

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                            |             |
|----------------------------|-------------|
| <b>Application Number:</b> | DA2022/0889 |
|----------------------------|-------------|

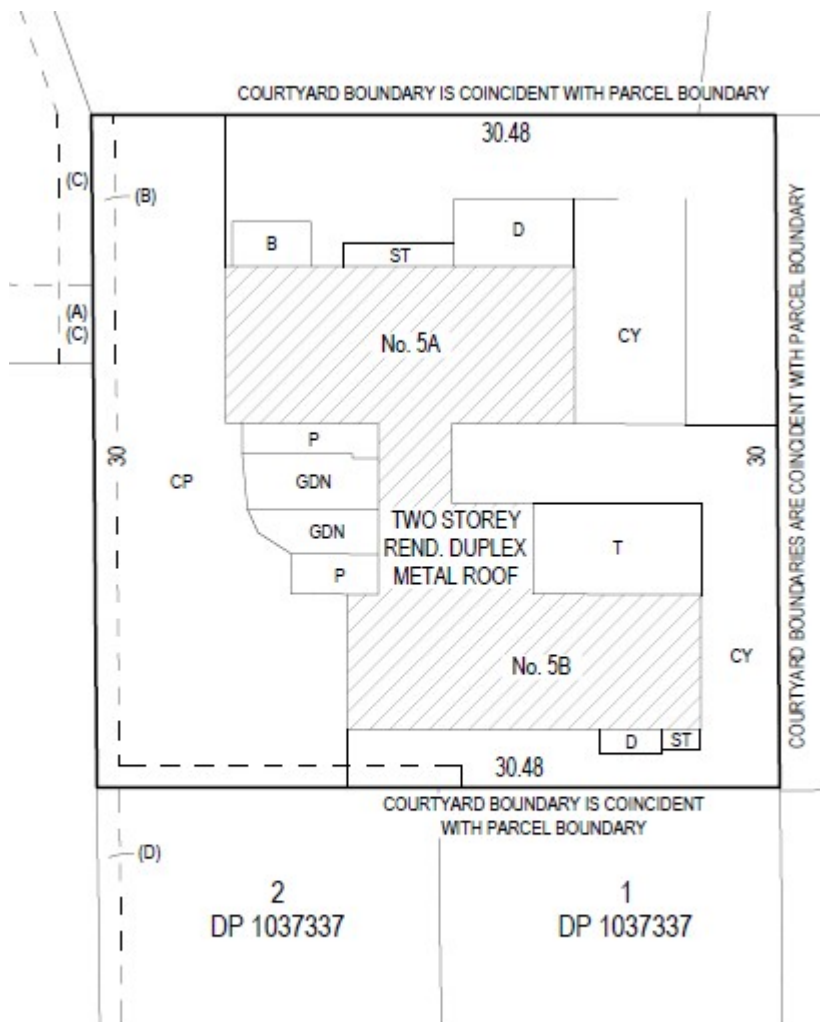
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|---|--|
| <b>Responsible Officer:</b>               | Kye Miles  |
| <b>Land to be developed (Address):</b>    | Lot 3 DP 1037337, 5 Maybanke Court MONA VALE NSW 2103    |
| <b>Proposed Development:</b>              | Strata Subdivision of existing dual occupancy (attached) |
| <b>Zoning:</b>                            | 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>                             | Dapwell Pty Ltd  |
| <b>Applicant:</b>                         | Olive Veale-Wright                                       |

|                                  |                  |
|----------------------------------|------------------|
| <b>Application Lodged:</b>       | 15/06/2022       |
| <b>Integrated Development:</b>   | No               |
| <b>Designated Development:</b>   | No               |
| <b>State Reporting Category:</b> | Subdivision only |
| <b>Notified:</b>                 | Not Notified     |
| <b>Advertised:</b>               | Not Advertised   |
| <b>Submissions Received:</b>     | 0                |
| <b>Clause 4.6 Variation:</b>     | Nil              |
| <b>Recommendation:</b>           | Approval         |

|                                 |              |
|---------------------------------|--------------|
| <b>Estimated Cost of Works:</b> | \$ 10,000.00 |
|---------------------------------|--------------|

### PROPOSED DEVELOPMENT IN DETAIL

The application proposes the strata subdivision of the existing dual occupancy (attached) consistent with the dual occupancy for two (2) dwellings originally approved under N0061/02. Refer to the plan below.



## LOCATION PLAN

### *Draft strata plan.*

The draft plan nominates the existing shared driveway as common property with the proposed private open space allocations. No. 5A has an area of 485sqm and No. 5B has a total area of 376sqm. The draft plan is consistent with the approved plans for the site.

The application does not propose any changes to the existing built form on the site.

## **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

Pittwater Local Environmental Plan 2014 - 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones

Pittwater Local Environmental Plan 2014 - 7.10 Essential services

Pittwater 21 Development Control Plan - B2.2 Subdivision - Low Density Residential Areas

## SITE DESCRIPTION

|                                   |   |
|-----------------------------------|---|
| <b>Property Description:</b>      | Lot 3 DP 1037337 , 5 Maybanke Court MONA VALE NSW 2103  |
| <b>Detailed Site Description:</b> | <p>The subject site consists of one (1) allotment located on the eastern side of Maybanke Court.</p> <p>The site is legally known as Lot 3 DP 1037337, and commonly referred to as 5A and 5B Maybanke Court Mona Vale. The site is regular in shape with a depth of 30.48m and a site width of 30m equating to an overall site area of 913.5sqm. The site is relatively flat.</p> <p>The site is currently occupied by an approved dual occupancy with two (2) dwellings on site. The site provides four (4) parking spaces on the ground floor of the existing dwelling. Vehicle and pedestrian access is from Maybanke Court via a right of carriage way that burdens No. 4 Maybanke Court.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by detached one and two storey dwellings of varying styles.</p> |

Map:



## SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

### N0061/02

Development application for the construction of an attached dual occupancy approved on 19 August 2002. Works physically commenced on 20 November 2002.

### BC0114/10

Building certificate for an as-built stairway and landing located on the south eastern side of the dwelling approved on 24 September 2010.

## 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                                      | There are no current draft environmental planning instruments.  |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan  | Pittwater 21 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 2021 (EP&A Regulation 2021) | Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. |

| Section 4.15 Matters for Consideration  | Comments   |
|---|--|
|   | <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 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 69</u> of the EP&amp;A Regulation 2021 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 69</u> of the EP&amp;A Regulation 2021 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> |
| <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> | <p>(i) <b>Environmental Impact</b><br/>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b><br/>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><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>  |
| <p>Section 4.15 (1) (c) – the suitability of the site for the development</p>   | <p>The site is considered suitable for the proposed development.</p>   |
| <p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>   | <p>See discussion on “Notification &amp; Submissions Received” in this report.</p>   |
| <p>Section 4.15 (1) (e) – the public interest</p>   | <p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>   |

## EXISTING USE RIGHTS

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application was not notified.

## REFERRALS

| Internal Referral Body                                    | Comments   |
|---|--|
| Building Assessment - Fire and Disability upgrades        | The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below. |
| NECC (Development Engineering)                            | Development Engineering do not assess strata subdivisions. There is no physical work proposed on the property.<br><br>Development Engineering support the proposal with no conditions of consent recommended.  |
| NECC (Stormwater and Floodplain Engineering – Flood risk) | The western portion of the site is affected by the medium flood risk precinct.<br>The proposed development comprises Strata Subdivision of the approved existing dual occupancy. No construction works are proposed.<br>There are no flood related objections.                             |

## 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 (Resilience and Hazards) 2021

### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b)

and (c) of this Chapter and the land is considered to be suitable for the residential land use.

## Pittwater Local Environmental Plan 2014

|  |     |
|--|-----|
| 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 for strata plan schemes in certain rural, residential and environment protection zones | 700m <sup>2</sup> (does not apply to site with dual occupancy approval before to 2 June 2003) | Lot 1:<br>485sqm<br><br>Lot 2:<br>376sqm | N/A         | N/A, existing dual occupancy approved 19 August 2002) |
| Height of Buildings:  | N/A - No physical changes proposed  | N/A                                      | N/A         | N/A   |

### Compliance Assessment

| Clause   | Compliance with Requirements |
|--|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments   | Yes                          |
| 2.6 Subdivision - consent requirements   | Yes                          |
| 4.1 Minimum subdivision lot size   | N/A                          |
| 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones | Yes                          |
| 4.6 Exceptions to development standards  | N/A                          |
| 5.21 Flood planning  | Yes                          |
| 7.10 Essential services  | Yes                          |

### Detailed Assessment

#### 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones

As development consent for the dual occupancy was granted before 2 June 2003, this clause does not apply to this strata subdivision.

#### 7.10 Essential services

No change to the existing services are proposed.

## Pittwater 21 Development Control Plan

### Built Form Controls

The proposed development related to the strata subdivision of the existing dual occupancy. No change to the existing built form is proposed. As such, the built form controls do not apply to this development.

### Compliance Assessment

| Clause  | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted                         | Yes                          | Yes                         |
| A4.9 Mona Vale Locality   | Yes                          | Yes                         |
| B2.2 Subdivision - Low Density Residential Areas                      | No                           | Yes                         |
| B6.3 Off-Street Vehicle Parking Requirements                          | Yes                          | Yes                         |
| C1.7 Private Open Space   | Yes                          | Yes                         |
| C4.1 Subdivision - Protection from Hazards                            | Yes                          | Yes                         |
| C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities | Yes                          | Yes                         |
| C4.3 Subdivision - Transport and Traffic Management                   | Yes                          | Yes                         |
| C4.5 Subdivision - Utility Services                                   | Yes                          | Yes                         |
| C4.6 Service and delivery vehicle access in subdivisions              | Yes                          | Yes                         |
| C4.7 Subdivision - Amenity and Design                                 | Yes                          | Yes                         |

### Detailed Assessment

#### **B2.2 Subdivision - Low Density Residential Areas**

Clause B2.2 requires that any lot (or lots) to be created by a subdivision of an existing lot (or lots) on land identified as Area 2 or 3 on the Landscaped Area Map shall have a minimum lot width at the building line of 15 metres. The proposed strata subdivision would result in a minimum lot width below 10.0m.

A merit assessment has been carried out against the objectives of the control is carried out below:

- *Achieve the desired future character of the locality.*

#### Comment:

The proposed subdivision is consistent with development in the area. The existing building on the site will be retained. The desired future character of the Mona Vale locality is maintained.

- *Maintenance of the existing environment.*

#### Comment:

The proposed subdivision is not expected to have any significant adverse impacts on the existing environment.

- *Equitable preservation of views and vistas to and/or from public/private places.*

Comment:

No physical works are proposed. Views and vistas to and from private and public spaces will not be unreasonably impacted by the proposal.

- *The built form does not dominate the natural setting.*

Comment:

The existing built form on the site will be maintained.

- *Population density does not exceed the capacity of local and regional infrastructure and community services.*
- *Population density does not exceed the capacity of local and regional transport facilities.*

Comment:

No increase to the population density will result from the proposed subdivision as the dual occupancy that is to be subdivided is existing.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2022**

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;
- Pittwater Local Environment Plan;
- Pittwater 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 DA2022/0889 for Strata Subdivision of existing dual occupancy (attached) on land at Lot 3 DP 1037337, 5 Maybanke Court, MONA VALE, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

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

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

##### a) Approved Plans

| <b>Architectural Plans - Endorsed with Council's stamp</b> |               |                    |
|--|---------------|--------------------|
| <b>Drawing No.</b>   | <b>Dated</b>  | <b>Prepared By</b> |
| Plan of Subdivision Sheet 1 of 3 - Location Plan           | 12 April 2022 | C & A Surveyors    |
| Plan of Subdivision Sheet 2 of 3 - Ground Floor Plan       | 12 April 2022 | C & A Surveyors    |
| Plan of Subdivision Sheet 3 of 3 - First Floor Plan        | 12 April 2022 | C & A Surveyors    |

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

### **2. Building Requirements prior to the issue of a Strata Subdivision Certificate**

The Subdivision Certificate to enable the lodgement of the linen plan at NSW Land Registry Services must not be issued until an Occupation Certificate has been issued in relation to the development.

Reason: To ensure compliance with the Consent issued, compliance with relevant legislation, and to ensure adequate provision is made, where required for fire safety, occupant safety, egress, access and appropriate facilities in the premises for building occupants.

### **3. 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.

### **4. Release of Subdivision Certificate**

The final plan of subdivision will not be issued by Council until the development has been completed in accordance with terms and conditions of the development consent.

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

### **5. 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.

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

**Signed**



**Kye Miles, Planner**

The application is determined on 15/08/2022, under the delegated authority of:



**Adam Richardson, Manager Development Assessments**