

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2016/0874
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<b>Responsible Officer:</b>	Tony Collier
<b>Land to be developed (Address):</b>	Lot 1 DP 830423, 22 - 26 Albert Street FRESHWATER NSW 2096
<b>Proposed Development:</b>	Stratum Subdivision of 1 lot into 5 lots
<b>Zoning:</b>	LEP - Land zoned B2 Local Centre
<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>	FW Projects Pty Limited
<b>Applicant:</b>	Linker Surveying Pty Ltd

<b>Application lodged:</b>	23/08/2016
<b>Application Type:</b>	Local
<b>State Reporting Category:</b>	Subdivision only
<b>Notified:</b>	02/09/2016 to 20/09/2016
<b>Advertised:</b>	03/09/2016
<b>Submissions:</b>	1
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 0.00
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### ASSESSMENT INTRODUCTION

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

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

### SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 830423 , 22 - 26 Albert Street FRESHWATER NSW 2096
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the western side of Albert Street and at the intersection of Lawrence Street. The site is legally known as Lot 1 in DP 830423, No. 22 - 26 Albert Street, Freshwater.</p> <p>The site is generally triangular in shape with a frontage of 77.27m along Albert Street. The consistency of the front boundary is broken by the presence of the Bendigo Bank which is located at the south-western part of the site. The site has a surveyed area of 2,283m<sup>2</sup>. The northern boundary is irregular due to the variable lot depths of neighbouring residential properties along Marmora Street.</p> <p>The site accommodates is currently under development pursuant to DA2012/1235.</p> <p>The site gradually slopes from the south-western corner to the north-eastern corner by approximately 3.37m.</p> <p>The site is located within the B2 Local Centre zone which consists of an established commercial/mixed use area. The B2 Local Centre zone is surrounded by the larger R2 Low Density Residential zone which predominantly consists of low density residential uses interspersed with residential flat buildings. Consequently, the site is immediately surrounded by mixed use retail, commercial and restaurant uses to the east, south and west, and by low density residential uses to the north.</p> <p>The B2 Local Centre zone is serviced by both public and private customer car parking. Two public car parking areas are located within the zone and provide a total of 56 spaces. This together with available timed on-street car parking equates to approximately 90 spaces. Private customer parking is currently provided at the subject site (29 spaces), at the Freshwater Village Plaza (87 spaces) and at No. 10 Lawrence Street (18 spaces). Therefore, the total available public and private customer car parking within the B2 Local Centre zone equates to 224 spaces.</p>

Map:



## SITE HISTORY

The site has been the subject of the following applications:

### DA2010/0697

Development Application DA2010/0697 was lodged on 10 May 2010 for demolition works and the construction of mixed-use retail and residential development comprising 3 to 5 storey shop top housing, 3 storey residential flat buildings and 2 storey townhouse style buildings with 2 levels of basement carparking, a gym and a swimming pool on land at No. 5 - 19 Lawrence Street, No. 22A Albert Street and No. 18 - 22 Marmora Street, Freshwater.

The applicant was advised in writing of fundamental deficiencies and requested to withdraw the application.

The application was subsequently withdrawn by the applicant on 6 August 2010.

### DA2010/1446

Development Application DA2010/1446 was lodged on 9 September 2010 for the demolition of existing buildings and the construction of mixed-use retail and residential development comprising shop top housing buildings, a residential flat building and townhouse style buildings with 2 levels of basement car parking on land at Nos. 5, 5A, 9, 15 & 21 Lawrence Street, No. 22 - 26 Albert Street and No. 18 - 22 Marmora Street, Freshwater.

The application was initially referred to the Warringah Development Assessment Panel (WDAP) on 1 December 2010 where it was recommended to the Sydney East Joint Regional Planning Panel (JRPP) to defer determination pending clarification of matters pertaining to Category 3 components (as defined under WLEP 2000) in the development. The application was then referred to the JRPP on 9 December 2010 where it was subsequently refused.

A Class 1 appeal was filed with the Land and Environment Court on 15 December 2010 against the refusal of the Development Application by the JRPP. The appeal was dismissed at the hearing on 24

May 2011.

## PLM2012/0045

This pre-lodgement meeting was held on 14 May 2012 to discuss demolition works and the construction of a mixed-use commercial/residential development at Nos. 22 – 26 Albert Street, Freshwater.

## DA2012/1235

Development Application DA2012/1235 was lodged on 18 October 2012 for demolition works and construction of a mixed use development comprising commercial and residential. The application was in response to PLM2012/0045.

The application was referred to the Warringah Development Assessment Panel (WDAP) on 13 February 2013 where it was approved subject to conditions.

## MOD2015/0120

This application was lodged on 16 June 2015 to modify Development Consent DA2012/1235 which was granted for demolition works and the construction of a mixed use development comprising commercial and residential.

The application was approved on 26 August 2015.

## **PROPOSED DEVELOPMENT IN DETAIL**

The applicant seeks consent to stratum subdivide the approved development.

The proposal involves the subdivision on Lot 1 into 5 x stratum lots to separate the 5 approved uses into separate titles.

The 5 proposed lots consist:

- Lot 1 - Residential Use;
- Lot 2 - Supermarket;
- Lot 3 - Retail shop;
- Lot 4 - Retail shop; and
- Lot 5 - Retail/Commercial Carpark.

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:

<b>Section 79C 'Matters for Consideration'</b>	<b>Comments</b>
<b>Section 79C (1) (a)(i)</b> – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
<b>Section 79C (1) (a)(ii)</b> – Provisions of any draft environmental planning instrument	None applicable.
<b>Section 79C (1) (a)(iii)</b> – Provisions of any development control plan	Warringah Development Control Plan (WDGP 2011) applies to this proposal.

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Section 79C 'Matters for Consideration'	Comments
<b>Section 79C (1) (a)(iia)</b> – Provisions of any planning agreement	None applicable.
<b>Section 79C (1) (a)(iv)</b> – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter may be addressed via a condition of consent.</p> <p><u>Clause 92</u> of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter may be addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EPA Regulations 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation is not required to be submitted with this application.</p> <p><u>Clause 143A</u> of the EPA Regulations 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This documentation is not required to be submitted with this application.</p>
<b>Section 79C (1) (b)</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 General Principles of Development Control in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the mixed use character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the mixed use nature of the proposed land use.</p>
<b>Section 79C (1) (c)</b> – the suitability of the site for the development	The site is considered suitable for the proposed development.
<b>Section 79C (1) (d)</b> – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
<b>Section 79C (1) (e)</b> – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## NOTIFICATION & SUBMISSIONS RECEIVED



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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 1 submission/s from:

Name:	Address:
Ann Elizabeth Sharp	77 Brighton Street CURL CURL NSW 2096

The following issue was raised in the submission:

- **Ownership and operation of the retail/commercial carpark**

The submission states:

*"I am concerned about the stratum subdivision that would result in a separate lot for the retail / commercial car park area. The residential component of the car park will be part of the residential lot. However, the retail section of the car park would be owned and managed separately from the retail / commercial premises. This would mean separate control over parking and associated fees. If parking fees are imposed, or are too high, this would discourage the use of the car park allocated for the on-site retail / commercial premises, and potentially result in more cars parking in local streets. Given the existing limited space available for on-street parking in the vicinity, this scenario would have a negative impact on the surrounding environment."*

#### Comment

The ownership and management of the retail/commercial carparking areas are matters to be considered by individual property owners and the strata manager of the development and not a matter which can be considered and/or conditioned under the provisions of s.79C of the EP&A Act 1979.

## MEDIATION

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

## REFERRALS

Internal Referral Body	Comments
Development Engineers	No Development Engineering objection is raised to the proposed development subject to conditions

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid.  In their response dated 12 September 2016, Ausgrid advised that no objection was raised for the proposal and no conditions were imposed.

## 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.

The subject application seeks consent for the stratum subdivision of the development approved under DA2012/1235 and does not introduce any further excavation works which would otherwise require further consideration under the SEPP.

### **SEPP 65 - Design Quality of Residential Apartment Development**

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Flat Development (SEPP 65) stipulates that SEPP 65 only applies to the erection of new residential flat buildings, substantial redevelopment/refurbishment of existing residential flat buildings and the conversion of an existing building to a residential flat building.

The development is for a stratum subdivision only and does not involve any change to the approved development such that further assessment against the provisions of the SEPP and the Residential Flat Design Guideline are necessary.

### **SEPP (Infrastructure) 2007**

#### **Ausgrid**

Clause 45 of SEPP Infrastructure 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 5m 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 5m of an overhead electricity power line

#### Comment

The proposal was referred to Ausgrid.

In their response dated 12 September 2016, Ausgrid advised that no objection was raised for the proposal and no conditions were imposed.

### **Roads and Maritime Service (RMS)**

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Clause 104 and Schedule 3 of the SEPP requires that the following development(s) are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size of Capacity (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Apartment or residential flat building	300 or more dwellings	75 or more dwellings
Shops	2,000m <sup>2</sup>	500m <sup>2</sup>

**Note:** Under Clause 104(2) of the SEPP, 'relevant size of capacity' is defined as meaning:

*"(2) (a) in relation to development on a site that has direct vehicular or pedestrian access to any road - the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*

*(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection - the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3."*

## Comment

The subject application seeks consent for the stratum subdivision of the development approved under DA2012/1235 and does not introduce any additional parking/traffic generation.

Therefore, the application was not required to be referred to the RMS as traffic generating development.

## 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

Standard	Requirement	Proposed	% Variation	Complies
4.3 Height of Buildings	11m	No change to approved	N/A	No change

## Compliance Assessment

Clause	Compliance with Requirements
6.4 Development on sloping land	Yes

## Warringah Development Control Plan



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## Built Form Controls

Numerical Special Area Controls (as applicable under G5 - Freshwater Village)	Requirement	Proposed	% Variation	Complies
<b>1. Built Form in Freshwater</b> R4 - Separation of Retail Entries (Maximum) R4 - Retail Floor to Ceiling Height (Minimum) R5 - Residential Floor to Ceiling (Minimum)	10.0m 3.3m 2.7m	No change	N/A	No change
<b>2. Number of storeys</b>	3			
<b>4. Street Facades and Shopfront Design</b> R2 - Length of shopfronts (Maximum unless into smaller vertical elements)	5.0m to 10.0m			
<b>9. Awnings</b> R3 - Height to the Underside of Awnings above Footpath (Minimum) R8 - Setback of Awnings from Kerb (General)	3.2m 0.6m			
<b>10. Front Setback</b> R1 - Ground Floor R1 - Level 1 (Second Storey) R2 - Level 2 (Third Storey) (Minimum)	Nil Nil 5.0m			
<b>11. Side and Rear Setbacks</b> R1 - To Residential (North) - Basement (Basement Levels 1 and 2) - Ground Floor (Minimum) - Level 1 (Minimum) - Level 2 (Minimum)	2.0m 2.0m 2.0m 2.0m			
<b>12. Other Side and Rear Setbacks</b> R1 - To Commercial (West) - Basement (Basement levels 1 and 2) - Ground Floor - Level 1 - Level 2  To Commercial (South - Bendigo B) - Basement (Basement Levels 1 and 2) - Ground Floor - Level 1 - Level 2	Merit Merit Merit Merit  Merit Merit Merit Merit			
<b>14. Building Massing</b> R2 - Length of Buildings without Separate Co Entry Points (Maximum)	20.0m			

ts  
(Maximum)  
Maximum)

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	N/A	Yes
C1 Subdivision	Yes	Yes
Compliance Assessment		

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Clause	Compliance with Requirements	Consistency Aims/Objectives
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C3(A) Bicycle Parking and End of Trip Facilities	Yes	Yes
D2 Private Open Space	N/A	N/A
D8 Privacy	N/A	N/A
D14 Site Facilities	Yes	Yes
1. Built form in Freshwater	N/A	N/A
2. Number of storeys	N/A	N/A
3. Street activation	N/A	N/A
4. Street facades and shopfront design	N/A	N/A
5. Access and loading	N/A	N/A
6. Lighting	N/A	N/A
7. Safety and security	N/A	N/A
8. Signage	N/A	N/A
9. Awnings	N/A	N/A
10. Front setback	N/A	N/A
11. Side and rear setbacks	N/A	N/A
13. Roofs and building form	N/A	N/A
14. Building massing	N/A	N/A
15. Building sustainability	N/A	N/A
16. Materials and colours	N/A	N/A
17. Active travel links	N/A	N/A

## THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

## POLICY CONTROLS

### Warringah Section 94A Development Contribution Plan

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

## CONCLUSION

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

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

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2016/0874 for Stratum Subdivision of 1 lot into 5 lots on land at Lot 1 DP 830423, 22 - 26 Albert Street, FRESHWATER, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

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

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

##### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Sheet 1 of 4 - Basement Level 2 & Below	18 August 2016	Mark John Andrew
Sheet 2 of 4 - Basement Level 1	18 August 2016	Mark John Andrew
Sheet 3 of 4 - Ground Level	18 August 2016	Mark John Andrew
Sheet 4 of 4 - Level 1 & Above	18 August 2016	Mark John Andrew
Sheet 1 of 3 - Deposited Plan Administration Sheet	18 August 2016	Mark John Andrew
Sheet 2 of 3 - Deposited Plan Administration Sheet	18 August 2016	Mark John Andrew
Sheet 3 of 3 - Deposited Plan Administration	18 August 2016	Mark John Andrew

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Sheet		
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Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Statement of Environmental Effects	16 August 2016	Linker Surveying Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

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

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

## 2. Prescribed Conditions

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

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

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

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

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

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

- (i) in the case of work for which a principal contractor is required to be appointed:
  - A. the name and licence number of the principal contractor, and
  - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
  - A. the name of the owner-builder, and

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

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

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

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)

### 3. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by

the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

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

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

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

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

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

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

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

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

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

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.



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

Note: Systems can be registered at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au)

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

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

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

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

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

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

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

- (1) AS 2918:2001 Domestic Solid Fuel Burning Appliances – Installation.
- (2) AS 4013:2014 Domestic Solid Fuel Burning Appliances – Method of Determination of Flue Gas Emissions.

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

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

### **4. 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.

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.  
(DACENH03)

5. **Right of Carriageway**

A right of carriageway (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and accompanying 88B instrument to include all vehicular access and maneuvering areas.

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

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919. (DACENH04)

6. **Survey Plan - Construction Identification**

A declaration by a registered surveyor shall be provided to Council as evidence that all construction has been effected within the appropriate property, easement boundaries and rights of carriageway. This shall be in the form of a copy of the final subdivision or easement plan, with the distances from the boundaries to the edges of these structures endorsed in red thereon and signed by the surveyor.

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

Reason: To ensure accurate location of buildings, access and services (DACENH12)

7. **Sydney Water Compliance Certification**

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

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](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 charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

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

8. **Easement for Drainage**

An easement for drainage (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision the accompanying 88B instrument to ensure all drainage infrastructure is located within the appropriate easement(s).

# NORTHERN BEACHES COUNCIL

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

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919. (DACENH16)

9. **Easement for Services**

An easement for services (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and the accompanying 88B instrument to ensure all utility services are located within the appropriate easement(s).

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

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.(DACENH18)

10. **Release of Subdivision Certificate**

To enable the lodgement of the final plan at the NSW Land and Property Information Department the Subdivision Certificate shall not be issued until the Final Occupation Certificate for the approved development.

Reason: To ensure that the plans relate to approved development. (DACENH23)

11. **Subdivision Certificate Application**

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

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

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

**Signed**

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**Tony Collier, Senior Development Planner**

The application is determined under the delegated authority of:


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# NORTHERN BEACHES COUNCIL

**Rodney Piggott, Development Assessment Manager**

# NORTHERN BEACHES COUNCIL

## ATTACHMENT A

Notification Plan	Title	Date
 2016/281418	Plan - Notification	25/08/2016

## ATTACHMENT B

Notification Document	Title	Date
 2016/287777	Notification Map	31/08/2016

# NORTHERN BEACHES COUNCIL

## ATTACHMENT C

Reference Number	Document	Date
 2016/281414	Plans - Survey	26/08/2010
 2016/281415	Report-Statement of Environmental Effects	18/08/2016
 DA2016/0874	22-26 Albert Street FRESHWATER NSW 2096 - Development Application - Subdivision	23/08/2016
 2016/278348	DA Acknowledgement Letter - Linker Surveying Pty Ltd	23/08/2016
 2016/281404	Development Application Form	25/08/2016
 2016/281407	Applicant Details	25/08/2016
 2016/281411	Letter - Cover	25/08/2016
 2016/281421	Deposited Plan Administration Sheet	25/08/2016
 2016/281423	Plan - Subdivision	25/08/2016
 2016/281418	Plan - Notification	25/08/2016
 2016/285294	Advertising Documents and Exhibition Notice for paper on 03 09 2016	30/08/2016
 2016/287777	Notification Map	31/08/2016
 2016/287774	Notification Letters - 670	31/08/2016
 2016/305160	Referral Response - Ausgrid (email only)	12/09/2016
 2016/307261	Development Engineering Referral Response	14/09/2016
 2016/314933	Online Submission - Sharp	20/09/2016
 2016/356554	Stamped Plans	01/11/2016