or have alternative views lines / different outlooks from their properties.

#### **2. What part of the affected property are the views obtained**

*"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".*

#### Comment to Principle 2:

Some views are obtained from the ground level (where higher topography permits) but are commonly more restricted by trees, buildings and other surrounding obstructions. Good views are available from first floor level of surrounding dwellings. In general, some views are partly obscured due to existing development at ground level and from other structures such as fencing, telegraph poles, outbuildings and trees / vegetation.

While good views are available across the site and take in a broad angle they are over side boundaries (side views), due to the subdivision pattern. These are valuable views because the height of the topography and interspersed open tree canopy provides interest to the eastern coastal outlook, even though Dee Why Beach is some 2.2 kilometres (km) distance from the site, and the views are principally from living room and external deck of No.3 Cambridge Avenue. The views are partly interrupted by existing trees and buildings east of No.3 Cambridge Avenue

Views can be obtained from both a sitting and standing position in No.3 Cambridge Avenue.

### **3. Extent of impact**

*“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.*

#### Comment to Principle 3:

The surrounding development pattern contains a mix of houses with either a street outlook or a local outlook, that may include coastal views if made possible by the elevated topography. The applicant has provided no detailed view analysis information to address the principal views available or to be shared, and the expected impacts. The applicant has only recommended a maximum ridge height of 69.04m for Lot 1 to manage view impacts associated with this Lot. This however leave doubt over the shape and setbacks including side boundary envelopes for both lots that may further impact views. The single storey house plan for Lot 2 is not proposed for approval and therefore carries no weight in maintaining future view lines over Lot 2.

While there is a part two-storey house presently on the site and a height pole markers were previously placed on the site, no visual analysis with photos, or diagrams have been provided to demonstrate the future building form, roof angles and associated changes in tree canopy for the future residential use. The likely view impact for the development of the land is should be appropriately addressed to the extent needed to provide better clarity for adjacent affected residents and not deferred for future development applications on each new Lot. The concept house designs included to demonstrate the suitability of the site to be re-developed for two new dwellings are not proposed for approval and therefore would carry not weight post approval without a conforming building envelope restriction. In order to address this issue a detailed building envelope would be required to ensure any future dwellings could maintain the views assessed. Otherwise the proposed dwelling designs serve no future

purpose to the current view sharing assessment.

The easterly views affected range from 45 degrees to 135 degrees of the living areas and adjacent deck of No.3 Cambridge Avenue. Other dwellings in close proximity are not affected to such an extent due to the variable development pattern of the cul-de-sac and sloping topography. The views are available from different standing / sitting positions for principal living areas and are considered to be potentially severely impacted. However, the lack of detailed view analysis by the applicant prevents a more accurate and conclusive assessment. The view will be closed-out or substantially obstructed by the proposed new dwelling houses but no comparative information has been provided by the applicant to illustrate the view loss either quantitatively or qualitatively.

#### **4. Reasonableness of the proposal that is causing the impact**

*“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”*

##### Comment to Principle 4:

The element of the proposal causing the view impact will be the positioning of the two new dwelling houses. Insufficient information has been provided to conclude this fourth step of the view analysis. This would require detailed information in the form of a photomontage and details building profile plan to clearly define the view loss impacts and changes in view lines created by the demolition, tree removal and new building works.

In this regard, without an appropriate envelope restriction future residential development could select a design that meets complying development requirements but substantially increases the view impact. Therefore, the terms of building bulk for the future dwellings on the site, requires further information and nomination of a detailed building envelope (on a plan) from the applicant to demonstrate that a skilful design, complying with a suitable envelope, will minimise view impacts and will not unnecessarily increase the severity of view impacts on neighbours.

- ***To encourage innovative design solutions to improve the urban environment***

##### Comment:

The site is constrained by the steep topography and rock ledges within the site and therefore further details are required by the applicant to demonstrate the innovative design solutions used will minimise view impacts and improve the urban environment. Insufficient details have been provided to address this objective.

- ***To ensure existing canopy trees have priority over views***

##### Comment:

The site contains a number of mature open canopy trees that provide visual interest to the ocean horizon and coastal outlook. The applicant has not proposed the deliberate removal of trees to prioritize views.

Having regard to the above assessment, it is concluded that the proposed development has insufficient information to address the relevant objectives of 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 not supported, in this particular circumstance.

## **E1 Preservation of Trees or Bushland Vegetation**

### Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To protect and enhance the urban forest of the Northern Beaches.*

#### Comment:

The subdivision works and associated works for future housing on the site will require removal of a number of mature native trees. An alternative design response and engineering solution is required to ensure the most significant trees on the site are protected to maintain the existing tree canopy as much as practicable.

- *To effectively manage the risks that come with an established urban forest through professional management of trees.*

#### Comment:

The proposal has not provided a satisfactory design response to be consistent with this objective in that the subdivision will increase the risks to existing trees from future housing development and civil engineering works.

- *To minimise soil erosion and to improve air quality, water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.*

#### Comment:

Inadequate details have been provided to ensure satisfactory erosion and sediment controls will be established for the engineering works required. In addition to this, the design of the proposal has not demonstrated that the proposal will minimise erosion risk by reducing the need for tree removal or extensive excavation and backfill works.

- *To protect, enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.*

#### Comment:

The site does not contain remnant bushland areas as the property has been used for housing for a significant period of time with garden and lawn areas interspersed with canopy

trees. The site does not contain any threatened species habitat or endangered ecological communities.

- *To promote the retention and planting of trees which will help enable plant and animal communities to survive in the long-term.*

Comment:

The proposal will trigger the unnecessary removal of native canopy trees that provide a significant natural feature of the site. Details of tree protection measures have not been provided to ensure the long term survival of the most significant trees on the site.

- *To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.*

Comment:

The subdivision proposal has not provided an appropriate design response to ensure the scenic value of existing native trees on the site that can be preserved are not removed or adversely impacted by the engineering works proposed. A more appropriate design response for the natural features of the site is required.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of 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 not supported, in this particular circumstance.

## **E6 Retaining unique environmental features**

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To conserve those parts of land which distinguish it from its surroundings***

Comment:

The southern half of the site contains a gully head that has rock ledge formations dispersed with native trees forming a distinctive natural amphitheatre in the topography of the property. The placement of the carport structure and OSD tank will have a substantial impact on this distinctive feature of the property, including the removal of canopy trees for the building works.

The tree lined gully head and canopy trees on the site form a distinguishing natural feature of the site and due to the extensive works required for the carport, driveway, and future dwellings will require site re-contouring and other engineering infrastructure having an adverse impact on the natural features of the site.

The subdivision will also require the re-construction of the existing driveway, however inadequate detail has been provided to address the need for practical construction access



and associated construction management methods to ensure the long term survival of a number of mature native trees that will be at risk of decline due to engineering works.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of 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 not 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.

### **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, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

### **RECOMMENDATION**

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2017/0579 for the Residential subdivision of one (1) Lot into two (2) Lots, including demolition, site works, construction of a driveway and carparking structure on land at Lot 1 DP 1230126,4 Cambridge Avenue, NARRAWEENA, for the reasons outlined as follows:

1. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest being inconsistent with the local planning controls to ensure development responds appropriately to the natural and built environment.
2. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of *Part C1 Subdivision* of the *Warringah Development Control Plan 2011* for reasons of unsatisfactory building envelope details and adverse impacts likely from inadequate legal and practical access land constrained by the natural topography.
3. Pursuant to Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Part C2 Traffic, Access and Safety* of the *Warringah Development Control Plan 2011*.
4. Pursuant to Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development has insufficient information and is inconsistent with the provisions of *Part C5 Erosion and Sedimentation* of the *Warringah Development Control Plan 2011*.
5. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of *Part D7 Views* of the *Warringah Development Control Plan 2011* due to insufficient information to address view impacts and ensure view sharing.
6. Pursuant to Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Part E1 Private Property Tree Management or Bushland Vegetation* of the *Warringah Development Control Plan 2011*.
7. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of *Part E6 Retaining Unique Environmental Features* of the *Warringah Development Control Plan 2011* due to the development likely adverse impact on native trees that form a distinctive feature of the site.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**

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**Alex Keller, Principal Planner**

The application is determined under the delegated authority of:

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**Phil Lane, Acting Development Assessment Manager**

## ATTACHMENT A

Notification Plan	Title	Date
 2017/194111	Plan - Notification	16/06/2017

## ATTACHMENT B

Notification Document	Title	Date
 2017/194766	Notification Map	19/06/2017

## ATTACHMENT C

Reference Number	Document	Date
 2017/194115	Report - Geotechnical	16/08/2016
 2017/194114	Report - Arborist	16/08/2016
 2017/194116	Report - Overland Flow Study	16/08/2016
 2017/194108	Plan - survey	05/06/2017
 2017/194223	Plans - Engineers	15/06/2017
 2017/194226	Plans - Master set	15/06/2017
 2017/194224	Plans - External	15/06/2017
 2017/194113	Report - Statement of Environmental Effects	16/06/2017
 2017/194106	Cost Summary Report	16/06/2017
 2017/194111	Plan - Notification	16/06/2017
 2017/194219	Report - Waste Management Plan	16/06/2017
 DA2017/0579	4 Cambridge Avenue NARRAWEENA NSW 2099 - Development Application - Subdivision	16/06/2017
 2017/192657	DA Acknowledgement Letter - Vaughan Milligan Development Consulting Pty Ltd	16/06/2017
 2017/194103	Development Application Form	19/06/2017
 2017/194104	Applicant Details	19/06/2017
 2017/194766	Notification Map	19/06/2017
 2017/194769	Notification Letter - 26	19/06/2017
 2017/194861	Traffic Engineer Referral Response- Delete	19/06/2017
 2017/194862	Traffic Engineer Referral Response	19/06/2017
 2017/206403	Online Submission - Benson & Thomas	29/06/2017
 2017/216524	Online Submission - Morton	06/07/2017
 2017/265877	Development Engineering Referral Response	04/08/2017
 2017/289972	Landscape Referral Response	16/08/2017
 2017/304346	Submission Acknowledgement Letter - Natalie Mary Morton - SA2017/216524	23/08/2017
 2017/319560	Request for Withdrawal of Development Application - Vaughan Milligan Development Consulting Pty Ltd	31/08/2017