

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2025/0085 |
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| Responsible Officer: | Kye Miles |
| Land to be developed (Address): | Lot 1 DP 1199795, 28 Lockwood Avenue BELROSE NSW 2085 |
| Proposed Development: | Stratum subdivision of one lot into two lots |
| Zoning: | Warringah LEP2011 - Land zoned E1 Local Centre |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Applicant: | Alexander Andrew Kyrikos |

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| Application Lodged: | 27/02/2025 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Other |
| Notified: | Not Notified |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 0.00 |
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PROPOSED DEVELOPMENT IN DETAIL

This development application seeks consent for a “Building” Stratum Subdivision of the current Lot 1 in DP1199795 development with associated basement car parking and open spaces. The proposed subdivision comprises the following:

- 1 Retail/Commercial Lot (Lot 1 in the Draft Stratum Subdivision)
- 1 Residential Lot (Lot 2 in the Draft Stratum Subdivision)

Rights of carriageway will be provided over Lot 1 for the Strata parking for the residential properties.

Additionally, no physical works are proposed as part of this development application.

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

SITE DESCRIPTION

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| Property Description: | Lot 1 DP 1199795 , 28 Lockwood Avenue BELROSE NSW 2085 |
| Detailed Site Description: | <p>The site is an irregular shaped allotment. It has a frontage of 61.785m to Lockwood Avenue to the south, 27.945m to Glen Street to the south-east and 75.7m to Glenrose Place to the north and north-east. The site area is 5,322m² (by Title).</p> <p>The site slopes gently from its southern boundary (Lockwood Avenue) down to its northern boundary (Glenrose Place). The total fall is approximately 6.1m, representing an average gradient of 1 in 9.3 (7.2% or 4.1°).</p> <p>The site was previously used for many years as the Belrose Library which has since been demolished to make way for the approved construction.</p> <p>Adjoining the site to the south-east is a service station. Adjoining the site to the west is an area of public open space and a public pathway. On the opposite side of the public pathway is a dwelling house and childcare centre.</p> |

To the south, west and north-west of the site, the area has been developed primarily for residential development with the predominant form being single dwelling houses in landscaped settings.

To the north-east of the site, on the opposite side of Glenrose Place, is the Glenrose Shopping Centre, particularly the loading areas and vehicular access from Glenrose Place.

To the east of the site, on the opposite side of Glen Street, is the Glen Street Community Hub including library, theatre, and gymnasium.

Map:



SITE HISTORY

- **Development Application - DA2020/0393** - Demolition works and construction of a shop top housing development - Refused by the Sydney North Planning Panel (SNPP) on 19 October 2020, which concurred with the Council's recommendation.

The Applicant appealed the SNPP's determination, and the Land and Environment Court of NSW subsequently upheld the Appeal (8 November 2021) and development consent was granted. The LEC judgement noted that the amended plans filed with the Court on 9 July 2021 (and ultimately approved by the Court) included the following notable changes relative to the scheme that was refused by the SNPP:

1. Approximately 1600m² reduction in the floor area of the development;
2. Modest reduction in the overall height of the development;
3. Reduction in the number of residential units from 51 to 49 and removal of a proposed gymnasium; and
4. Increased provision of on-site car parking spaces from 190 to 238.

- **Modification Application - Mod2022/0559** - Modification of Development Consent DA2020/0393 granted for Demolition works and construction of a shop top housing development comprising retail premises, 49 dwellings, basement carparking and landscaping - Approved 3 March 2023.
- **Modification Application - Mod2024/0079** - Modification of Development Consent DA2020/0393 granted for Demolition works and construction of a shop top housing development comprising retail premises, 49 dwellings, basement carparking and landscaping - Approved 29 July 2024.
- **Modification Application - Mod2024/0473** - Modification of Development Consent DA2020/0393 granted for Demolition works and construction of a shop top housing development comprising retail premises, 49 dwellings, basement carparking and landscaping - Approved 13 March 2025.

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 | Warringah Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iiia) – 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) | <p><u>Part 4, Division 2</u> 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.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 69</u> of the EP&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> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental | <p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the</p> |

| Section 4.15 Matters for Consideration | Comments |
|--|--|
| impacts on the natural and built environment and social and economic impacts in the locality | Warringah Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use. |
| 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

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application was not notified.

REFERRALS

| Internal Referral Body | Comments |
|--------------------------------|--|
| NECC (Development Engineering) | No objections to the proposed stratum subdivision subject to conditions. |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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. The subject application seeks consent for the stratum subdivision of one lot into two, and does not introduce any excavation works which would otherwise require further consideration under the SEPP. 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 its intended land use.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

This development application seeks consent for stratum subdivision of the building. No physical works are proposed. As such, consideration of the principal development standards are not required, in this particular circumstance.

Compliance Assessment

| Clause | Compliance with Requirements |
|---|------------------------------|
| 2.6 Subdivision - consent requirements | Yes |
| 4.6 Exceptions to development standards | N/A |
| 6.4 Development on sloping land | Yes |

Warringah Development Control Plan

Built Form Controls

This development application seeks consent for stratum subdivision of the building. No physical works are proposed. As such, consideration of the built form controls are not required, in this particular circumstance.

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|----------------|------------------------------|-----------------------------|
| C1 Subdivision | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|-----------------------|------------------------------|-----------------------------|
| C3 Parking Facilities | Yes | Yes |
| D14 Site Facilities | Yes | Yes |

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 2024

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 2021;
- 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 DA2025/0085 for Stratum subdivision of one lot into two lots on land at Lot 1 DP 1199795, 28 Lockwood Avenue, BELROSE, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

| Approved Plans | | | | |
|----------------|-----------------|--------------------|-----------------------------|-----------------|
| Plan Number | Revision Number | Plan Title | Drawn By | Date of Plan |
| Sheet 1 of 8 | 8 | Location Plan | Walton Consulting Surveyors | 24 January 2025 |
| Sheet 2 of 8 | 8 | Basement 4 & Below | Walton Consulting Surveyors | 24 January 2025 |
| Sheet 3 of 8 | 8 | Basement 3 | Walton Consulting Surveyors | 24 January 2025 |
| Sheet 4 of 8 | 8 | Basement 2 | Walton Consulting Surveyors | 24 January 2025 |
| Sheet 5 of 8 | 8 | Lower Ground | Walton Consulting Surveyors | 24 January 2025 |
| Sheet 6 of 8 | 8 | Ground Floor | Walton Consulting Surveyors | 24 January 2025 |
| Sheet 7 of 8 | 8 | Level 1 | Walton Consulting Surveyors | 24 January 2025 |
| Sheet 8 of 8 | 8 | Roof & Above | Walton Consulting Surveyors | 24 January 2025 |

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

2. **Easement and Right of Way Creation**

The Applicant shall create easements for vehicular and personal access (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision, to accompany the Section 88B instrument .

The Applicant shall create an easement for services (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision, to accompany the Section 88B instrument to ensure all utility services are located within the appropriate easement(s).

Details demonstrating compliance are to be submitted to the Council prior to the issue of the Subdivision Certificate.

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

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>> 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 Council prior to the issue of the Subdivision Certificate.

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

4. **Building Management Statement**

The applicant shall prepare a building management statement in accordance with Section 196D *Conveyancing Act 1919* .The Building Management Statement (BMS) is to be registered with a plan of subdivision of a building . The statement must make reference to certain matters relating to the management of the building including the manner in which disputes are to be settled.

Details demonstrating compliance are to be submitted to Council prior to the issue of the Subdivision Certificate.

Reason: To comply with statutory requirements of the energy authority.

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, 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.

6. 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 Certifier 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



Kye Miles, Planner

The application is determined on 01/04/2025, under the delegated authority of:



Steven Findlay, Manager Development Assessments