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# **Statement of Environmental Effects**

**13A Willow Tree Crescent, Belrose NSW 2085**


**Propose Strata Subdivision to existing dual occupancy**

**Submit to Northern Beaches Council**

**June 2021**

**For further assistance please contact us:**

 **02 9630 9844**

 **info@projectflow.net.au**

 **projectflow.net.au**

## Contents

<b>Part 1. Introduction .....</b>	<b>3</b>
<b>Part 2. The existing development and surrounding developments.....</b>	<b>4</b>
<b>Part 3: Surrounding developments.....</b>	<b>7</b>
<b>Part 4. Proposal .....</b>	<b>8</b>
<b>Part 5: Assessment for the proposal .....</b>	<b>10</b>
<b>PART 6. Section 4.15(1) considerations .....</b>	<b>16</b>
<b>Part 7. Conclusions.....</b>	<b>17</b>

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## **Part 1. Introduction**

This planning report is submitted to North Sydney Council in support of a Development application (DA) for proposed Strata Subdivision to existing dual occupancy at the above-mentioned address.

The planning report provides an analysis of the site and surrounding environments. It is to be read in conjunction with the architectural drawings. It provides an outline of the subject and surrounding sites, a description of the proposal and an assessment under the relevant Planning Controls. Also, this report carries out an assessment under the relevant planning controls in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act, 1979.

The site is zoned R2 Low Density Residential zone pursuant to the Warringah Local Environmental Plan 2011(WLEP 2011). The dual occupancy is no longer permissible under the current WLEP2011, it was approved on 29<sup>th</sup> October 1997 by Stephen Pinn from previous Warringah Council.

The proposed subdivision has been designed to ensure adequate accesses to the subject dwellings and the adjoining dwellings. The proposal has considered the location of the development on the site, the internal layout and the building materials used.

Overall, it is considered that the proposal provides for a high degree of amenity with no unreasonable shadow, view or privacy impacts.

Therefore, it is considered that the proposal is worthy of approval.

**For further assistance please contact us:**

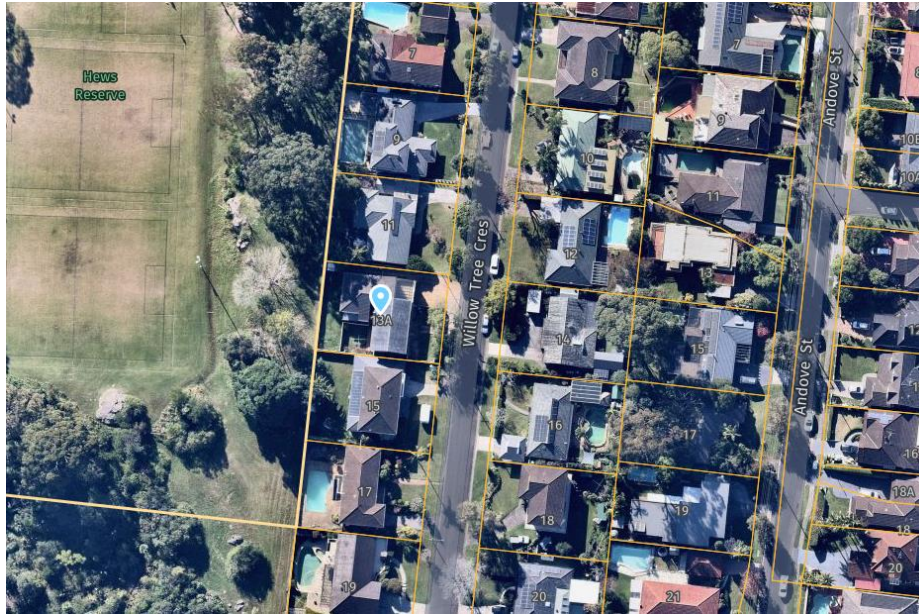
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## Part 2. The existing development and surrounding developments

The existing development is known as 13A Willow Tree Crescent Belrose NSW 2085 and is described as Lot 7, DP 236912. It is located in the low-density residential zone and to the west of Willow Tree Crescent and the south of Hews Parade.



*Figure 1: Aerial photo of surrounding area (Source: Near map)*

The subject site is irregular in shape with a northern frontage of 22.403m to Willow Tree Crescent, a northern side boundary of 31.39m, a southern side boundary of 31.394m and a rear boundary of 22.40m. The site has an area of 565sqm by calculation.

The subject site currently contains two double-storey dwellings attached at the site. A shared driveway runs along the northern boundary of the site, leading to the attached garage at the front of the site. The dual occupancy is no longer permissible under the current WLEP2011, it was approved on 29<sup>th</sup> October 1997 by Stephen Pinn from previous Warringah Council.

**For further assistance please contact us:**

HB5151/13-C/SP.DB/sp427.doc  
S Pinn, Ph: 9942 2593  
Mobile: 018 296 173  
17 February 2000

Mr J Shirvanian  
13 Willow Tree Crescent  
BELROSE NSW 2085

Dear Sir,

**Re: Premises – No. 13 Willow Tree Crescent Belrose  
Dual Occupancy Development – BA1573/97 dated 29.10.1997**

This is to confirm that a recent inspection of the above property by Council revealed that the subject dual occupancy development has been completed to Council's satisfaction and in accordance with Approval No. 1573/97 dated 29.10.1997.

Permission is therefore granted to occupy.

All outstanding bonds and deposits are presently being processed and will be forwarded to you in due course.

It is trusted that the above information is of assistance and should you have any further queries, please contact Mr S Pinn of Council's Local Approvals Service Unit.

Yours faithfully,



Stephen Pinn  
Team Leader Development Assessment

Figure 2: Notice of Approval of dual occupancy at the subject address (Source: Owner provided)

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*Figure 3: Aerial photo of subject lot (Source: Near map)*



*Figure 4. Front elevation of subject lot (Source: Near map)*

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### Part 3: Surrounding developments

The subject local area is consisting of a mix of single storey and double storey dwelling houses with attached garages. The front yard of the properties along the subject street are well landscaped.



*Figure 5: Front elevation of No.11 Willow Tree Crescent to the north of the property  
(Source: Google Street view)*



*Figure 6: Front elevation of No. 15 Willow Tree Crescent to the south of the property  
(Source: Google Street view)*

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## Part 4. Proposal

The proposal is seeking the approval for the proposed strata subdivision to existing dual occupancy. Although the dual occupancy is not permissible under the current WLEP 2011, the strata subdivision to existing lot is still allowable to allow two different titles which provides a housing choice to the local community.

There will be a common property at the rear of the property, with four courtyard area in the site. The dwelling at front will be numbered as No.13 Willow Tree Crescent and No.13A Willow Tree Crescent for the rear dwelling.

The proposed subdivision plan is attached below:

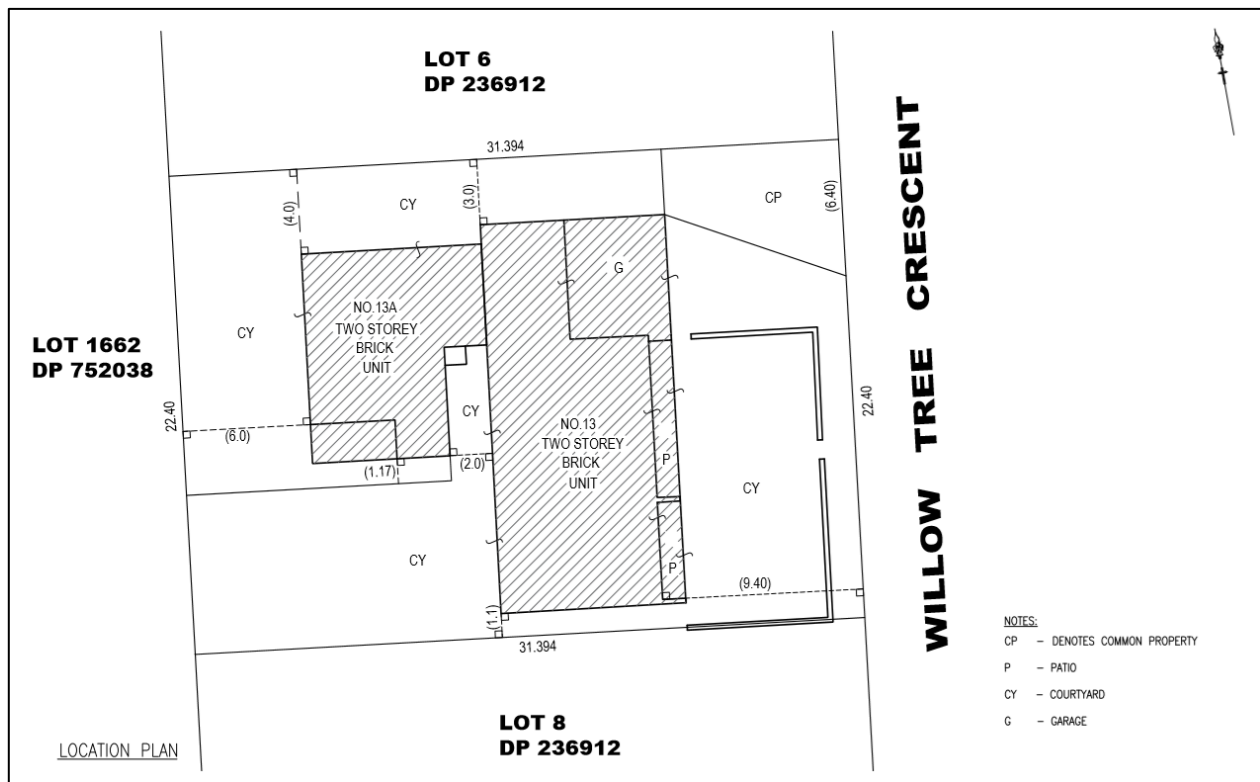


Figure 7: Proposed subdivision plan of the subject property

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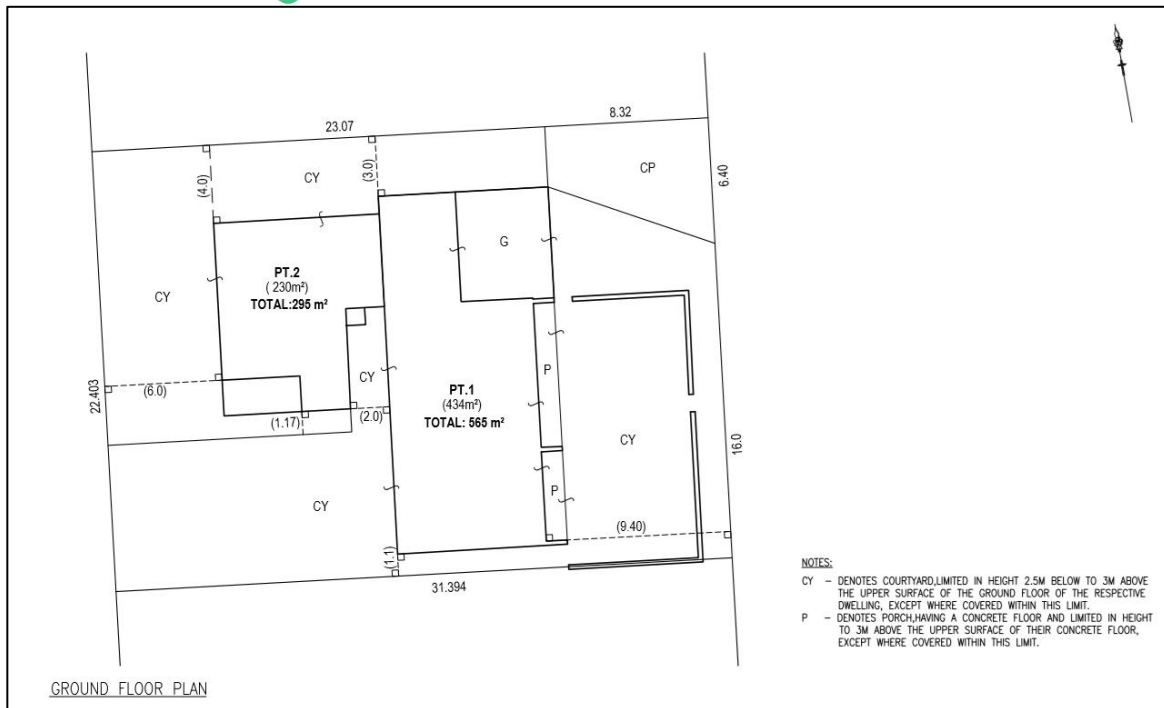


Figure 8: Proposed subdivision ground floor plan of the subject property

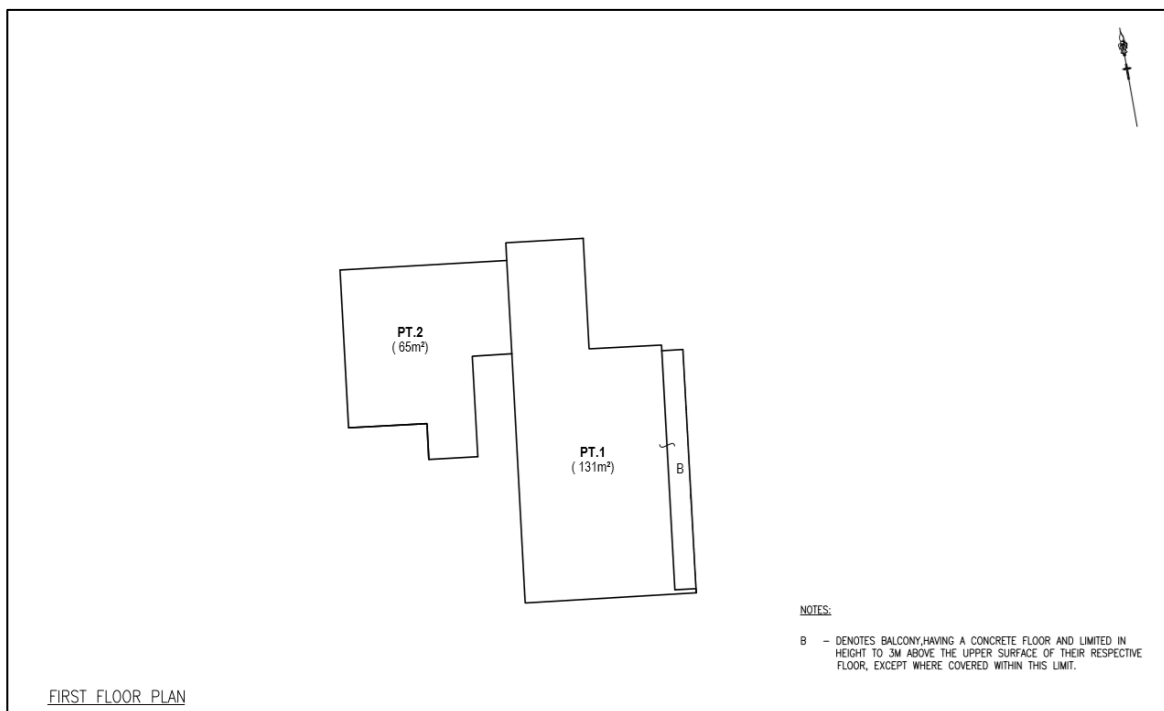


Figure 9: Proposed subdivision first floor plan of the subject property

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## Part 5: Assessment for the proposal

There is an existing dual occupancy and it does not change the use of the property. The building heights and FSR are existing.

### ***Warringah Local Environmental Plan 2011***

<i>Item</i>	<i>Standard</i>	<i>Compliance</i>
<i>Clause 4.1 Minimum Subdivision Lot size</i>	600sqm	N/A as No Torrens Title Subdivision Plan proposed
<i>Clause 4.3 Building Heights</i>	8.5m	No change
<i>Clause 4.4 FSR</i>	N/A	No change

#### **4.1 Minimum subdivision lot size**

- (1) *The objectives of this clause are as follows—*
- (a) *to protect residential character by providing for the subdivision of land that results in lots that are consistent with the pattern, size and configuration of existing lots in the locality,*
  - (b) *to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development,*
  - (c) *to protect the integrity of land holding patterns in rural localities against fragmentation,*
  - (d) *to achieve low intensity of land use in localities of environmental significance,*
  - (e) *to provide for appropriate bush fire protection measures on land that has an interface to bushland,*
  - (f) *to protect and enhance existing remnant bushland,*
  - (g) *to retain and protect existing significant natural landscape features,*
  - (h) *to manage biodiversity,*
  - (i) *to provide for appropriate stormwater management and sewer infrastructure.*
- (2) *This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Plan.*
- (3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.*
- (3A) *For the purposes of subclause (3), in calculating the size of a lot the area of any access corridor (including any right of carriageway, access way or other area that provides for vehicle access) is to be excluded, whether the access corridor is to be created or is in existence at the time of the application for development consent for the subdivision.*
- (4) This clause does not apply in relation to the subdivision of any land—**
- (a) by the registration of a strata plan or strata plan of subdivision under the [Strata Schemes Development Act 2015](#), or**

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*(b) by any kind of subdivision under the [Community Land Development Act 1989](#).*

**Assessment:**

The minimum lot size is not applicable to the existing dual occupancy as there is no Torrens Title Subdivision proposed in this application. The aim of the application is to create two separate titles to allow additional family living on the subject site which helps provide affordable housing choices to the local community. There are no other clauses inside the WLEP 2011 in regards to the Strata subdivision for dual occupancy.

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## 6. Existing use rights

The subject site is located in R2 low density residential zone, which dual occupancy is no longer permissible. However, the existing dual occupancy has been established on the site long time ago before the Warringah LEP is made. As such, the subject land enjoys the existing use rights in accordance with the Division 4.11 Clause 4.65 within the *Environmental Planning and Assessment Act 1979 No 203 (EPA&A)*. The subject dual occupancy has been always occupied by the residents. As such, the existing use has not been lost.

### **Division 4.11 Existing uses**

#### **4.65 Definition of “existing use” (cf previous s 106)**

*In this Division, existing use means—*

- (a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and*
- (b) the use of a building, work or land—*
  - (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
  - (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

#### **4.66 Continuance of and limitations on existing use** *(cf previous s 107)*

- (1) Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.*
- (2) Nothing in subsection (1) authorises—*
  - (a) any alteration or extension to or rebuilding of a building or work, or*
  - (b) any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or*
  - (c) without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or*
  - (d) the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 4.17(1)(b), or*

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*(e) the continuance of the use therein mentioned where that use is abandoned.*

- (3) Without limiting the generality of subsection (2)(e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.*
- (4) During the period commencing on 25 March 2020 and ending on 25 March 2022, the reference to 12 months in subsection (3) is taken to be a reference to 3 years.*

The proposal does not plan to carry out any building work to the property and there is no any expansion of the building being proposed as well. The subject proposal is to strata subdivide the existing dual occupancy without changing the use of the dual occupancy or creating any additional allotment. In another words, there is no intensification of the use on site as the dual occupancy will still be occupied by two separate family households on one single lot.

Collectively, the existing use rights has been demonstrated and the dual occupancy use can continue to be used.

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## ***Assessment under Warringah Development Control Plan***

### ***Part C - Siting Factors***

#### ***C1 Subdivision***

##### ***Requirements***

***1. R2 Low Density Residential zone requirements:***

*Proposed new allotments:*

- a) Minimum width: 13 metres*
- b) Minimum depth: 27 metres; and*
- c) Minimum building area: 150m<sup>2</sup>*

**Assessment:** Not applicable. There is no new allotment created on the subject site, the proposal remains the single allotment but to subdivide the buildings on site.

##### ***Access***

***2. Motor vehicle access to each residential allotment is required from a constructed and dedicated public road.***

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

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

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

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

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

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

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

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

*Width of accessways are to be as follows tables.*

**Assessment:** Existing vehicle access to the carparking spaces have been provided on site and it accesses directly from Willow Tree Crescent. Council service vehicles, emergency vehicles and garbage collection vehicles could access the site at the street frontage without any obstructions. The driveways and accessways are existing. No passing bay is required due to the relative short driveway distance. No battle-axe subdivision is proposed on site.

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### ***Drainage***

*4. Provision should be made for each allotment to be drained by gravity to a Council-approved drainage system. The topography of the land should not be altered to adversely affect the natural drainage patterns. Stormwater should drain directly to a Council-approved drainage system and not via adjoining properties unless via a formalised interallotment drainage system. The proposed allotments are to be drained to the direction of the natural fall of the land. Interallotment drainage easements will be required through adjoining properties to adequately drain land to Council's downstream system.*

**Assessment:** There is no change to the stormwater aspect and all the restrictions will be included in the Title Documents.

### ***Restrictions***

*5. Any easement, right-of-carriageway, or other restriction that is placed on the title of any land as a requirement of the approval of the subdivision is to be protected by a positive covenant or like instrument with the Council nominated as a party.*

**Assessment:** There is no new allotment created on the subject site, the proposal remains the single allotment but to subdivide the buildings on site.

### ***Environmentally constrained land***

*6. In areas subject to constraints such as flooding, tidal inundation, threatened species, landslip risk, bushfire or any other matter, adequate safe area for building, where the risk from hazard is minimised, is to be provided within an allotment.*

*Where possible, lot boundaries should utilise natural land features such as creeks, escarpments and rock outcrops.*

**Assessment:** There is no new allotment created on the subject site, the proposal remains the single allotment but to subdivide the buildings on site.

**For further assistance please contact us:**

## **PART 7. Section 4.15(1) considerations**

The following matters for consideration have been assessed in accordance with Section 4.15(1) under the Environmental Planning and Assessment Act 1979.

Section 4.15(1)(a)(i) - Environmental Planning Instruments. The proposal demonstrates compliance with the applicable environmental planning instruments – *Warringah Local Environmental Plan 2011* as addressed under Part 5 of this report. The proposed development achieves the zone objectives and the intent of the zone. Furthermore, the proposal does not change the applicable height control and associated objectives.

Section 4.15(1)(a)(ii) – Proposed Planning Instruments. The proposal is consistent with the applicable draft environmental planning instruments as addressed under Section 5 of this report.

Section 4.15(1)(a)(iii) – Development Control Plans. The applicable development control plan – Parramatta Development Control Plan is addressed under Part 5 in this report.

Section 4.15(1)(a)(iiia) – Planning agreements or draft planning agreements submitted under Section 93F. There are no planning agreements or draft planning agreements submitted under Section 93F.

Section 4.15(b) - Throughout the period of construction, all measures will be taken to ensure that any noise, dust, and vibration will be kept to a minimum. All construction works will comply with the Building Code of Australia and any other relevant legislation for the duration of the works.

Upon completion of the proposal, the day-to-day operations of the development are unlikely to cause undue impact in relation to noise, pollution, drainage and pedestrian / vehicular traffic flows.

**For further assistance please contact us:**



## **Part 8. Conclusions**

This Statement of Environmental Effects has provided an assessment of the Propose Strata Subdivision to existing dual occupancy. In accordance with the Warringah Local Environmental Plan (WLEP) 2011, the subject site is located within the R2 zone. The proposal does not change the use of the site. It is therefore considered that the proposed development satisfies the zone objectives.

Overall, it is considered that will not have any adverse impact on the subject site and surrounding streetscape. The proposal provides for a high degree of amenity with no unreasonable shadow, view or privacy impacts.

Therefore, it is considered that the proposal is worthy of approval.

**Monica Chen**

Town Planner

Master of urbanism (Urban and Regional Planning)

**For further assistance please contact us:**