

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/2005
Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot C DP 420487, 12 Ettalong Street WHEELER HEIGHTS NSW 2097
Proposed Development:	Demolition works and subdivision of one lot into two lots
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Megan Rose Bowley
Applicant:	Megan Rose Bowley
Application lodged:	18/12/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	02/01/2019 to 29/01/2019
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval
Estimated Cost of Works:	\$ 20,000.00

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

Warringah Local Environmental Plan 2011 - 4.1 Minimum subdivision lot size
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - C1 Subdivision

SITE DESCRIPTION

Property Description:	Lot C DP 420487 , 12 Ettalong Street WHEELER HEIGHTS NSW 2097
Detailed Site Description:	<p>The site is described as 12 Ettalong Street, Wheeler Heights being Lot C within Deposited Plan 420487 and is located within the R2 Low Density Residential zone.</p> <p>The subject site consists of one (1) allotment located on the northern side of Ettalong Street.</p> <p>The property has a surveyed area of 1695 square metres (sqm) and is a battle-axe allotment. The property has eastern and western boundaries measuring 77.005m and 109.685m respectively. The southern frontages measure 12.625m and 4.31m respectively, with a north rear boundary of 20.245m.</p> <p>The site has a moderate slope across most of the site with the land falling steeply (approximately 5m) at the front of the property to Ettalong Road. The land is located within 'Land Slip Risk Map-Area D'.</p> <p>A dwelling house, swimming pool and a detached garage are situated on the site with some small to medium sized trees scattered across the property.</p> <p>Adjoining and surrounding development is characterised by low-density, detached dwellings in a landscape settings. Lot sizes vary considerably in the vicinity of the site with smaller Lots (<600 sqm) to the east and west and some larger lots (>1000sqm) to the east, and west along Ettalong Road.</p>

Map:



SITE HISTORY

A search of Council's records has revealed the following relevant applications to the site:

Pre-Lodgement Meeting No. PLM2018/0220

A Pre-lodgement Meeting (PLM2018/0220) was held on the 18 September 2018 between Council staff, the owner/applicant and the Town Planning consultant to discuss alterations and additions to the existing dwelling-house (partial demolition) and the subdivision of the existing lot into 2 lots.

The pre-lodgement meeting discussed the proposed subdivision whilst retaining the existing dwelling house on the property.

It was concluded that the proposal could be supported due to consistency of the proposed lots with the existing subdivision pattern and character in the surrounding area. It was advised that any future application must address the variation to the minimum lot size for proposed Lot 1 - 540sqm (9.85%) pursuant to Clause 4.6 of the WLEP 2011 for the variation to the minimum subdivision lot size of 600sqm under the WLEP 2011.

PROPOSED DEVELOPMENT IN DETAIL

The application proposes the following:

- Demolition of an existing garage and ancillary site preparation works
- Torrens Title subdivision of one (1) lot into two (2) lots as follows:
 - Proposed Lot 1: 530.6 sqm - Total lot area is 702.6sqm (including the right of carriageway & passing bay)
 - Proposed Lot 2: 904.4 sqm - Total lot area is 1013sqm (including the right of carriageway & passing bay)
- Construction of a driveway along the eastern boundary (and creation of a right-of-way)

- for shared access to each lot
- Connections for infrastructure services and ancillary site works

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	None applicable.
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 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 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 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been</p>

Section 4.15 Matters for Consideration'	Comments
	addressed via a condition of consent.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(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.</p>
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 development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The development application is considered acceptable with regard to the relevant controls relating to landscape issues, subject to applied

Internal Referral Body	Comments
	conditions.
NECC (Development Engineering)	<p>Comments from the Development Engineers:</p> <ol style="list-style-type: none"> 1. The proposed driveway gradients seem to be satisfactory with Council's extra High Vehicle Crossing Profile. 2. The proposed stormwater design seems to be satisfactory with Council's policies <p>There is no objection to the proposed subdivision subject to the recommended conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP 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 5.0m 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 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environmental 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
Minimum subdivision lot size:	600sqm	Lot 1 - 530.6sqm (702.6sqm including access handle) Lot 2 - 904.4sqm (1013sqm including the access handle)	11.6% N/A	No Yes

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision - consent requirements	Yes
2.7 Demolition requires consent	Yes
4.1 Minimum subdivision lot size	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.1 Minimum subdivision lot size

See clause 4.6 for a detailed assessment of the development standard non-compliance.

4.6 Exceptions to development standards

Description of Non-Compliance:

4.1 Minimum subdivision lot size requirement:	600sqm
Proposed:	Lot 1 - 530.6sqm Lot 2 - 904.4sqm
Percentage variation to requirement:	Lot 1: 11.6% Lot 2: N/A

Assessment of request to vary a Development Standard:

The following assessment of the variation to Clause 4.1 - Minimum subdivision lot size development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*.

Clause 4.6 Exceptions to Development Standards:

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 4.1 - Minimum subdivision lot size development standard is not expressly excluded from the operation of this clause.

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request,

seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 *at* [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

Section 1.3 of the EPA Act reads as follows:

1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*

(j) to provide increased opportunity for community participation in environmental planning and assessment.

Applicants Written Submission

The applicants written request argues, in part:

- *The proposed subdivision is consistent with the existing subdivision pattern in the locality, which comprises of lots of varying sizes and configurations.*
- *The proposed allotments are capable of accommodating future development which is in keeping with the density of the existing and desired future development in the locality.*
- *The proposed allotments will have suitable access via a future improved driveway.*
- *The development will present a variation to the minimum lot size control, however is in keeping with the size and configuration of lots in the locality. Notwithstanding the minor variation to the lot size control, the proposal is considered to have a negligible impact on the locality and is therefore considered worthy of support.*

Having regard to the above, it is considered there are sufficient environmental planning grounds to justify a variation of the development standard for minimum lot size.

Planners comment:

It is agreed that there is a varying range of lot sizes in the vicinity of the subject site and that the proposed lots would be in keeping with the size and shape of the majority of lots in the locality.

It is also agreed that the proposed allotments are capable of accommodating future development which is in keeping with the density of existing and desired future development for the area.

In this regard, the applicant's written request has demonstrated that the proposed subdivision is an orderly and economic use and development of the land, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Minimum subdivision lot size development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Assessment against the Objectives of the Development Standard

The underlying objectives of the standard, pursuant to Clause 4.1 – 'Minimum subdivision lot size' of the WLEP 2011 are:

(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.

Comment:

Along the northern side of Ettalong Street between Berith Street and Veterans Parade, there is a stretch of 21 lots (from No. 2 to 36 Ettalong Street) of irregularly shaped lots, varying in size from 401sqm to 2178.6sqm. The neighbouring lots to the east (Nos. 2/4/6/8/10) were created in 1959 and the lots to the west (18/18A/16 Ettalong Street) were created in 1979, both subdivisions reflecting the manner in which it is proposed to subdivide the subject site.

All other surrounding lots, including those on the southern side of Ettalong Road are of a size and shape that is similar to the proposed development. Nos. 15A, 15 and 13 Ettalong Road were subdivided in 1965 and Nos. 21/21A, 23/23A and 25/25A Ettalong Road were subdivided in 2000.

Given this context, it is reasonable to conclude that the size and shape of the proposed lots will be consistent with the majority of lots in the locality. The pattern will be consistent with subdivisions directly adjoining the proposed property, being Nos. 16/18/18A and Nos 6/8/10 Ettalong Road, in that they are also battle-axe lots.

As such, the proposal will be able to protect the residential character by-way-of a future built form that is consistent with the streetscape pattern, dwelling size and landscaped setting in the surrounding locality.

(b) to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development.

Comment:

The subject site is zoned R2 Low Density Residential. Commercial and industrial development is prohibited on this site and surrounding sites and therefore this objective does not apply.

(c) to protect the integrity of land holding patterns in rural localities against fragmentation.

Comment:

The subject site is not zoned for rural purposes and therefore this objective does not apply.

(d) to achieve low intensity of land use in localities of environmental significance.

Comment:

The development is within a low intensity residential environment but is not within an area zoned for, or otherwise identified as, being of environmental significance.

(e) to provide for appropriate bush fire protection measures on land that has an interface to

bushland.

Comment:

The land is not identified as being bushfire prone or on the interface of a bushland area.

(f) to protect and enhance existing remnant bushland.

Comment:

The site does not contain any existing remnant bushland.

(g) to retain and protect existing significant natural landscape features.

Comment:

The site is mostly flat land across the central area with a steep embankment at the road frontage. There are scattered trees on the site but there are no other significant landscape features. The footprint of the existing dwelling house on Lot 2 and the proposed footprint of Lot 1 ensures a landscape setting is able to be maintained, despite the non-compliance with minimum lot size.

Any new dwellings will need to be consistent with Part E6 'Retaining unique environmental features' of the WDCP 2011. The development satisfies this objective.

(h) to manage biodiversity.

Comment:

The subject site does not have significant value in terms of biodiversity. The development satisfies this objective.

(i) to provide for appropriate stormwater management and sewer infrastructure.

Comment:

The land is sufficiently sloping to enable drainage to Ettalong Street. A stormwater/services easement is proposed along the western boundary of the lots to enable drainage to the street. Council's Engineers have reviewed this proposed design and raised no objections. The development satisfies this objective.

Assessment against the Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposal will provide two smaller lots which are capable of catering for the housing needs of the community. The development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

The proposal does not involve any other permitted land uses within the subject land. The proposal will not prevent other sites from providing facilities or services to meet the day to day needs of residents. The development satisfies this objective.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The plans show that proposed Lot 2 will remain fully compliant with the landscaped open space control and that an appropriate building envelope for proposed Lot 1 is easily achieved. However, to ensure consistency is maintained with this objective, conditions are recommended to ensure a required western side setback distance of 6.5m, and a northern rear setback of 4.5m is maintained to ensure that the built form of any new house on Lot 1 is in harmony with the surrounding environment. As such, both new lots will be suitably characterised by landscaped settings. The development satisfies this objective.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument.

In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Minimum subdivision lot size Development Standard is assumed by the Local Planning Panel.

6.4 Development on sloping land

The property is located within the Landslip Area D under WLEP 2011. The proposal seeks to provide for the subdivision of the existing allotment into two allotments. A Preliminary Geotechnical Assessment has been prepared by White Geotechnical Group, Reference No. J2044, dated 3 December 2018. This report and its recommendations are included within the draft conditions of consent to ensure there are no adverse impacts to surrounding properties resulting from the proposal.

Warringah Development Control Plan

Built Form Controls

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Built Form Control	Requirement	Proposed
B1 Wall height	7.2m	<p>The proposed lots have adequate dimensions to enable future dwellings to generally comply with the built form controls. The condition to maintain a 6.5m side setback to the western boundary will mean the part rear boundary to Proposed Lot 2 (adjoining the proposed parking area on that lot) will be reduced from 6.0m to 4.5m, which is considered reasonable.</p> <p>The proposed building footprint of 150m² for the new front lot (Lot 1) will be able a future dwelling to generally comply with the required setback areas, and while providing adequate landscaped areas (excluding areas for driveway/access).</p>
B2 Number of storeys	2	
B3 Side Boundary Envelope	4m	
	4m	
B5 Side Boundary Setbacks	0.9m	
	0.9m	
B7 Front Boundary Setbacks	6.5m	
B9 Rear Boundary Setbacks	6m	
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C1 Subdivision	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D8 Privacy	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

C1 Subdivision

Component	Requirement	Proposed	Compliant
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Lot requirements	<p>R2 Low Density Residential zone requirements:</p> <p>Proposed new allotments:</p> <p>a) Minimum width: 13 metres b) Minimum depth: 27 metres; and c) Minimum building area: 150m²</p>	<p><u>Lot 1:</u> a) 18.495m b) 37.38m c) 150m²</p> <p><u>Lot 2:</u> a) 20.245m b) 39.63m c) Existing dwelling retained</p>	<p>Yes Yes Yes Yes Yes Yes</p>
Access	<p>Motor vehicle access to each residential allotment is required from a constructed and dedicated public road.</p> <p>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.</p> <p>Access for Council service vehicles, emergency vehicles and garbage collection vehicles must be provided.</p> <p>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.</p> <p>Driveways in excess of 200 metres will not be allowed for residential development.</p> <p>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.</p> <p>Passing bays should have regard to sight conditions and minimise vehicular conflict.</p> <p>Vehicular ingress/egress points to internal lots may be used as passing/turning bays, subject to extension of a right-of-carriageway over the</p>	<p>A shared access along the right of carriageway parallel to the western boundary is proposed. The access is 4.5m wide plus 0.5m for services.</p> <p>Motor vehicle access to each residential allotment is provided.</p> <p>Access for Council service vehicles, emergency vehicles and garbage collection vehicles is not inhibited.</p> <p>The driveway has been reviewed by Council's Development Engineers as acceptable.</p> <p>Each lot will have area available to turn within the site and exit in a forward direction.</p> <p>An easement for services has been provided on the access driveway of proposed Lot 1 and Lot 2.</p>	<p>Yes</p>



	<p>passing/turning bay.</p> <p>Rights-of-carriageway should be located so as to accommodate all vehicle turning facilities.</p> <p>Width of accessways are to be as follows:</p> <table><tr><th>Number of lots to be serviced</th><th>Width of clear constructed accessway (m)</th></tr><tr><td>1 - 5</td><td>3.5</td></tr><tr><td>6 - 10</td><td>5.0</td></tr><tr><td>in excess of 10</td><td>Access is to be provided by a private or public road constructed with a width that is in accordance with Council standard specifications for engineering works (AUSPEC 1)</td></tr></table> <p>Provision of services in rights of carriageway are as follows:</p> <table><tr><th>Number of lots to be serviced</th><th>Additional width to be provided in Right of Carriageway (m)</th></tr><tr><td>Up to 3 lots</td><td>0.5</td></tr><tr><td>4 or more lots</td><td>1.0</td></tr></table>	Number of lots to be serviced	Width of clear constructed accessway (m)	1 - 5	3.5	6 - 10	5.0	in excess of 10	Access is to be provided by a private or public road constructed with a width that is in accordance with Council standard specifications for engineering works (AUSPEC 1)	Number of lots to be serviced	Additional width to be provided in Right of Carriageway (m)	Up to 3 lots	0.5	4 or more lots	1.0	
Number of lots to be serviced	Width of clear constructed accessway (m)															
1 - 5	3.5															
6 - 10	5.0															
in excess of 10	Access is to be provided by a private or public road constructed with a width that is in accordance with Council standard specifications for engineering works (AUSPEC 1)															
Number of lots to be serviced	Additional width to be provided in Right of Carriageway (m)															
Up to 3 lots	0.5															
4 or more lots	1.0															
Design and construction	<p>All roads, rights of carriageway, drainage design and construction is to be in accordance with Council's policy requirements including; AUSPEC 1 - Council's Specification for Engineering Works, Development Engineering Minor Works Specification, On Site Stormwater Detention (OSD) Technical Specification and</p>	<p>Appropriate conditions have been imposed to ensure that the drainage design and construction is in accordance with Council specifications.</p> <p>The plans have been reviewed by Council's Development Engineers who have raised no objection to approval, subject to these</p>	Yes													

	<p>Council's Water Sensitive Urban Design Policy. Additionally, internal roads must be designed in accordance with the relevant Australian Standards.</p> <p>Subdivision design needs to maximise and protect solar access for each dwelling by considering factors such as orientation, shape, size and lot width.</p>	<p>conditions.</p> <p>Design The creation of Lots will result in the construction of one (new) dwelling as the existing dwelling and swimming pool of proposed Lot 2 is to be retained.</p> <p>Proposed Lot 1 is undersized and constrained by the right of carriageway for Lot 2. It is recommended that a condition be imposed requiring the building envelope to maintain a minimum western side setback distance of 6.5m, and a northern rear setback of 4.5m. This will ensure the building bulk and built form is consistent with the pattern and scale of surrounding development and to ensure the future dwelling will be provided in a landscaped setting.</p> <p>This issue is resolved by a positive covenant to maximise landscaped open space, increase spatial separation and maintain consistency with the low density pattern of development.</p>	
Drainage	<p>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.</p>	<p>Each allotment will have the ability to drain via an easement to Ettalong Street.</p>	Yes
Restrictions	Any easement, right-of-	The proposed allotments are	Yes

	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.	subject to imposed easements and rights of carriageway to enable drainage and right of access.	
Environmentally constrained land	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.	The land is not environmentally constrained.	Yes
Bushfire	Subdivision should be designed to minimise the risk from potential bushfire. Asset protection zones should be contained within the property boundaries of the new subdivision.	The site is not bushfire prone.	Yes

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly 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

Northern Beaches Council Contributions Plan 2018

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;
- 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

This proposal is for the subdivision of one (1) lot into two (2). Lot 1 does not comply with the minimum lot size development standard, with a variation of 11.6% to the minimum standard of 600sqm. Lot 2 is compliant with the development standard at 904.4sqm. Both Lots are compliant with the minimum width and depth.

Lot 1 has a proposed minimum building area of 150sqm. A condition has been imposed requiring the building envelope to maintain a minimum western side setback distance of 6.5m and a northern rear setback of 4.5m. This is to ensure the building bulk and built form is consistent with the pattern and scale of surrounding development and to ensure the future dwelling will be provided in a landscaped setting.

Lot 2 will contain the existing dwelling which will continue to fully comply with all built form controls.

The context of the surrounding subdivision pattern is best described as a series of 21 lots on the northern side of Ettalong Street with varying sizes, from 401sqm to 2178.6sqm. Two of the original lots have been subdivided in the 50's and 70's in a manner similar to the current proposal. The vast majority of all other surrounding lots, including those on the southern side of Ettalong Street are of varying sizes from 553m² to 1298sqm range (excluding the access handles), such that the proposed lots are consistent with the surrounding subdivision pattern and character.

The applicant submitted a clause 4.6 Variation request to vary the minimum lot size development standard. This request provided adequate environmental planning grounds to show that strict compliance with the standard is unnecessary. The plans also demonstrated that each new lot can comfortably accommodate a dwelling house in a suitable landscaped setting, similar to the majority of surrounding lots.

On balance, the proposal is suitable and appropriate and so the non-compliance with the minimum lot size and rear setback control for proposed lot 1 is considered to be acceptable in the context.

Therefore, the proposed development is recommended for approval.

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 DA2018/2005 for Demolition works and subdivision of one lot into two lots on land at Lot C DP 420487, 12 Ettalong Street, WHEELER HEIGHTS, 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Survey Plan showing the subdivision	14/02/2018	CMS Surveyors Pty Ltd
Front of Driveway 18090	25/11/2018	Michael Korecky
Rear of Driveway 18090	25/11/2018	Michael Korecky

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Preliminary Geotechnical Assessment	03/12/2018	White Geotechnical Group
Arboricultural Impact Assessment Report	03/11/2018	Seasoned Tree Consulting

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,
 - (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

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) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) 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.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

- (k) 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 sewered areas or managed on-site in unsewered 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.

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

FEES / CHARGES / CONTRIBUTIONS

4. **Security Bond**

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

5. Submission of Engineering Plans

Engineering plans are to be submitted to the Certifying Authority for approval. The submission is to include four (4) copies of Civil Engineering plans for the design and construction of driveway and drainage to the following requirements:

1. Concrete right of carriageway a minimum of 3.5 metres wide. The proposed internal driveway is to be constructed generally following the existing driveway levels from the site front boundary to the passing bay to match the adjacent internal driveway.
2. The driveway requires a passing bay at least 5.0 meters wide for a distance of at least 10m is to be provided every 30m.
3. Under grounding of all utility services for the proposed two lots.
4. Stormwater drainage pipelines to service both the proposed two lots.
5. OSD systems provided for both the proposed two lots.

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

(NOTE: An application for a Subdivision Construction Certificate can be applied for approval from Council for the above works).

Reason: To ensure compliance with Council's specification for engineering works.

6. Vehicle Driveway Gradients

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure suitable vehicular access to private property.

7. Utilities Services

Prior to the issue of the Construction Certificate, evidence is to be submitted to the Principal Certifying Authority that

- (a) A letter from the utility provider confirming that satisfactory arrangements have been made for the approved development have been made; and
- (b) Evidence that notification has been received from a utility provider, requirements for the development can be provided.

Reason: To ensure that service have been provided as required by this Consent

8. **On-site Stormwater Detention**

An On-site Stormwater Detention system must be designed and constructed in accordance with Northern Beaches Council's current "WARRINGAH WATER MANAGEMENT POLICY PL850" and generally in accordance with the concept drainage plans prepared by Michal Korecky, drawing number 18090 Sheet SW-1 and SW-2, dated 25 November 2018.

Detailed drainage plans are to be prepared by a qualified experienced practicing Civil Engineer, with Corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a Corporate member and has appropriate experience and competence in the related field.

Detailed drainage plans are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of storm water and storm water management arising from the development.

9. **Vehicle Crossings Application**

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

10. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

11. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

12. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. Tree protection

(a) Existing trees which must be retained:

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection:

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site
- iii) All tree protection is to be in accordance with the Arboricultural Impact Assessment prepared by Seasoned Tree Consulting dated 3 November 2018 and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

14. Civil Works Supervision

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority

Reason: To ensure compliance of civil works with Council's specification for engineering works.

15. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety

16. **Vehicle Crossings**

The provision of one new vehicle crossing 3.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/4 EH and specifications. The existing layback shall be reconstructed due to its poor conditions. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

17. **Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

18. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

19. **Trees Condition**

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees.

20. **Installation and Maintenance of Sediment Control**

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

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

21. **Required Planting**

Trees shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Pot Size
3	Tree species capable of attaining a minimum height of 5 metres at maturity	Lot 1	200mm

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To maintain environmental amenity.

22. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

23. **Positive Covenant for On-site Stormwater Detention**

A positive covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the final plan of subdivision and accompanying 88B instrument, requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, which are available from Northern Beaches Council. Northern Beaches Council shall be nominated as the sole authority empowered to release, vary or modify such covenant. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure ongoing maintenance of the on-site detention system.

24. **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

25. **Authorisation of Legal Documentation Required for Onsite Detention**

An application for the authorization of legal documents is to be submitted to Council for approval. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) with a copy of the Works-as-Executed plan(details overdrawn on the copy of the approved drainage plan), hydraulic engineers certification and photographs of the completed system.

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

Reason: To create encumbrances on the land.

26. **Existing Right of Carriageway to be released and two new Right of Carriageway to be created**

The existing Right of Carriageway shall be extinguished and two new Right of Carriageway shall be created 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.

The two new Right of Carriageway to be created are as follows.

1. One new Right of Carriageway from the site front boundary to the passing bay shall be created benefiting No.18 Ettalong Street (Lot A DP 420487), which is to ensure that proper driveway access and turning area to No.18 Ettalong Street (Lot A DP 420487) is not affected by the proposed development.
2. One new Right of Carriageway shall be created benefiting both the proposed two lots.

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

27. **Restriction as to User for On-site Stormwater Detention**

A restriction as to user (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and accompanying 88B instrument for the on-site stormwater detention system, restricting any alteration or additions to the system. The terms of such restriction are to be prepared to Council's standard requirements, which are available from Northern Beaches Council. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure no modification to the on-site stormwater detention structure without Council's approval

28. **Stormwater Drainage and Utility Services Plan**

A plan of subdivision identifying the location of water, gas, telephone, electricity and stormwater drainage in relation to boundaries and/or relevant easements, prepared by a registered surveyor is to be submitted to Council. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that services have been provided with appropriate easements as required by the Conveyancing Act 1919

29. **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 showing all utility services locations, 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.

30. **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>> 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

31. **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). 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

32. **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

33. **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

34. **Certification and work as executed plan for the Subdivision works**

A certificate is to be submitted by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field confirming to the satisfaction of the Principal Certifying Authority that the vehicular crossing, concrete driveway and passing bay have been constructed in accordance with the approved construction certificates and relevant conditions of Development Consent. The subdivision Certificate will not be released until this certification and work as executed plan have been submitted and the Principal Certifying Authority has confirmed that this condition has been satisfied.

Reason: To ensure the subdivision works have been built to the appropriate standard.

35. **Positive Covenant - Setback of Building Envelope to Western and Northern Boundaries of Proposed Lot 1**

A positive covenant (to be registered on the Title of the land to accompany the Subdivision Certificate application) requiring the proprietor of the land to comply with the following building envelope restriction for a dwelling house on Proposed Lot 1. The terms of the Positive covenant are to be prepared by a Legal Practitioner, pursuant to Section 88B of the Conveyancing Act 1919 with the following lot restrictions applying to proposed Lot 1 for a future dwelling house:

Proposed Lot 1: The building envelope is to maintain a western side setback of 6.5 metres and a northern rear setback of 4.5 metres.

Northern Beaches Council shall be nominated as only party able to release, vary or modify such covenant. Details are to be submitted with the Subdivision Certificate application.

Reason: To ensure built form is consistent with the pattern and scale of surrounding development in response to the site constraints and existing amenity. (DACENHPS1)

36. **Title Encumbrances**

All easements, rights of carriageway, positive covenants and restrictions as to user as indicated on the plans and required by this consent are to be created on the title naming Northern Beaches 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