

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/0985
<b>Responsible Officer:</b>	Adam Mitchell
<b>Land to be developed (Address):</b>	Lot 100 DP 1023183, Meatworks Avenue, Oxford Falls
<b>Proposed Development</b>	Strata subdivision of an industrial warehouse development
<b>Locality:</b>	B2 Oxford Falls Valley - WLEP 2000
<b>Category of Development:</b>	Category 2 (subdivision)
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	Northern Beaches Council
<b>Land and Environment Court:</b>	No
<b>Owner:</b>	Numeve Pty Ltd
<b>Applicant:</b>	Gelder Group Architects
<b>Application Lodged:</b>	5 July 2021
<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>Submission Received:</b>	Nil
<b>Clause 20 Variation:</b>	Nil
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	Nil

### EXECUTIVE SUMMARY

Development Consent is sought for the staged strata subdivision of an approved industrial warehouse development at Lot 100, Meatworks Avenue, Oxford Falls (the Meatworks site).

This application is referred to the Local Planning Panel for determination due to a conflict of interest between the applicant and a member of planning staff.

The consent sought relates to the subdivision of a series of industrial buildings approved by the Land and Environment Court of NSW relating to development applications DA2011/0985 (26 April 2013) and DA2019/1340 (26 March 2021). The consent sought does not seek, nor authorise any physical changes to the development already approved.

The application seeks four stages of strata subdivision as illustrated in the accompanying strata plan. Stage 1 of consists of the original plan creating the scheme and contains lots 1 to 21. Upon registration of Stage 1 it is intended to create development lots 22, 23 and 24 (respectively Stages 2, 3 and 4).

The subdivision constitutes *Authorised Proposal* pursuant to Section 73 of the Strata Schemes Development Act 2015, meaning that a developer is authorised, but cannot be compelled to carry out the development described in the accompanying Strata Development Contract. *Warranted Development* is not required to carry out the staged

development of this consent. Both Warranted Development and Authorised Proposals are a form of Permitted Development.

Section 75 of the Strata Schemes Development Act 2015 outlines the obligations of a planning authority which includes (but is not limited to) the certification on the 'Approved Form' that the carrying out of the permitted development would not contravene any condition subject to which the approval granted. That is, the description of development on the Strata Development Contract must be consistent with a development consent.

The 'Approved Form' is in respect to an Approved Form 8 from the Registrar General of the NSW Land Registry Services and contains a 'Certificate of Planning Authority' which a delegate of the planning authority must certify.

Should the Panel determine this application by way of approval, the Council will seek for the relevant delegate to sign the Certificate of Planning Authority, to be issued concurrently to the applicant.

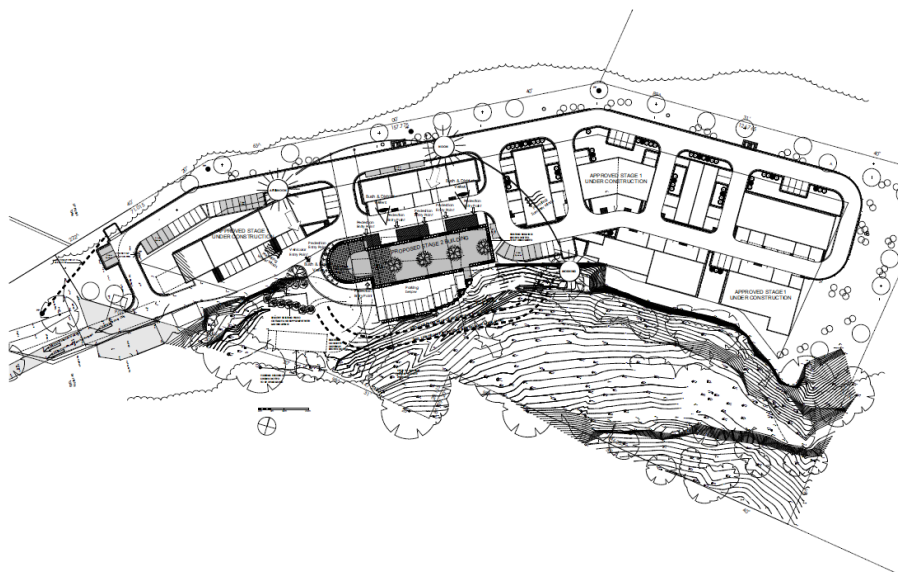
The assessment of this application has found that the strata subdivision of the land shall have no environmental impact on the land, nor amenity impact to neighbouring occupiers (present or future). The exercise of strata subdivision is administrative and is recommended for approval.

## **PROPOSED DEVELOPMENT IN DETAIL**

Development Consent is sought for the staged strata subdivision of the site. The development scheme of the strata subdivision is described in the accompanying Strata Development Contract and will be completed over several stages.

Stage 1 of the development is illustrated in the strata plan, shall be completed upon registration of the plan, and contains lots 1 to 21. Upon registration of Stage 1 it is intended to create development lot(s) 22, 23 and 24 (being Stages 2, 3 and 4 respectively). The subdivision of those lots is in accordance with the built form approved on site.

An extract of the site plan as approved is shown below:



These nine buildings are approved via two different NSW Land and Environment Court consents described in the Site History section of this report.

Whilst the concept of a staged strata subdivision is seldom utilised, the end result (for both Council and the public) is the same as a regular strata subdivision. Subdivision in this fashion simply permits the developer to carry out the works described in the Strata Development Contract without seeking the resolution of an owner's corporation. Nothing in a Strata Development Contract implies that development consent has been granted by the consent authority, and the endorsement of that Contract does not imply development consent for the carrying out of physical works.

## **AMENDED PLANS**

Upon lodgement of the development application there was a proposed 'Stage 5' subdivision to create 'Lot 25'. Lot 25 can generally be described as the sloping bushland area shown on the above graphic to be vacant of buildings. That land is subject to a bushland covenant pursuant to development consent DA2011/0985 and was therefore unsuitable to be identified as a 'Development Lot', earmarked for the *construction of industrial units*.

This concern was discussed with the applicant and it was agreed that Lot 25 would not be identified as a Development Lot and shall remain as a lot within the strata plan. The terms of the bushland covenant remain applicable to the site (Lot 100) as a whole.

## **ASSESSMENT INTRODUCTION**

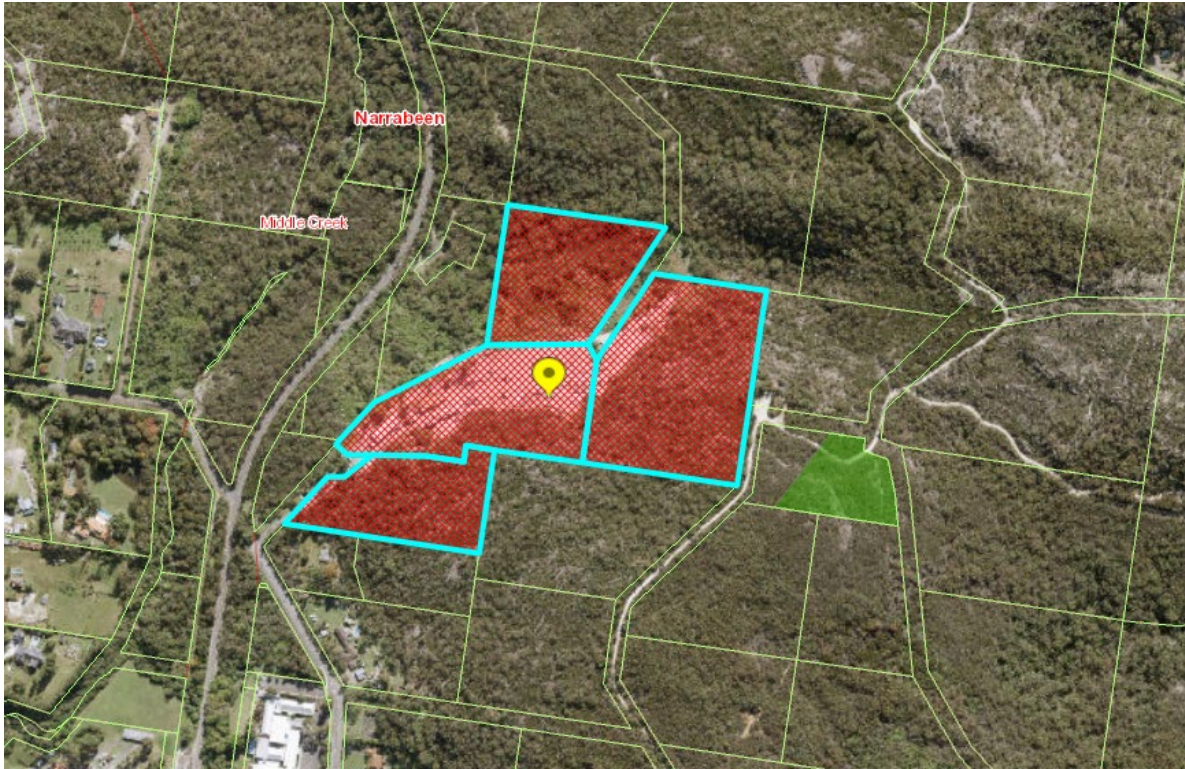
The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- 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.

## **SITE DESCRIPTION**

The subject site is legally described as Lot 100 DP 1023183 and is known as Lot 100 Meatworks Avenue, Oxford Falls identified with a yellow flag below. The subject site forms part of a larger collective of lots, identified with red hatching under a Permissive Occupancy of 3 parcels (Lots 1046, 1047 and 1053) of Crown land. The proposed development is only

located on Lot 100. The subject site is an irregularly shaped allotment with the total site area of 34,120m<sup>2</sup> (3.412ha) and is located at the northern end of Meatworks Avenue, as shown in Figure 3 below.



**Figure 3 - Site Map**

The subject site is a sloping allotment having a fall from south to north and from west to east, with a large rock escarpment traversing the southern portion of the site. The area to the south of the escarpment comprises dense remnant bushland. The northern part of the site is under construction as part of Development Consent No. DA2011/0985 and contains a number of other buildings and uses, comprising:

- Public Weighbridge
- Dwelling House
- Administration Building
- A storage building

The existing dwelling house (brick building) is located adjacent to the southern boundary of the site and a fibro building used for storage is situated to its north, which are both proposed to be demolished as part of this application.

Vehicular access to the site is currently via Meatworks Avenue, which terminates at the front boundary of the site. A central driveway traverses the centre of the site then gives access through the newly constructed development with secondary access roads accessing the upper and lower portions of the site.

The subject site is surrounded by large vacant allotments that are covered in dense bushland. Immediately to the northwest of the site is Public Open Space, which is also located within the B2 Locality and is an identified Conservation Area. The B2 locality is

generally rural/residential in character in the immediate vicinity of the subject site and contains a range of other land uses comprising:

- Undeveloped native bushland to the north and east of the site.
- Detached dwelling houses on large allotments to the south and west of the site.
- Educational establishments fronting Wakehurst Parkway to the south and south-west of the site.

## Site History

### 2013 Court Approval (DA2011/0985)

On 26 April 2013, the Land and Environment Court (LEC) granted development consent to an application proposing the construction of a light industrial/ warehouse development with ancillary office space on the subject site (proceedings 10526 of 2012). The works associated with this consent have been physically commenced and are well advanced. The relevant Construction Certificates are CC2018/0420 and CC2019/0078.

### Development Application DA2019/1340

Development Application DA2019/1340 for demolition works and construction of additions to an approved industrial and warehouse development refused by the Northern Beaches Local Planning Panel on 22 May 2020. This application was subject to an appeal in the NSW Land and Environment Court, which was upheld with amended plans. The consent was issued on 26 March 2021.

### Development Application DA2021/0385

Development Application DA2021/0385 for alterations and additions to a warehouse and ancillary office was recommended approval by the Independent Assessment Panel and endorsed by the Director Place and Planning, with consent issued on 21 June 2021.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

Section 4.15 'Matters for Consideration'	Comments
<b>Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument</b>	See discussion on Environmental Planning Instruments within this report
<b>Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument</b>	None Applicable
<b>Section 4.15 (1) (a)(iii) – Provisions of any development control plan</b>	None Applicable
<b>Section 4.15 (1) (a)(iiia) - Provisions of any Planning Agreement or Draft Planning Agreement</b>	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The site is the subject of an approval for industrial/warehouse development.

Section 4.15 'Matters for Consideration'	Comments
	The proposed development retains the approved industrial use of the site, and is not considered a contamination risk, as discussed under SEPP 55 of this report.
<b>Section 4.15 (1) (a)(iv) - Provisions of the regulations</b>	<p>Clause 98 of the Environmental Planning and Assessment Regulation 2000 states that a prescribed condition of consent is that the work is to be undertaken in accordance with the Building Code of Australia (BCA). If the application is approved a condition of consent could be included in the recommendation to ensure that the proposal complies with the BCA.</p> <p>Clause 93 and 94 of the EPA Regulations 2000 requires the consent authority to consider fire safety and structural issues. Accordingly, appropriate conditions of consent are recommended for imposition should this application be considered worthy of approval for existing buildings that are proposed to be retained.</p>
<b>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.</b>	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control table in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact on the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the industrial nature of the proposed land use.</p>
<b>Section 4.15 (1) (c) – The suitability of the site for the development.</b>	The site is considered suitable for the strata subdivision of the approved industrial development.
<b>Section 4.15 (1) (d) – Any submissions made in accordance with the EP&amp;A Act or EP&amp;A Regulation</b>	The application did not require notification.
<b>Section 4.15 (1) (e) – The public interest</b>	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 do not apply to this application.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has not been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Northern Beaches Community Participation Plan as the proposal only involves the strata subdivision of the approved development.

## **REFERRALS**

<b>Internal Referral Body</b>	<b>Comments</b>
<b>NECC (Development Engineering)</b>	Comments incoming.
<b>Traffic Engineering</b>	<b>Supported</b> No objections are raised to the subdivision of the site, subject to consideration being given to the parking allocations in accordance with the WDCP 2000.

## **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.

## **Strata Schemes Development Act 2015**

The Strata Schemes Development Act 2015 repeals the Strata Schemes (Freehold Development) Act 1973 and the Strata Schemes (Leasehold Development) Act 1986.

This application pertains to the staged development of strata subdivision of an approved industrial warehouse complex.

Section 73(1) of the Strata Development Schemes Act 2015 provides the following explanation of staged development:

- (1) The proposed development in stages of a parcel subject to a strata scheme consists of—*
- (a) the progressive improvement of the parcel by the construction of buildings or the carrying out of works on development lots, and*
  - (b) the subsequent subdivision of each development lot and the consequential adjustment of the unit entitlement of lots in the scheme.*

A staged development strata plan requires the developer to provide a disclosure document which indicates the proposed approved future developments within a scheme. The disclosure document is called a *Strata Development Contract (SDC)*, prepared in the Approved Form from the Registrar General of the NSW Land Registry Services.



The SDC provides details of the future subdivision of the parcel of land. All developments will have at least 2 stages and 1 development lot. Stage 1 is the original plan creating the scheme and includes the SDC. The stages described in the contract begin with Stage 2. Each new stage must be a subdivision of a development lot. A new development lot may be created at each stage and must be indicated in the strata plan of subdivision in accordance with the SDC.

There can be 2 types of development identified in an SDC, Warranted Development and Authorised Proposals. Section 73(3) – (4) of the Act describes these as:

*(3) The development is carried out subject to a strata development contract that describes separately—*

*(a) any proposed development that the developer for the development lot warrants will be carried out and may be compelled to carry out (**warranted development**), and*

*(b) any other proposed development that the developer will be authorised but cannot be compelled to carry out (**authorised proposals**).*

*(4) Warranted development and authorised proposals are referred to as **permitted development** because the owners corporation of the strata scheme and other persons having estates or interests in lots included in the parcel must allow it to be carried out in accordance with the strata development contract.*

There is no Warranted development to be carry out in this consent.

An SDC must include a concept plan. The concept plan is required to separately illustrate the sites proposed for and the nature of building works that will result in the carrying out of permitted development and identifying what is warranted development.

This development application seeks Council to endorse an SDC by way of signing a Certificate of Planning Authority attached to that SDC.

Clause 75 of the Strata Schemes Development Act 2015 (**SSD Act**) outlines the obligations of planning authorities in relation to an SDC as follows:

#### *75 Obligations of planning authorities*

*(1) A planning authority must not grant planning approval for the subdivision of land by a strata plan for the purposes of the development in stages of a parcel under this Part unless—*

*(a) the proposed strata plan includes a development lot, and*

*(b) the application for the planning approval is accompanied by a proposed strata development contract.*

*(2) When a planning authority grants a planning approval in accordance with this section, it must certify in the approved form that carrying out the permitted development would not contravene—*

*(a) any condition subject to which the approval was granted, or*

*(b) the provisions of any environmental planning instrument in force when the approval was granted, except to the extent, if any, specified in the certificate.*



*(3) A planning approval that purports to have been granted in contravention of this section is invalid.*

This current development application is accompanied by a Strata Development Contract prepared in the Approved Form and includes a concept strata plan.

The SDC details that Stage 1 of the development:

- Is illustrated in the accompanying strata plan;
- Will be completed upon registration of the plan;
- Contains lots 1 to 21;
- Upon registration of Stage 1 it is intended to create development lot(s) 22, 23 & 24 (being Stages 2, 3 and 4):
  - Stage 2 – Lot 22
  - Stage 3 – Lot 23
  - Stage 4 – Lot 24

The developer has detailed that Stages 2, 3 and 4 are Authorised Proposals – proposed development not subject to a warranty. The approval of this application does not include nor imply the granting of development consent for the construction of buildings or removal of any vegetation.

The land (Lot 100 in DP 1023183) is burdened by a Positive Covenant. The terms of that Positive Covenant require the bushland on site to be managed, conserved, rehabilitated and protected as documented in an approved Biodiversity Management Plan. The carrying out of the strata subdivision as sought does not impact the terms of the Positive Covenant and the consent authority may be satisfied that the bushland will be maintained as intended by the parent development consent. A condition shall be applied to highlight this and ensure it is captured in the strata plan.

The consent authority is satisfied that carrying out of permitted development as detailed on the SDC would not contravene any condition subject to which the approval was granted, nor the provisions of any environmental planning instrument. The terms of the Positive Covenant remain and the protection of bushland must continue.

### **State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated.

Council records indicate that the subject site has been used and approved for industrial/warehouse purposes. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the strata subdivision land use.

### **SEPP 44 – Koala Habitat Protection**

The provisions of this policy apply as the site is greater than one hectare in size. The site does not represent potential or core koala habitat. The development sought does not constitute the carrying out of physical works which may endanger koala habitat.

Accordingly, no further consideration of the policy is required

### **Warringah Local Environmental Plan 2011 (WLEP 2011)**

The B2 Oxford Falls Valley locality (which cover the land subject to this Application) under the WLEP 2000 were proposed to be zoned E3 Environmental Management in the draft 2009 version of Warringah's standard instrument. This was based on a detailed translation methodology that was applied to all land within the former Warringah LGA.

In December 2011, the Minister for Planning, Industry and Environment deferred land in the Oxford Falls Valley and Belrose North areas from the Warringah Local Environmental Plan 2011 (WLEP 2011) in response to stakeholder concern regarding the adequacy of consultation during the preparation of WLEP 2011.

Accordingly, WLEP 2011 and the current Warringah Development Control Plan 2011 do not apply to this application.

### **Warringah Local Environmental Plan 2000 (WLEP 2000)**

Clause 14(2) classifies *subdivision* as Category 2 development and as such, no Independent Public Hearing is required for the proposed Strata subdivision of the approved development. The application is referred to the Local Planning Panel for determination due a staff conflict of interest.

### **Desired Future Character**

WLEP 2000 applies to the subject land and the DA is made pursuant to this instrument. Under WLEP 2000, the subject site is within the B2 Oxford Falls Valley Locality and the proposed development, being development for the strata subdivision of the industrial/warehouse development, is classified as a Category 2 Development.

Pursuant to clause 12 of WLEP 2000, before granting consent for development, the consent authority must be satisfied that the development is consistent with any relevant General Principles of Development Control in Part 4 of WLEP 2000, and any relevant State Environmental Planning Policy described in Schedule 5 (State Policies).

Furthermore, clause 12 indicates that before granting consent for development, the consent authority must be satisfied that the development will comply with the relevant requirements made by Parts 2 and 3, and the development standards for the development set out in the Locality Statement for the locality in which the development will be carried out.

Finally, clause 12 states that before granting consent for development classified as Category Two or Three, the consent authority must be satisfied that the development is consistent with the Desired Future Character (DFC) described in the relevant Locality Statement.

The DFC statement for the B2 locality states as follows:

#### ***B2 Oxford Falls Valley Locality***

*The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.*

*Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There*

*will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.*

*The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.*

*A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.*

*Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its Catchment and will ensure that ecological values of natural watercourses are maintained.*

The proposed development, being for strata subdivision of the already approved industrial/warehouse development, will not alter the developments compliance with the desired future character statement of the locality, change the existing character of Oxford Falls Valley, nor compliance with the general principles of development control.

The proposal for strata subdivision does not involve any physical works, and does not change any physical characteristics of the locality, simply a legal division of the development for separate ownership of individual units and land.

### **Built Form Controls**

The proposed development is for strata subdivision of the approved development, therefore no changes are proposed to the built form controls.

The housing density requirements apply only to Torrens Title Subdivision and is not applicable to strata subdivision.

### **GENERAL PRINCIPLES OF DEVELOPMENT CONTROL**

The General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development. The relevant general principles are addressed below.

<b>General Principles</b>	<b>Applies</b>	<b>Comments</b>	<b>Complies</b>
CL38 Glare & reflection	No	No changes are proposed to the approved development.	Not Applicable
CL39 Local retail centres	No	The site is not located within a Local Retail Centre.	Not Applicable
CL40 Housing for Older People and People with Disabilities	No	No Comment	Not Applicable
CL41 Brothels	No	No Comment	Not Applicable
CL42 Construction Sites	No	No construction work is proposed as part of this application.	Not Applicable
CL43 Noise	No	No changes are proposed to the approved	Not Applicable

General Principles	Applies	Comments	Complies
		development.	
CL44 Pollutants	No	No Comment	Not Applicable
CL45 Hazardous Uses	No	No Comment	Not Applicable
CL46 Radiation Emission Levels	No	No Comment	Not Applicable
CL47 Flood Affected Land	No	The site is not located within, or near to, any identified flood affected land.	Not Applicable
CL48 Potentially Contaminated Land	Yes	The requirements of Clause 48 have been addressed under 'State Environmental Planning Policy No.55 – Remediation of Land' in this report.	Yes
CL49 Remediation of Contaminated Land	No	No Comment	Not Applicable
CL49a Acid Sulfate Soils	No	The site is not located within, or near to, any land categorised as containing acid sulphate soil.	Not Applicable
CL50 Safety & Security	No	No comment	Not Applicable
CL51 Front Fences and Walls	No	No front fence is proposed.	Not Applicable
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	No	No changes are proposed to the approved built form.	Yes
CL53 Signs	No	No signage is proposed as part of this application.	Not Applicable
CL54 Provision and Location of Utility Services	No	No Comment	Not Applicable
CL55 Site Consolidation in 'Medium Density Areas'	No	No Comment	Not Applicable
CL56 Retaining Unique Environmental Features on Site & CL58 Protection of Existing Flora	No	No vegetation are proposed to be removed as part of this application.	Not Applicable
CL57 Development on Sloping Land	No	No comment	Not Applicable
CL59 Koala Habitat Protection	Yes	There no koala activities identified on site and therefore the proposed development is consistent with the requirement of this Clause.	Yes
CL60 Watercourses & Aquatic Habitats	No	No comment	Not Applicable
CL61 Views	No	No new buildings are proposed	Not Applicable
CL62 Access to sunlight	No	No new buildings are proposed	No Applicable
CL63 Landscaped Open Space	No	No comment	No Applicable
CL63A Rear Building Setback	No	No comment	No Applicable

General Principles	Applies	Comments	Complies
CL64 Private open space	No	No comment	Not Applicable
CL65 Privacy	No	No comment	No Applicable
CL66 Building bulk	No	No comment	No Applicable
CL67 Roofs	No	No comment	No Applicable
CL68 Conservation of Energy and Water	No	No comment	Not Applicable
CL69 Accessibility – Public and Semi-Public Buildings	No	There are no public or semi-public buildings in the development	Not Applicable
CL70 Site facilities	No	No comment	Not Applicable
CL71 Parking facilities (visual impact)	No	No change are proposed to the approved parking facilities.	Not Applicable
CL72 Traffic access & safety	No	No comment	Not Applicable
CL73 On-site Loading and Unloading	No	No comment	Not Applicable
CL74 Provision of Car parking	No	No comment	Not Applicable
CL75 Design of Carparking Areas	No	No comment	Not Applicable
CL76 Management of Stormwater	No	No comment	Not Applicable
CL77 Landfill	No	No comment	Not Applicable
CL78 Erosion & Sedimentation	No	No comment	Not Applicable
CL79 Heritage Control	No	No Comment	Not Applicable
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	No	No Comment	Not Applicable
CL81 Notice to Heritage Council	No	No Comment	Not Applicable
CL82 Development in the Vicinity of Heritage Items	Yes	<p>The adjoining land on the northwest of the subject site is identified as Conservation Area. The proposed development does not extend into the Conservation area and therefore, the proposal will have no impact upon the significance of the heritage conversation area.</p> <p>The proposed development is consistent with the requirement of this Clause.</p>	Yes
CL83 Development of Known or Potential Archaeological Sites	No	No comment	Not Applicable

## Schedule 8 - Site analysis

Adequate site analysis documentation has been submitted with this application.

## **Schedule 17 – Car parking Provision**

No changes are proposed to the approved car parking scheme.

## **POLICY CONTROLS**

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

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

## **CONCLUSION**

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects and all other documentation supporting the application and public submissions.

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

- 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 the Local Planning Panel as the consent authority grant Development Consent to DA2020/0437 for Strata Subdivision of the approved industrial/warehouse development at Lot 100 DP 1023183 Part Lot 1046 DP 752038 Part Lot 1047 DP 752038 Part Lot 1053 DP 752038 Permissive Occupancy 88/31 A/C 174235 Closed Crown Road Licence 199961, 100 / 0 Meatworks Avenue, Oxford Falls subject to the conditions printed below.

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

**Signed:**

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**Adam Mitchell, Principal Planner**

The application is determined under the delegated authority of:

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**Peter Robinson, Executive Manager Development Assessments**



## 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>
Location Plan	26 November 2020	Paul Anthony Cechellero
Location Plan (Easements) (Part 1 of 2)	26 November 2020	Paul Anthony Cechellero
Location Plan (Easements) (Part 2 of 2)	26 November 2020	Paul Anthony Cechellero
Ground Floor Plan (Part 1 of 3)	26 November 2020	Paul Anthony Cechellero
Ground Floor Plan (Part 2 of 3)	26 November 2020	Paul Anthony Cechellero
Ground Floor Plan (Part 3 of 3)	26 November 2020	Paul Anthony Cechellero
Ground Floor Plan (Easements)	26 November 2020	Paul Anthony Cechellero
Mezzanine Floor Plan (Part 1 of 2)	26 November 2020	Paul Anthony Cechellero
Mezzanine Floor Plan (Part 1 of 2)	26 November 2020	Paul Anthony Cechellero

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Strata Development Contract (Approved Form 8, 27 sheets)	Undated	Unspecified

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.

## **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,

1(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.

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

#### **3. Provision of Services for Subdivision**

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

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

#### **4. Right of Carriageway**

The Applicant shall create a right of carriageway (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision and accompanying 88B instrument, to include all vehicular access and manoeuvring 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.

## **5. 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.

## **6. Easement for Services**

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 Principal Certifying Authority prior to the issue of the Subdivision Certificate.

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

## **7. 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 DA2011/0985.

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

## **8. 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.

## **9. Survey Plan – Construction Identification**

The Applicant shall submit a declaration by a registered surveyor shall be provided 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.

## **10. Title Encumbrances**

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

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

Reason: To ensure proper management of land.

## **CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

### **11. Allocation of parking spaces (strata title)**

All carparking spaces are to be assigned to individual units. All units must be assigned a minimum of one parking space. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability for residents in accordance with section C3 of Warringah Council's Development Control Plan.

### **12. Allocated Parking Spaces (retail/commercial)**

Parking allocated to this development must be clearly signposted and linemarked as being for the exclusive use of this development. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability.

### **13. Bushland Lot**

The residual lot 25 is to be incorporated as a lot into the Strata Plan, either as common property or as a private lot.

The Bushland Covenant applying to the land pursuant to Condition 26 of Development Consent DA2011/0985 shall remain in force. For clarity, nothing in this consent revokes, terminates or modifies the terms of that covenant.

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

Reason: To ensure the management and conservation of bushland.

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