

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/0236
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<b>Responsible Officer:</b>	Catriona Shirley
<b>Land to be developed (Address):</b>	Lot 130 DP 11162, 15 Alto Avenue SEAFORTH NSW 2092
<b>Proposed Development:</b>	Subdivision of one lot into two
<b>Zoning:</b>	Manly LEP2013 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	Yes
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Shannon Elizabeth Deeran
<b>Applicant:</b>	Matthew Paul Deeran Shannon Elizabeth Deeran

<b>Application Lodged:</b>	11/03/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Subdivision only
<b>Notified:</b>	26/03/2020 to 09/04/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 0.00
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### PROPOSED DEVELOPMENT IN DETAIL

The application forms a part of a stage development of three (3) stages. The final outcome of the development is a two lot subdivision, with a dwelling house on Lot 1 and a vacant site on Lot 2. Whilst the applicant has requested the proposal be staged into three (3) separate stages, it is in effect one development.

The three (3) stages of the proposal are as follows:

- Stage 1: Construction of a new dwelling house (**DA2020/0237**)
- Stage 2: Demolition of the existing dwelling (**DA2020/0238**)
- Stage 3: Torrens title subdivision of the existing Lot into two (2) Lots (**DA2020/0236**)

All three (3) applications will be linked by relevant conditions of development consent to ensure the resulting development is consistent with the final outcome of a two lot subdivision with a dwelling house on Lot 1 and a vacant site on Lot 2.

Stage three (3) of the development seeks approval for the Torrens title subdivision of one (1) Lot into two (2) Lots.

The proposed allotment sizes are summarised as:

- Lot 1 - 519.5m<sup>2</sup>
- Lot 2 - 512.5m<sup>2</sup>

There is no works proposed of the Stage 3 part of the development.

## 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

Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)

Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

Manly Development Control Plan - 4.4.8 Subdivision

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 130 DP 11162 , 15 Alto Avenue SEAFORTH NSW 2092
<b>Detailed Site Description:</b>	The subject site is legally identified as Lot 130 within Deposited Plan 11162. The site is located within the R2 Low Density Residential zone as mapped within the Manly Local Environment Plan 2013.

The subject site is located on the eastern side of Alto Avenue and the western side of Prince Edward Road.

The site is irregular in shape with a surveyed area of 1037m<sup>2</sup>. The site has two street frontages. The frontage along Alto Avenue is 15.24m, with the frontage along Alto Avenue measuring 19.24m. The side boundaries have an average depth of 68.5m.

The site slopes from south to north and includes a crossfall of approximately 1.3m. The site is burdened by a Council stormwater pipeline which traverses across the site towards the Alto street frontage.

The site is currently well vegetated with a variety of plating including canopy trees.

Adjoining and surrounding development is characterised by one and two storey dwelling houses, of varying ages, within a landscaped setting.

Map:



## SITE HISTORY

A search of Council's records has revealed the following relevant development applications:

- Development Application **DA2019/0344** for the subdivision of one (1) Lot into two (2) Lots and associated infrastructure was refused by Council on the 3 August 2009. The reasons for refusal were listed as non-compliance with the Manly Development Control Plan. The key planning issues, that formed the basis for refusal, included the location of the indicative footprint of a dwelling house to an existing stormwater easement, the impact on Council's stormwater assets, and the amenity impact for the proposed Lots resulting from the non-compliant rear setbacks proposed for both Lots.

- Pre-Lodgement meeting **PLM2018/0091** was held on the 22 May 2019. The proposal presented at the meeting consisted of the demolition of the structures on the site, the subdivision of one (1) Lot into two (2) Lots and the construction of a dwelling house. The applicant was advised to locate the existing stormwater infrastructure prior to lodgement of the development application. The setbacks of the proposal were highlighted as a significant planning concern, and amendments would need to be undertaken in order for the application to be supported by Council.

The applicant has requested the proposal be staged into three (3) separate stages, it is however in effect one development.

Council is in receipt of all three applications that form the basis for the three stages of the one development. All three stages are under assessment by Council as follows:

- Development Application **DA2020/0237** for the construction of a Dwelling House (Stage 1)
- Development Application **DA2020/0238** for the demolition of a dwelling house and associated structures (Stage 2)
- Development Application **DA2020/0236** for Subdivision of one (1) Lot into two (2) Lots (Stage 3)

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

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Mainly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</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</p>

Section 4.15 Matters for Consideration'	Comments
	<p>Structures. This matter has been 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 has been 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 has been 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 4.15 (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) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (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

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## 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 the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Lars Peter Weber	9 Alto Avenue SEAFORTH NSW 2092
Mr Rodney Dean Hermann	11 Alto Avenue SEAFORTH NSW 2092

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

- **Overdevelopment**
- **Stormwater**
- **Privacy**
- **Open space and Landscape area**
- **Property value**

The matters raised within the submissions are addressed as follows:

- ***Concern has been raised that the subdivision proposal is overdevelopment, and inconsistent with the surrounding area.***

**Comment:**

The three stage development ultimately results in the subdivision of the subject site to provide one (1) dwelling house on Lot 1 and the potential for one (1) dwelling house for Lot 2. The subject land is located within the residential density area D5 which requires a maximum density of one (1) dwelling per 500sqm of site area. The proposed subdivision of Stage 3 would result in a density of one (1) dwelling on a Lot size of 519.9sqm and one (1) dwelling on a 512.5sqm. This is compliant with the numerical requirements of the minimum Lot size and residential density of area D5.

It is considered that stage three (3) of the development, being the subdivision of the subject site, has been reasonably configured to respond to the characteristics of the area with the resulting design achieving an architectural consistency with the detached dwellings which collectively characterise the local area.

This issues does not warrant the refusal of the application.

- ***Concern has been raised in regards the impact the subdivision will have on the stormwater drainage, overland flow, and on the easement over Councils stormwater drainage pipeline.***

**Comment:**

In accordance with Council's Manly Drainage Easement Policy- D100, the applicant provided the required information of the Council pipeline. The application also includes a Flood Study Report, by Water Design Civil Engineers dated 6 March 2020 to determine the localised flooding impacts of an overland flow path from Councils Stormwater Drainage system, that traverses through the development site. Council's Development Engineers have reviewed the three (3) stages of the development and have raised no objections to the proposed stormwater design subject to conditions of consent.

This issue does not warrant the refusal of the application.

- **Concern is raised from the adjoining properties to the south, that the development will result in a significant loss of privacy to their rear private open space area, particularly with respect to the proposed windows on First Floor.**

Comment:

This issue has been addressed in detail within Stage 1 Development Application DA2020/0237.

In summary, the assessment found that stage 3 of the proposal, subdivision of the subject site from 1 Lot into 2 Lots, has been generally designed to satisfactorily address overlooking. Any new Dwelling House for Lot two (2) will be required to minimise overlooking by locating living room windows and terraces away from habitable room windows, balconies and private open space area on neighbouring properties.

This issue does not warrant the refusal of the application.

- **Concern is raised that the subdivision open space and landscaped area is compliant for a dual occupancy development, but not compliant when the subject site is subdivide from 1 Lot into 2 Lots.**

Comments

Stage three (3) of the proposed development provides 62.9% of the site as total open space with a landscaped area of 58.7% for Lot 1. As assessed within the Stage One (1) application DA2020/0237, the dwelling house for Lot one (1) is consistent with the build form controls, with only minor variations to the front setback and northern side setback for the garage, which does not add to the the built form such that it exacerbates the bulk and scale of the building that it no longer is consistent with the character of the area.

Any proposal for a dwelling house for Lot 2 will be approved via appropriate planning Legislation, however the site is capable of providing appropriate open space and landscaped areas.

This issue does not warrant refusal of the application.

- **Concern is raised that the development will reduce property value of the neighbouring sites.**

Comment:

This issue of property value is not a planning matter which can be addressed under the provisions of s.97C of the EP&A Act.

This issue does not warrant the refusal of the application.

## REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	Development Engineer has no objection to the application subject to the following condition of consent.
NECC (Stormwater and Floodplain Engineering – Flood risk)	The property is not in an area with a Council adopted overland flow flood study. Therefore, the overland flow risk and flood assessment provided by the applicant will be assess by the Development

Internal Referral Body	Comments
	Engineering Team as part of their referral.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.

## 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

#### 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 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.

## Manly Local Environmental Plan 2013

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

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	500sqm	Lot 1: 519.5sqm Lot 2: 512.5sqm	- -	Yes Yes
Floor Space Ratio	Lot 1: FSR 0.45:1 or 233.78m <sup>2</sup> Lot 2: FSR 0.45:1 or 230.63m <sup>2</sup>	Lot 1: FSR 0.36:1 or 318.47m <sup>2</sup> Lot 2: FSR existing house to be demolished	- -	Yes Yes*

# The proposed subdivision of Stage three (3) of the development will be of adequate dimensions to enable any proposed future dwellings on Lot 2 so to fully comply with the required Floor Space Ratio.

### Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision—consent requirements	Yes
4.1 Minimum subdivision lot size	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

## Manly Development Control Plan

### Built Form Controls

Built Form Controls - Site Area: Lot 1: 519.5m <sup>2</sup> , Lot 2: 512.5m <sup>2</sup>	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Dwelling Size: 1 dwelling per 500sqm	Lot 1: 1 dwelling Lot 2: #	- -	Yes Yes
4.1.2.1 Wall Height	6.5m (North and South)	Lot 1: 6.25m N, 5.2m S Lot 2: #	- -	Yes* Yes

4.1.2.2 Number of Storeys	2	<b>Lot 1: 2</b> <b>Lot 2: #</b>	- -	Yes* Yes
4.1.2.3 Roof Height	Height: 2.5m	<b>Lot 1: 2.2m</b> <b>Lot 2: #</b>	- -	Yes* Yes
	Pitch: maximum 35 degrees	<b>Lot 1: &lt; 35</b> <b>degrees</b> <b>Lot 2: #</b>	- -	Yes* Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	<b>Lot 1:</b> 6m - 7.5m Dwelling House 4.8m - 5.73m Garage 4.76m - 5.76m Decking  <b>Lot 2: #</b>	- - - - -	Yes* Yes* Yes*  Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	<b>Lot 1:</b> <u>Dwelling</u> 1m - 1.73m (based on wall height of 3m to 5.2m)  2.08m (based on southern wall height 6.25m)  <u>Garage</u> 1.07m (based on a wall height of 3.2m)  <b>Lot 2:</b> To be determined	<b>Lot 1:</b> <u>Dwelling</u> 1.455 and 2.535m North  2.12m South  <u>Garage</u> 1.0m North 1.57m South  <b>Lot 2: #</b>	- - - - -	Yes*  Yes*  Yes* Yes*  Yes
4.1.4.4 Rear Setbacks	Lot 1 : 8m	<b>Lot 1: 8.025m</b> <b>Lot 2: #</b>	- -	Yes* Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3.	Open space 55% of site area Lot 1: 285.7sqm  Lot 2: 281.8sqm	<b>Lot 1: 62.9%</b> <b>(326.8sqm)</b> <b>Lot 2: #</b>	- -	Yes Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space Lot 1: 114.38sqm Lot 2: To be determined	<b>Lot 1: 58.7%</b> <b>(305m2)</b> <b>Lot 2: #</b>	- -	Yes Yes
4.1.5.3 Private Open Space	18sqm per dwelling	<b>Lot 1: &gt; 18sqm</b> <b>Lot 2: #</b>	- -	Yes Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	<b>Lot 1: 2 spaces</b> <b>(Alto Ave)</b> <b>Lot 2: #</b> <b>( Prince</b>	- -	Yes Yes

Edward Street)

# The proposed subdivision of Stage three (3) of the development will be of adequate dimensions to enable any proposed future dwellings on Lot 2 so to fully comply with the built form controls. An estimated building footprint of 150m<sup>2</sup> for Lot 2 would be able to be located entirely within the required setback areas, and while providing adequate landscaped areas (excluding areas for driveway/access from Prince Edward Street).

\*As approved by Stage one (1) Development Application **DA2020/0237**.

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.2 Residential Land Subdivision	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.8 Subdivision	Yes	Yes

#### Detailed Assessment

##### **3.1.1 Streetscape (Residential areas)**

Stage 3 of the development will result in two (2) allotments based on a site area of 1037sqm. This will comply with the numerical control of 1 dwelling per 500sqm of site area.

The subdivision of stage three (3) proposes the following allotment sizes:

- Lot 1 - 519.5m<sup>2</sup>
- Lot 2 - 512.5m<sup>2</sup>

The proposed lots provide a sufficient size to accommodate the proposed dwelling of Stage one (1) within proposed Lot 1, and a new dwellings within Lot 2 along with private open space, carparking and landscaping. Additionally, the proposed lot size is consistent with other lots in the vicinity so as to ensure the newly created Lots of stage 3 will appropriately fit into the existing pattern.

Stage three of the development results in a subdivision that will result in an increased density of one dwelling for the current subject site. This is reasonable given that the minimum Lot size and density is permissible in the zone and compliant with the required controls. Furthermore, it is considered that a dwelling can be provided on each new lot that responds appropriately to the built form controls.

The built form of stage 1 (DA2020/0037) will continue to sit comfortably with adjoining and surrounding one and two storey residential development, with proposed and conditioned landscaping as required by stage 1 approval, assisting to visually screen the bulk and scale of the built form and integrate the built form into the surrounding landscaped locality.

On balance, the stage 3 subdivision proposal is considered consistent with the desired and future character of the immediate area and the compatible with the Alto Avenue streetscape.

#### **4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)**

The existing site has two street frontages, Alto Avenue and Prince Edward Road. Stage 3 of the proposal will result in a subdivision that will allow direct street access for both Lots. Lot 1 will have street access from Alto Avenue and Lot 2 will have street access from Prince Edward Road. As a result, the stage three subdivision development will provide accessible parking to the front setback of each Lot, and ensures consistency and compliance with the requirements of the control.

#### **4.4.8 Subdivision**

Stage 3 of the proposed development is for a subdivision of 1 Lot into 2 Lots that is of a lot size and configuration that is consistent with the established pattern of subdivision within the area.

The proposed subdivision of stage 3 will be of adequate dimensions to enable any proposed future dwellings on Lot 2 so to fully comply with the built form controls. An estimated building footprint of 150m<sup>2</sup> for Lot 2 would be able to be located entirely within the required setback areas, and while providing adequate landscaped areas (excluding areas for driveway/access from Prince Edward Street).

As a result, the stage 3 subdivision indicates that there will be sufficient area for landscaping, private open space, drainage, utility services and vehicular access to and from each of the proposed Lots demonstrating compliance with the requirements of the 4.4.8 Subdivision clause.

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

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

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

#### **POLICY CONTROLS**

#### **Northern Beaches Section 7.12 Contributions Plan 2019**

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;
- Manly Local Environment Plan;
- Manly 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 DA2020/0236 for Subdivision of one lot into two on land at Lot 130 DP 11162, 15 Alto Avenue, SEAFORTH, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. **Approved Plans and Supporting Documentation**

Development consents DA2020/0036, DA2020/0037, and DA2020/0038 for Stage 1, 2 and 3 are to operate concurrently and are linked to ensure the completed development is consistent with all requirements of Stages 1, 2 and 3, with the resulting development being a dwelling house on Lot 1 and the land subdivided in accordance with DA2020/0036.

The following consent is granted for Stage 3 of the development in accordance with Section 4.22 of the Environmental Planning and Assessment Act 1979.



Stage 3 development consent is granted only for the following:

- The Torrens title subdivision of one Lot into two Lots.

The works for Stage 3 will be consistent with the following table:

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Survey Plan	28/02/2020	Survey Plus
Subdivision Plan	28/02/2020	Survey Plus

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Construction Impact & Management Statement	March 2019	Growing My Way Tree Consultancy

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

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.

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE SUBDIVISION WORKS CERTIFICATE

### 3. Subdivision Works Certificate

A Subdivision Works Certificate is to be approved by Certifying Authority for the provision of engineering works.

Engineering plans for the subdivision works within this development consent are to be submitted to the Certifying Authority for approval under Section 6.13 of the Environmental Planning and Assessment Act 1979.

Civil Engineering plans for the subdivision works are to be designed in accordance with the Council's specification for engineering works – AUS-SPEC #1. The plans shall be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering. The design must include the following information:

1. design and construction of the overland flow path

The Subdivision Works Certificate must be supported by engineering plans, calculations, specification or any certification relied upon.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specifications.

4. **Pre-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available in Council's web site.

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Subdivision Works Certificate.

Reason: Protection of Council's Infrastructure.

**ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

5. **Landscape maintenance**

Any existing landscaping including trees required to be retained together with any additional landscaping required by consent DA2020/0237 is to be maintained for the life of the development.

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

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

6. **Provision of Services for Subdivision**

The applicant is to ensure all services including water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan of subdivision. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that utility services have been provided to the newly created lots.

7. **Sydney Water Compliance Certification**

The Applicant shall submit a Section 73 Compliance Certificate under the Sydney Water Act 1994 issued by 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](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> 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 fees to be paid. Please make early contact with the coordinator, 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.

**8. Release of Subdivision Certificate**

The final plan of subdivision will not be issued by Council until the works of all three stages of the development have been completed in accordance with terms and conditions of the three development consents, being DA2020/0036, DA2020/0037 and DA2020/0038.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919.

**9. Subdivision Certificate Application**

The Applicant shall submit a Subdivision Certificate Application to Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919, four copies of the final plan of subdivision and all relevant documents including electronic copies. This documentation is to be submitted to Council prior to the issue of the Subdivision Certificate. 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.

**10. Restriction as the User ( Stormwater Overland flow)**

A restriction as to user shall be created on the title over the area affected by the 100 year ARI stormwater overland flow in order to:

1. Prohibit the alteration of the final stormwater overland flow path
2. Prohibit the erection of any structure (including fencing) within the overland flowpath without the written permission of Northern Beaches Council.
3. The future floor level of any dwelling and structures is not to be less than the building platform levels indicated in plans prepared by Waterdesign Civil Engineers, Job Number 2018-053, drawing number OF2, Revision 2 and dated 3/09/2018. Such levels are to be detailed in Australian Height Datum on the Section 88B instrument and related to Australian Height Datum and submitted Council for approval.
4. The future building footprint of any dwelling and structures is not to be larger than the building platform indicated in plans prepared by Waterdesign Civil Engineers, Job Number 2018-053, drawing number OF2, Revision 2 and dated 3/09/2018.

Northern Beaches Council shall be nominated as a party to release, vary or modify such restriction. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure no modification of the stormwater overland flow path and the building platform without Council's approval

**11. Post-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the condition of the asset after the completion of works. Council's Guidelines are available on Council's web site.

The post-construction dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

12. **Title Encumbrances**

The Applicant shall ensure all easements, rights of carriageway, positive covenants and restrictions as to user as detailed on the plans and required by the development consent are to be created on the title naming Council as the sole authority empowered to release or modify.

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

Reason: To ensure proper management of land.

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

**Signed**



**Catriona Shirley, Planner**

The application is determined on 22/05/2020, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**