

Statement of Environmental Effects

Application for Stratum Subdivision of an Existing Commercial Building

UNDER THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979
(AS AMENDED) AND REGULATIONS 2000

Property: 9 Waratah Street
 Mona Vale NSW 2103
 Lot 6A DP395091

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1. Introduction

This Statement of Environmental Effects has been prepared by Tomasy Pty. Ltd. on behalf of the applicant, *Waratah Bush Pty Ltd*. The Statement is to accompany a Development Application which proposes the Stratum Subdivision of an existing commercial building at 9 Waratah Street, Mona Vale.

In preparing this document, consideration has been given to the following:

- *Environmental Planning and Assessment Act 1979 (as amended)*;
- *Environmental Planning and Assessment Regulation 2000*;
- Pittwater Local Environmental Plan 2014;
- Pittwater 21 Development Control Plan;
- Development Consent N0490/05; and
- Development Consent N0721/06.

The Statement of Environmental Effects describes the proposed development having regard to the provisions of Section 4.15 of the EP&A Act and examines any potential environmental impacts with regard to the relevant sections of the Act, State policies and relevant requirements of Council's DCP.

The conclusions of the Statement are that the proposed development is permissible with development consent and is consistent with the provisions of relevant planning Pittwater Local Environmental Plan 2014 and the Pittwater 21 Development Control Plan.

Accordingly, the Development Application succeeds on its merits and should be approved by Council subject to conditions as may be deemed appropriate.

2. Background

N0450/05

Development consent was granted 25 August 2006 for additions and alterations to an approved three storey commercial development. It is understood the proposal was built and works completed in 2007. The development approval was subject to various conditions of consent, most notably:

E8. A stratum lot is to be created by way of subdivision and dedicated to Council, the area north of the line of the existing building to the northern boundary, limited to the height to the underside of the awning and depth to 300m below the road pavement.

N0721/06

Development consent was granted 16 January 2007 for the Stratum subdivision of the approved development into eight (8) stratum titles. It is noted that this consent was not enacted upon and the consent has now lapsed.

2007-2019

The subject site has been the subject of multiple development applications and complying development certificates for shop fit outs and change of uses. These applications are not applicable to this application but can be found on Councils electronic system.

Correspondence with Northern Beaches Council 2018

BLD2018/2011:

Correspondence from Northern Beaches Council dated 16 October 2018 advising of a complaint to Council that the property has not complied with Condition E8 of N0450/05. The owners/agent have engaged Tomasy Planning to investigate Councils letter and as a result of discussions with the agent and Council, Tomasy Planning will prepare a Development Application for the stratum subdivision of the building to satisfy the requirements of Condition E8 of N0450/05, being:

E8. A stratum lot is to be created by way of subdivision and dedicated to Council, the area north of the line of the existing building to the northern boundary, limited to the height to the underside of the awning and depth to 300m below the road pavement.

3. Site Profile

The subject site is legally described as Lot 6A in DP 395091 and is known as no. 9 Waratah Street, Mona Vale. The site has dual frontage and sits on the corner of Waratah Street and Bungan Lane. The site is a square-shaped allotment with the northern corner splayed. The Waratah Street frontage is 20.45m with a splayed corner (approx. 5.17m) and the Bungan Lane frontage is 20.73m with a splayed corner (approx. 5.17m).

The immediate locality consists of a mixture of commercial and medical uses in close proximity of the subject premises.

The site currently consists of a three storey commercial building with retail shops fronting Waratah Street on the ground floor and office suites on levels 1 and 2 with entry from Bungan Lane.

The site is located within a B4: Mixed Use Zone and the existing commercial building is a permissible land use under Pittwater Local Environmental Plan 2014.

The locality maps below shown the location of the site within the Mona Vale Commercial precinct.

Locality Maps:

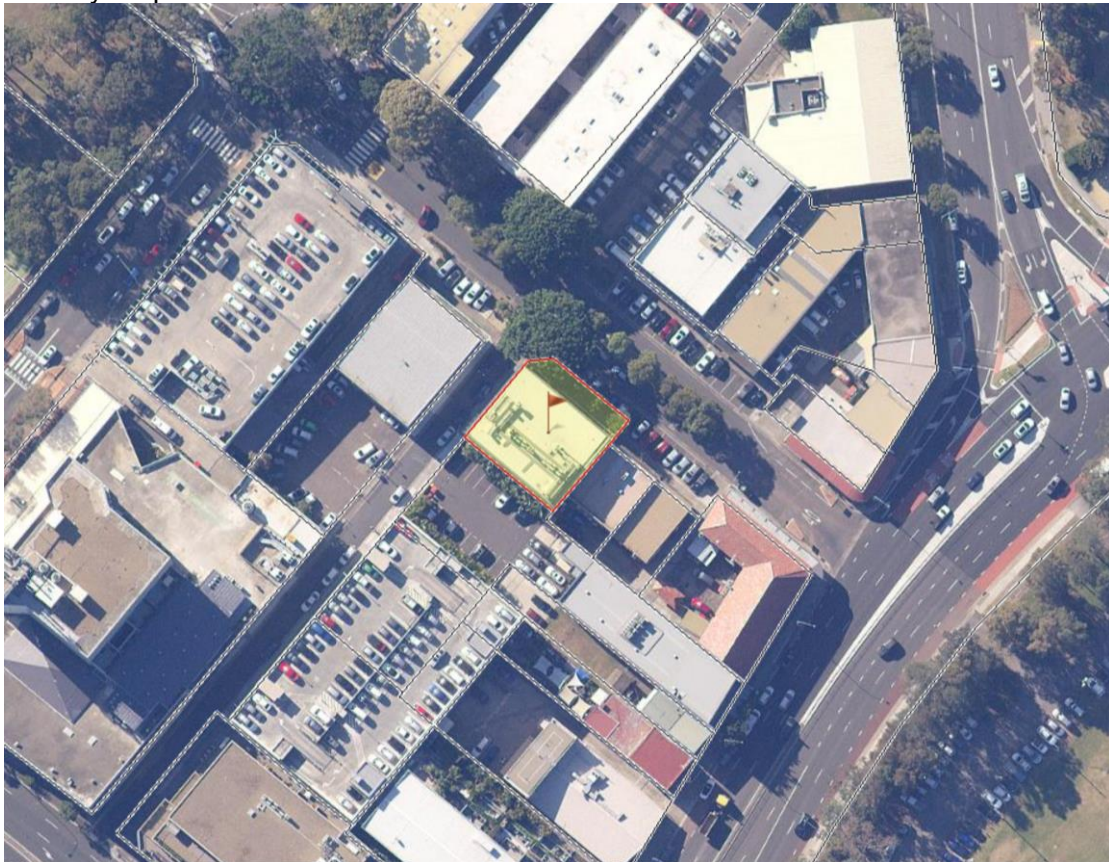


Figure 1: Site Location Plan (Aerial)

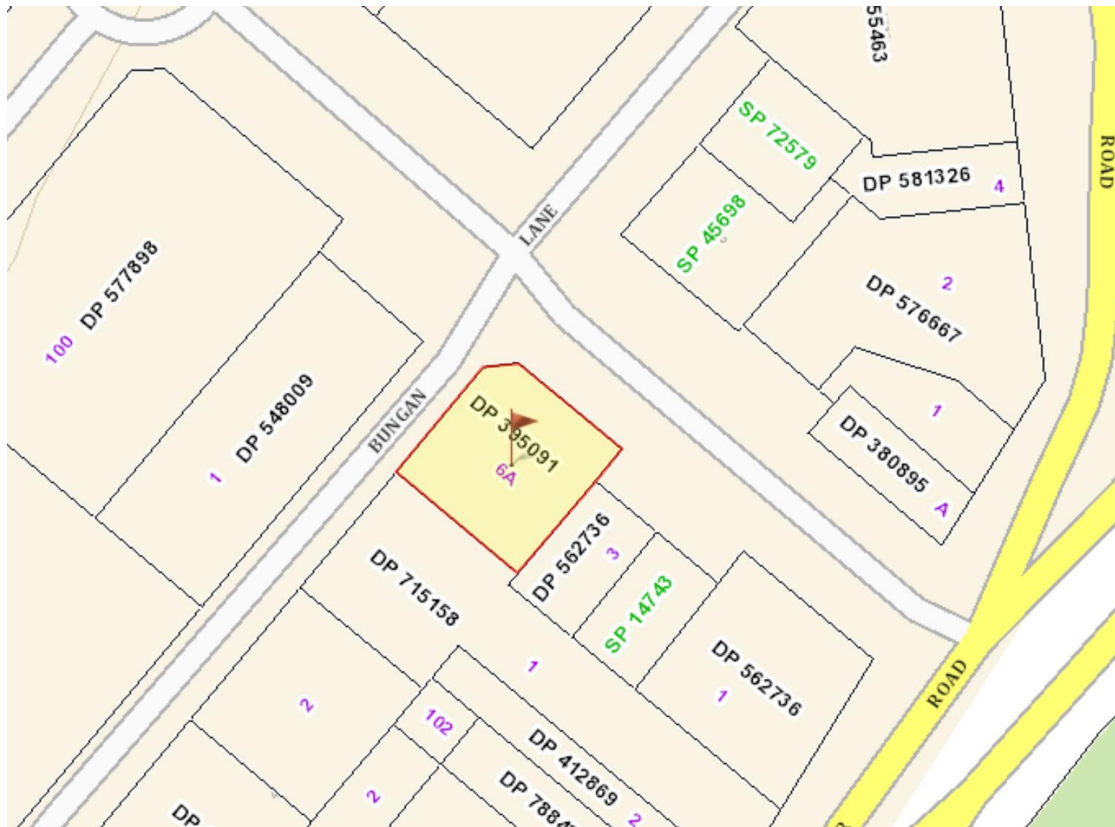


Figure 2: Site Location Plan (Lot Plan)

4. The Proposal

The proposal relates solely to the Stratum Subdivision of the existing commercial building into four (4) stratum lots at 9 Waratah Street, Mona Vale.

The application for Stratum Subdivision is as per the requirements of Development Consent N0450/05 Condition E8:

E8. A stratum lot is to be created by way of subdivision and dedicated to Council, the area north of the line of the existing building to the northern boundary, limited to the height to the underside of the awning and depth to 300m below the road pavement.

The proposal should be read in conjunction with the following development application documentation:

Documentation	Author:
Statement of Environmental Effects	Tomasz Pty. Ltd.
Survey Plan	Adam Clerke Surveyors Pty Ltd
Draft Plan of Subdivision	Byrne and Associates

5. Statutory Planning Controls

The relevant statutory controls that are applicable to the proposed development are as follows:

- State Environmental Planning Policies;
- Pittwater Local Environmental Plan 2014; and
- Pittwater 21 Development Control Plan

5.1 State Environmental Planning Policies

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

SEPP Building Sustainability Index (BASIX) 2004 is not applicable to the proposal for stratum subdivision.

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP No. 55 is applicable to all land within NSW and aims to promote the remediation of contaminated land and to reduce risk of harm to human health and environment. Clause 7 of the SEPP provisions prescribe that the consent authority must have consideration as to whether the land is contaminated, if the land is contaminated it is satisfied that the land is suitable in its contaminated state and/or if suitable remediation processes are required before the land is used for any proposed uses. The subject proposal is for a stratum subdivision only and any assessment of SEPP No.55 would have been undertaken with the original development application for alterations and additions to the existing commercial development.

5.2 Pittwater Local Environmental Plan 2014

The following are the applicable clauses of the Pittwater Local Environmental Plan 2014 that are relevant to the proposed development.

2.6 Subdivision—consent requirements

(1) *Land to which this Plan applies may be subdivided, but only with development consent.*

Notes.

1 If a subdivision is specified as **exempt development** in an applicable environmental planning instrument, such as this Plan or [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#), the Act enables it to be carried out without development consent.

2 Part 6 of [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) provides that the strata subdivision of a building in certain circumstances is **complying development**.

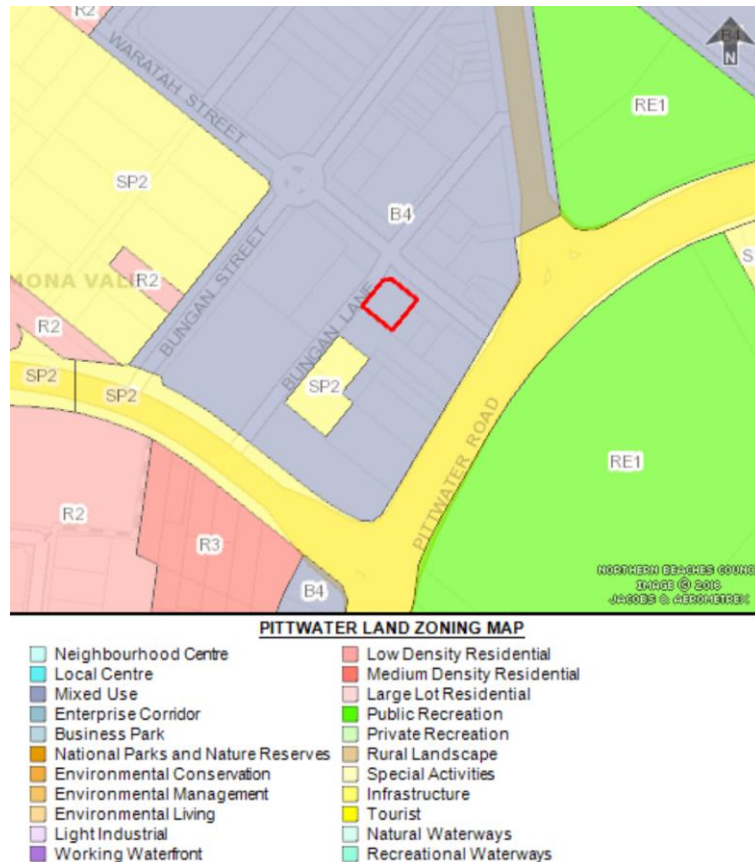
(2) *Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the [Lot Size Map](#) in relation to that land.*

Note.

The definition of **secondary dwelling** in the Dictionary requires the dwelling to be on the same lot of land as the principal dwelling.

Comment: The subject proposal is for the Stratum Subdivision of an existing commercial building. The proposal is permissible with the consent of Council.

5.2.1 Zoning provisions:



In accordance with the Land Zoning Map of the Pittwater Local Environmental Plan 2014, the subject site is shown as being within a B4 Mixed Use zone.

Zone B4 Mixed Use

1 Objectives of zone

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To strengthen the role of Mona Vale as a centre of employment in Pittwater.
- To provide healthy, attractive, vibrant and safe mixed use areas.
- To provide an active day and evening economy.
- To provide for residential uses above ground level, where they are compatible with the characteristics and uses of the site and its surroundings.
- To encourage retail vitality and provide a high level of amenity for pedestrians and cyclists.

2 Permitted without consent

Home businesses; Home occupations

3 Permitted with consent

Amusement centres; Boarding houses; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Environmental protection works; Function centres; Home-

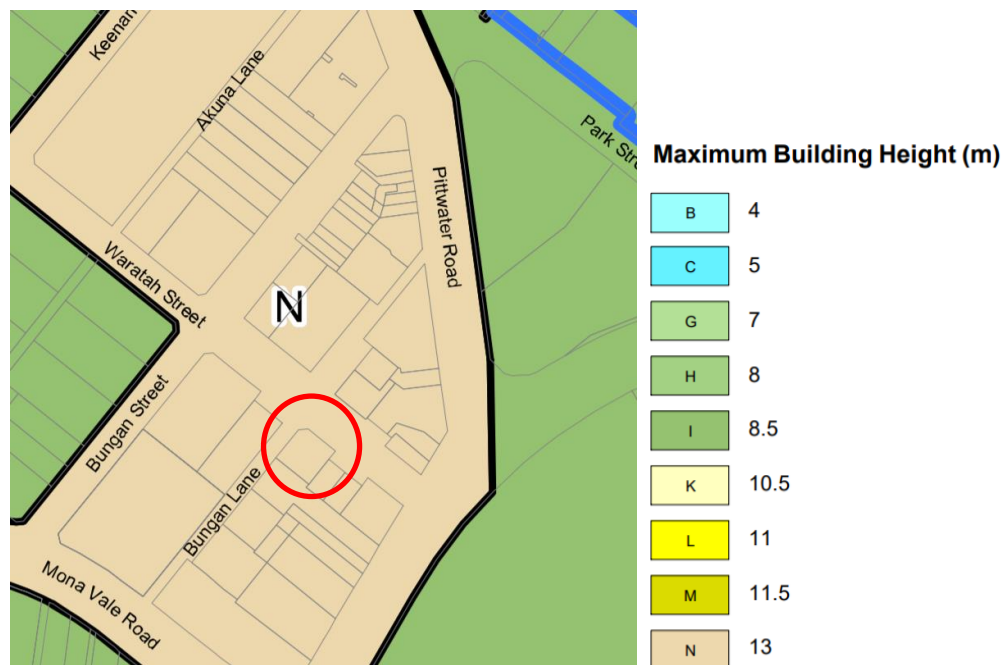
based child care; Home industries; Horticulture; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Seniors housing; Service stations; Sex services premises; Shop top housing; Signage; Tourist and visitor accommodation; Veterinary hospitals

4 Prohibited

Any development not specified in item 2 or 3

Comment: The proposal involves the Stratum Subdivision of an existing commercial building within an B4 Mixed Use Zone. Commercial Buildings are a permissible land use and therefore stratum subdivision can be granted with Council consent.

5.2.2 Height of Buildings



Comment: In accordance with the Height of Buildings Map of the Pittwater Local Environmental Plan 2014, the subject site is identified as containing a maximum permissible building height of 13 metres.

The proposal is for the Stratum Subdivision of the existing commercial building only. No changes to the existing building height.

5.3 Pittwater 21 Development Control Plan

The proposal relates to a Stratum Subdivision of an existing commercial building at 9 Waratah Street, Mona Vale. As the proposal is for a stratum subdivision of an existing commercial building there are no specific controls in the Pittwater 21 Development Control Plan relevant to the subject proposal.

A4.9 Mona Vale Locality

The site is located with A4.9 Mona Vale Locality. The proposal is for a Stratum Subdivision only there is no impacts to the desired future character of the Mona Vale Town Centre.

B2.3 Subdivision - Business Zoned Land

Controls

Any lot (or lots) to be created by a subdivision of an existing lot (or lots) shall be accessible from a public road or street.

Any lot (or lots) are to be capable of providing for the construction of a building which is safe from hazards, does not unreasonably impact on the natural environment, does not adversely affect heritage, and can be provided with adequate and safe access and services.

The re-subdivision of individual or groups of shops or office units subsequent to development consent may be carried out by any method of subdivision including Strata Subdivision, Community Title Subdivision, or Torrens Title Subdivision.

Parking spaces, loading bays, and space for any other purpose forming a part of a sole occupancy unit are to be allocated to the unit. Landscaped areas, access areas and signage not forming part of an individual unit must be included as common property.

Comments: The proposal is for the Stratum Subdivision of an existing commercial building as required by Condition E8 of N0490/05. The site has dual frontage to Waratah Street and Bungan Lane with access to the building compliant with the controls of B2.3 Subdivision – Business Zoned Land.

C2 Design Criteria for Business Development

The proposal is for the Stratum Subdivision of an existing commercial building only, therefore no controls under C2 Design Criteria for Business Development are applicable to this application.

D9 Mona Vale Locality

The proposal is for the Stratum Subdivision of an existing commercial building only, therefore no controls under D9 Mona Vale Locality are applicable to this application.

6. Section 4.15 Considerations

In considering the development application, Council must consider the relevant planning criteria in Section 4.15 of the Environmental Planning and Assessment Act, 1979. Section 4.15 is addressed as follows:

6.1 Statutory Policy and Compliance – S 4.15(1)(a)

The relevant statutory planning policies have been assessed with respect to all relevant SEPP's, LEP's and DCP's above in the Statement of Environmental Effects.

The planning provisions relevant to the proposed development include the following:

- Environmental Planning and Assessment Act, 1979 (as amended);
- Environmental Planning and Assessment Regulation 2000;
- State Environmental Planning Policies;
- Pittwater Local Environmental Plan 2014; and
- Pittwater 21 Development Control Plan.

6.2 Natural Environmental Impacts – S 4.15(1)(b)

The proposed development will not result in any adverse impact to the existing natural environment. The proposal relates solely to the Stratum Subdivision of the existing commercial building; no physical works are proposed.

6.3 Built Environment Impacts – S 4.15(1)(b)

The proposal does not involve any physical works to the site that will alter the height, scale or built form of the existing commercial building. The proposal will have no adverse impact on the surrounding built environment and will not impact the existing and desire future character of the streetscape and surrounding locality.

6.4 Social and Economic Impacts – S 4.15(1)(b)

The proposal will not be detrimental to the social and economic environment in the locality.

6.5 Suitability of the Site for Development – S 4.15(1)(c)

The existing commercial building is a permissible form of development in the B4 Mixed Use Zone and therefore is suitable for the site.

6.6 The Public Interest – S 4.15(1)(e)

The proposed development will not result in any unreasonable adverse environmental impacts to the immediately adjoining properties or the existing streetscape setting and subsequently the development is considered to be within the public interest.

7. Conclusion

The merits of the proposal have been assessed in accordance with the provisions of the relevant clauses of Pittwater LEP 2014 and the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

The proposal for Stratum Subdivision of an existing commercial building for four (4) stratum lots at 9 Waratah Street, Mona Vale is permissible under Pittwater LEP 2014 with the consent of Council and is considered to be consistent with the relevant objectives of Pittwater LEP 2014 and Pittwater 21 Development Control Plan.

The proposal will have no adverse environmental impact, and there will be no adverse impact on the surrounding area in terms of amenity.

Accordingly, the application for the Stratum Subdivision of an existing commercial building for four (4) stratum lots at 9 Waratah Street, Mona Vale, is acceptable from environmental, social and planning perspectives and approval should be granted by Northern Beaches Council.