

**STATEMENT OF  
ENVIRONMENTAL EFFECTS**

Torrens Title Subdivision  
1 Lot into 2 Lots

**38 Nullaburra Road  
NEWPORT**

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# **Statement of Environmental Effects**

**Torrens Title Subdivision of 1 Lot into 2 Lots**

**Lot 2, DP 551208**

**38 Nullaburra Road, Newport**

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## **1.0 INTRODUCTION**

This document forms a component of a development application that proposes the Torrens Title Subdivision of the existing allotment to create 2 allotments of compliant size and dimension.

The proposed subdivision provides for the creation of a complimentary and compatible subdivision pattern with the proposed allotments having areas, dimensions and building platforms consistent with those established by adjoining development and allotments within the Newport locality generally.

The proposed subdivision is responsive to the advice received at a pre-lodgement meeting (PLM2019/075) held on 16 May 2019

The accompanying documentation confirms that the lots are of adequate size and dimension to accommodate compliant dwelling houses having acceptable environmental, streetscape and residential amenity consequences. All allotments can be gravity drained to the existing street drainage system and appropriately serviced by existing infrastructure. This statement addresses the details of the application having regard to:

- The Environmental Planning and Assessment Act, 1979 as amended ("The Act").
- Pittwater Local Environmental Plan 2014 ("the LEP").
- Pittwater 21 Development Control Plan ("The DCP").
- State Environmental Planning Policy No. 55 – Remediation of Land.

The application is accompanied by a site survey, draft plan of subdivision, arboriculture assessment, flora and fauna report, geotechnical report, flood risk assessment, stormwater management plans and driveway plans.

This report demonstrates that the proposed subdivision is permissible with consent and consistent with the legislative framework as it relates to the proposed development. The proposal succeeds when assessed against the Heads of Consideration pursuant to s4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document, succeeds on merit and is appropriate for the granting of consent.

## 2.0 SITE ANALYSIS, DESCRIPTION AND LOCATION

The subject site is legally described as Lot 43, DP 616582, No. 38 Nullaburra Road, Newport. The property is a battle-axe block in shape having access from Nullaburra Road and a site area of 2651.1m<sup>2</sup>. The access frontage is measured at 4.57m and a rear boundary of 40.235m. The northern side boundary is measured at 61.42m and a southern side boundary of 100.58m of which 39.16m is the access handle. An aerial location shot is provided below.



**Figure 1: Aerial Location**

The site topography rises in a northerly direction. The area to the rear of the site includes a number of trees and is considered a biodiversity area. Both an arborist and flora and fauna report have been prepared. The site is also mapped as being within a flood risk area.

The site is currently occupied by a 2 storey brick dwelling house located at the front portion of the site and is proposed to be retained. The driveway runs adjacent to the southern boundary.

The adjoining properties are occupied by 1 and 2 storey dwelling houses in informal landscape settings. The size and dimension of the subject allotment is

substantially greater than the majority of the sites located in the vicinity of the subject property.

### 3.0 DEVELOPMENT PROPOSAL

This document forms a component of a development application that proposes the Torrens Title Subdivision of 1 lot into 2. The proposed subdivision provides for the creation of a complimentary and compatible subdivision pattern with all proposed allotments having areas, dimensions and building footprints consistent with those established by adjoining development and allotments within the Newport locality generally.

The proposed subdivision is depicted on the draft plan of subdivision prepared by B & G Surveyors.

The existing driveway will be extended to provide access to the rear lot and will include a passing bay.

The existing dwelling on the site will be retained on the proposed lot 2.

The proposed allotments will have the following characteristics:

Proposed Lot 1	
Lot area	1631m <sup>2</sup>
Lot depth	40.54m
Lot width at boundary	Battle-axe block
Indicative Building Envelope	175m <sup>2</sup>

Proposed Lot 2	
Lot area	840.1m <sup>2</sup> (excluding access handle)
Lot depth	20.88m
Lot width at boundary	Battle-axe block
Indicative Building Envelope	175 m <sup>2</sup>

This report will demonstrate that future dwelling houses are able to be designed and sited on the proposed additional allotments in strict accordance with the applicable built form controls and without unacceptable streetscape, residential amenity or environmental impacts. The subsequent dwelling house designs will be the subject of separate development applications lodged at a future time.

## 4.0 STATUTORY PLANNING FRAMEWORK

### 4.1 General

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 as amended. Those matters which are required to be addressed are outlined, and any steps to mitigate against any potential adverse environmental impacts are discussed below.

### 4.2 Pittwater Local Environmental Plan 2014

#### 4.2.1 Zone and Zone Objectives

The subject property is zoned E4 Environmental Living pursuant to the provisions of Pittwater Local Environmental Plan 2014 ("PLEP 2014"). Dwelling houses and subdivision are permissible with consent. The stated zone objectives are as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

As previously indicated the proposed lot sizes comply with the minimum subdivision lot size standard and are of a size and dimension able to accommodate future dwelling houses taking into account the environmental constraints and opportunities identified through initial site analysis.

We have formed the opinion that the proposed subdivision does not defeat the zone objectives as outlined through the maintenance of a low impact and low density residential environment and which will enable future dwelling houses which will integrate with the landform.

Accordingly, there is no statutory impediment to the granting of consent.

#### 4.2.2 Minimum Subdivision Lot Size

Pursuant to clause 4.1 of PLEP 2014 the minimum subdivision lot size is 700m<sup>2</sup>. As previously indicated the subdivision creates 2 allotments having the following site areas (exclusive of the area of the ROW/ access handle):

Proposed Lot Areas exclusive of the area of the ROW/ access handle	
Lot 1	1631m <sup>2</sup>
Lot 2	840.1m <sup>2</sup>

The stated objectives of this standard are as follows:

- (a) *to protect residential character and amenity by providing for subdivision where all resulting lots are consistent with the desired character of the locality, and the pattern, size and configuration of existing lots in the locality,*

Comment: The proposed subdivision lot sizes and pattern are consistent with the desired character of the locality, and compatible with the pattern, size and configuration of existing lots in the locality.

- (b) *to provide for subdivision where all resulting lots are capable of providing for the construction of a building that is safe from hazards,*

Comment: The site is located within a geotechnical hazard area, flood risk and is mapped as a biodiversity area. Expert reports have been prepared in this regard and demonstrate that the proposed subdivision is suitable and of acceptable risk on this site.

- (c) *to provide for subdivision where all resulting lots are capable of providing for buildings that will not unacceptably impact on the natural environment or the amenity of neighbouring properties,*

Comment: A flora and fauna study and arborist report has been prepared and accompanies this application. The flora and fauna study concludes that the subdivision and proposed building footprints will not have a significant impact on any threatened species, population or ecological communities provided recommendations of the report are put in place.

- (d) *to provide for subdivision that does not adversely affect the heritage significance of any heritage item or heritage conservation area,*

Comment: N/A

- (e) *to provide for subdivision where all resulting lots can be provided with adequate and safe access and services,*

Comment: The existing access will be maintained and extended to provide access to the lots.

- (f) *to maintain the existing function and character of rural areas and minimise fragmentation of rural land,*



Comment: N/A

- (g) *to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.*

Comment: The accompanying documentation confirms that all 2 lots are of adequate size and dimension to accommodate compliant dwelling houses having minimal adverse environmental, streetscape and residential amenity consequences. There is sufficient certainty as to future built form outcomes to enable dwelling house designs to be the subject of future development applications.

Clearly the proposed subdivision satisfies the minimum allotment size standard and the objectives associated with such control. Accordingly there is no statutory impediment to the granting of consent.

#### **4.2.3 Acid Sulfate Soils**

Pursuant to clause 7.1 of the PLEP the subject site is classified Class 5. The proposal does not include any significant earthworks and accordingly no additional investigation is considered warranted at this time.

#### **4.2.4 Essential Services**

In accordance with clause 7.10 PLEP 2014 the proposal includes a drainage plan, and the existing and proposed extension of the driveway that will service the 2 lots. The other services of water, electricity and sewage will use the established services with appropriate easements for services nominated on the subdivision plan.

#### **4.2.5 Biodiversity**

Pursuant to clause 7.6 of the LEP the site is mapped as being within a terrestrial biodiversity area. As such, a flora and fauna report and arborist report have been provided. Recommendations are provided in the flora and fauna report which will assist in mitigating any potential impacts to important habitat features on the site.

#### **4.2.6 Geotechnical Hazards**

Pursuant to clause 7.7 the subject site is identified as being within a geotechnical hazard area. A geotechnical report has been prepared by White Geotechnical and concludes that the proposed subdivision has an acceptable level of risk associated with the development.

### 4.3 Pittwater 21 Development Control Plan

This policy document came into effect on 1<sup>st</sup> February 2004 and has been amended on numerous occasions since. Pittwater 21 DCP contains development controls for the design and construction of buildings and the development of land in Pittwater. The proposed development has been assessed against the relevant provisions of Pittwater 21 DCP as outlined in the following sections of this report.

#### 4.3.1 Newport Locality

The property is located within the Newport locality. The desired future character of the locality is identified as being:

*The Newport locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a natural landscaped setting, integrated with the landform and landscape. Secondary Dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancy dwellings will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, community and recreational facilities will serve the community.*

*Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.*

*Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.*

*A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.*

*Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.*

*Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.*

*Newport's coastal setting is what contributes most to the distinctive character of the commercial centre. Responsive, energy efficient buildings will support and enhance this relaxed, beachfront character and its outdoor lifestyle, contributing to a unique sense of place. Contemporary design solutions within the commercial centre will respond to Newport's climate and setting, including providing shade and shelter to streets and entries, generous private outdoor spaces, openings that capture ocean breezes, and shade elements.*

A low-density residential area will be maintained and add to the housing stock availability. The site of future dwellings will result in little impact to the biodiversity and endangered spotted gums population, as detailed in the arborist and flora and fauna reports provided.

#### **4.3.2 General Controls**

##### **Heritage Controls - Aboriginal Heritage Significance**

In accordance with Clause B1.4 we have undertaken a walkover inspection of the entire site and determined that there are no exposed rock overhangs, outcrops or signs of aboriginal relics and accordingly have formed the considered opinion that the development will not have any impact on any aboriginal place or object.

##### **B2 Density Controls - Land Subdivision – Low Density Residential Areas**

Pursuant to Part B2.2 of the Council P21 DCP as the land is identified as Area 1 on the Landscaped Area and the DCP controls are as follows:

- *Any lot (or lots) to be created by a subdivision of an existing lot (or lots) shall have a minimum lot depth of 27 metres.*

Lot 2 is proposed to be 20.88m in depth. This lot houses the existing dwelling. The geometry of the site has a width of 35.665m and as such creates a lot of compliant area with the LEP control and also compliant with clause C4.7 which states that the lot size should be increase by 20% with lots that do not have a boundary to a public road of a minimum 6.5m. In this regard, its considered that the overall geometry of the lot is appropriate in this instance.

- *Any lot (or lots) to be created by a subdivision of an existing lot (or lots) on land identified as Area 1 on the Landscaped Area Map shall have a minimum lot width at the building line of 16 metres.*

The proposed lots comply with this control.

- *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 proposed subdivision and future dwelling will not have an unreasonable impact on the biodiversity of the local environment, as detailed in the reports provided. A small portion of the site is affected by the probable maximum flood but is not a significant risk. A geotechnical report is also provided and deemed to be an acceptable risk.

- *A person shall not subdivide land if the allotment(s) intended to be created have a slope in excess of 16.7 degrees (30%), measured between the highest and lowest points on any such allotment(s).*

A geotechnical report provided concludes that the site has an acceptable risk level.

- *The minimum area for building shall be 175m<sup>2</sup>.*

A 175m<sup>2</sup> building footprint can be achieved on lot 1.

### **B3 Hazard Controls**

#### **Landslip Hazard**

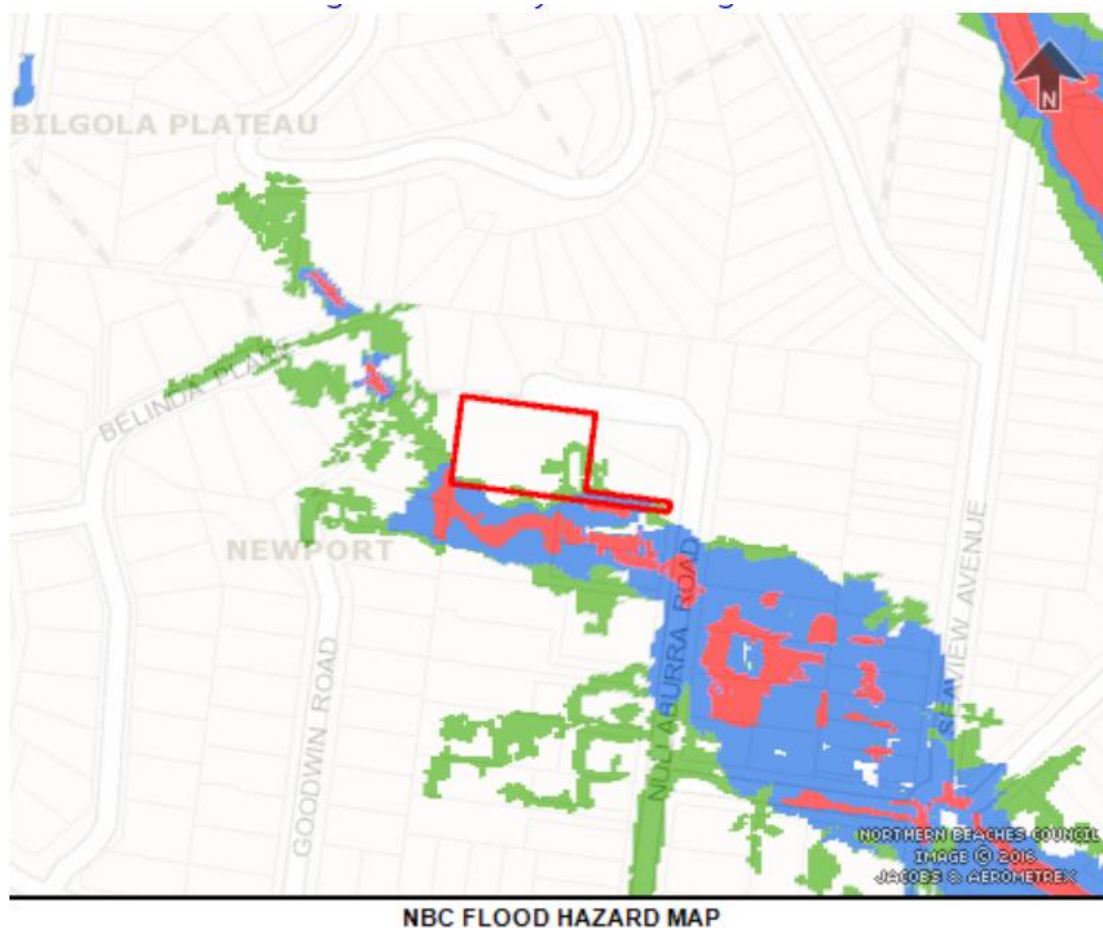
Pursuant to clause B3.1 of the DCP the site is identified as being a geotechnical hazard. As such, a geotechnical report has been prepared and accompanies the application. The report concludes that the site has an acceptable risk level.

#### **Contaminated Land and Potentially Contaminated Land**

The site has only ever been used for residential purposes. As such it can be reasonably assumed that the site is not contaminated. Please refer to Section 4.4 of this statement.

#### **Flood Prone Land**

The site is identified as being flood prone land. A map extract is shown below detailing the level of flood affectation.



**Figure 2: Flood Prone Land Map**

As shown on the map above, the vast majority of the site is not flood affected however still requires consultation with a flood engineer. A flood assessment report accompanies this application and concludes that any works on the site would not have any impact on the flood behaviour during a 100 year event.

#### **B4 Natural Environment**

The site is mapped as being within a biodiversity area, as previously mentioned in section 4.2.5 of this report. A detailed flora and fauna report and an arborist report have been prepared.

#### **Stormwater**

Drainage plans prepared by Kozarovski & Partners accompany this application.

#### **Internal Driveways/Car Parking**

This proposal includes some works to the existing driveway to provide a passing bay. Details are shown on the proposed subdivision plan. The driveway drainage details and long section have also been prepared and accompany this application.

This application does not seek consent for the driveway to access lot 1's dwelling however an indicative footprint of the dwelling and driveway have been prepared.

### **Site Works Management**

In accordance with Part B8 appropriate measures are to be undertaken to address the issues of construction and demolition impacts, erosion and sedimentation management, waste minimisation, site fencing and security, works in the public domain and traffic management where required.

Modest physical works are required to implement the proposed subdivision involving the creation of access and utility services to the resulting allotment.

### **4.3.3 Development Type Controls**

#### **Design Criteria for Land Subdivision**

Section C4 of Pittwater 21 DCP contains provisions applicable to land subdivision and in this regard having regard to the provisions at C4.1 to C4.8 we advise as follows:

- The proposed building platform in lot 1 will not create any significant hazard risk in regard to landslip or flood impact. This is detailed in the supporting documents provided which concludes that there is no significant risk to landslip or flood impact.
- The additional residential allotment will not create any significant traffic generation with the minor increase in vehicle trips appropriately accommodated within the established Place network.
- The future dwelling house on the additional lot 1 will not impact on existing public places, footpaths or streetscapes and will benefit from existing access arrangements.
- Adequate utility services are available to service the proposed allotments.
- This application does not seek consent for the driveway extension to access lot 1's and the indicative building footprint however both have been prepared as examples.
- In regard to control C4.7 which states that where an allotment has a boundary dimension of 6.5 metres or less to a road, then the site area

of the allotment shall be increased by 20% over that required for the area. The proposal is compliant with this control with both allotments meeting the area with the additional 20% imposed. Council had indicated a requirement to comply with this control at the pre-lodgement meeting.

- The additional allotment is of a size and dimension that is able to accommodate a fully compliant dwelling house designed and sighted to maintain established view lines, compliant solar access and appropriate residential amenity to the adjoining residential properties. These matters will be fully considered and addressed in the preparation of the subsequent dwelling house development application.
- The proposed allotments will be suitably landscaped in accordance with Council's requirements with such landscape regime detailed in any subsequent development application.

#### **4.3.4 Locality Specific Development Controls**

##### **Character as Viewed from Public Place**

The existing lot to be subdivided is a battle-axe block and as such will maintain the existing character when viewed from a public place.

The three dimensional form of the future dwelling house, and their relationship with adjoining development will be dictated through compliance with the applicable built form controls/ outcomes as they relate to the construction of dwellings in the Newport area including providing built form integrated into the landscaped setting. Such controls will ensure that the future dwelling house/s will not be perceived as inappropriate, jarring or antipathetic and will reflect the desired future character of the Newport Locality.

#### **4.4 State Environmental Planning Policy No. 55 – Remediation of Land**

Pursuant to clause B3.6 Council shall not consent to the carrying out of any development on land unless it has considered the provisions of SEPP No. 55 – Remediation of Land ("SEPP 55"). In this regard, the likelihood of encountering contaminated soils on the subject site is extremely low given the following:

- Council's records indicate that site has only been used for residential uses.
- The subject site and surrounding land are not currently zoned to allow for any uses or activities listed in Table 1 of the

contaminated land planning guidelines of SEPP 55.

- The subject site does not constitute land declared to be an investigation area by a declaration of force under Division 2 of Part 3 of the Contaminated Land Management Act 1997.

Given the above factors no further investigation of land contamination is warranted. The site is suitable in its present state for the proposed residential subdivision. Therefore, pursuant to the provisions of SEPP 55, Council can consent to the carrying out of development on the land.



#### **4.5 Matters for Consideration Pursuant to Section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended**

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended). Guidelines (in italic) to help identify the issues to be considered have been prepared by the Department of Planning and Environment. The relevant issues are:

##### **(i) The provision of any Planning Instrument**

The proposed alterations and additions are permissible and consistent with the intent of the Pittwater Councils Local Environmental Plan and Development Control Plan as they are reasonably applied to the proposed works given the constraints imposed by the sites location, environmental and topographical constraints.

**(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and**

N/A

##### **(iii) Any development control plan**

Pittwater DCP applies

**(iiia) Any Planning Agreement that has been entered into under section 7.4 or any draft planning agreement that a developer has offered to enter into under Section 7.4, and**

N/A

**(iv) The Regulations (to the extent that they prescribe matters for the purposes of this paragraph), and**

N/A

**(v) Any Coastal Zone Management Plan (within the meaning of the Coastal Protection Act 1979)**

N/A

**(b) The likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality,**

*Context and Setting*

*What is the relationship to the region and local context in terms of:*

- *The scenic qualities and features of the landscape*
- *The character and amenity of the locality and streetscape*
- *The scale, bulk, height, mass, form, character, density and design of development in the locality*
- *The previous and existing land uses and activities in the locality*

The proposed works are entirely commensurate with that established by adjoining development and development generally within the sites visual catchment with no adverse residential amenity impacts in terms of views, privacy or overshadowing.

*What are the potential impacts on adjacent properties in terms of:*

- *Relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)*
- *visual and acoustic privacy*
- *views and vistas*
- *edge conditions such as boundary treatments and fencing*

These matters have been discussed in detail earlier in this report. The works have been designed such that potential impacts are minimal and within the scope of the built form controls.

*Access, transport and traffic:*

*Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:*

- *Travel Demand*

- *dependency on motor vehicles*
- *traffic generation and the capacity of the local and arterial road network*
- *public transport availability and use (including freight rail where relevant)*
- *conflicts within and between transport modes*
- *Traffic management schemes*
- *Vehicular parking spaces*

The proposal will not result in any significant impact to travel demands or the existing traffic network in the local area.

#### *Public Domain*

The proposed development will have no adverse impact on the public domain.

#### *Utilities*

Existing utility services will continue to service the dwelling house and will be able to connect to the additional allotment

#### *Flora and Fauna*

A flora and fauna report and arborist report has been provided.

#### *Waste Collection*

Normal domestic waste collection applies to the existing dwelling house.

#### *Natural hazards*

A geotechnical report has been prepared.

#### *Economic Impact in the locality*

The proposed development will not have any significant impact on economic factors within the area notwithstanding that it will generate additional employment opportunities through the construction period with respect to the proposed works.

#### *Site Design and Internal Design*

*Is the development design sensitive to environmental considerations and site attributes including:*

- *size, shape and design of allotments*
- *The proportion of site covered by buildings*
- *the position of buildings*
- *the size (bulk, height, mass), form, appearance and design of buildings*
- *the amount, location, design, use and management of private and communal open space*
- *Landscaping*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be minimal and within the scope of the general principles, desired future character and built form controls.

*How would the development affect the health and safety of the occupants in terms of:*

- *lighting, ventilation and insulation*
- *building fire risk – prevention and suppression*
- *building materials and finishes*
- *a common wall structure and design*
- *access and facilities for the disabled*
- *likely compliance with the Building Code of Australia*

The proposed development can comply with the provisions of the Building Code of Australia. The proposal complies with the relevant standards pertaining to health and safety and will not have any detrimental effect on the occupants.

### *Construction*

*What would be the impacts of construction activities in terms of:*

- *The environmental planning issues listed above*
- *Site safety*

Normal site safety measures and procedures will ensure that no safety or environmental impacts will arise during construction.

**(c) The suitability of the site for the development**

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development prohibitive*
- *Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*
- *Are utilities and services available to the site adequate for the development*
- *Are the site attributes conducive to development*

The site is located in an established residential area. The adjacent development does not impose any unusual or impossible development constraints. The proposed development will not cause excessive or unmanageable levels of transport demand. The site being of moderate grade, adequate area, and having no special physical or engineering constraints is suitable for the proposed works.

**(d) Any submissions received in accordance with this act or regulations**

It is envisaged that Council will appropriately consider any submissions received during the notification period.

**(e) The public interest**

The proposed works are permissible and consistent with the intent of the LEP and DCP controls as they are reasonably applied to the proposed alterations and additions. The development would not be contrary to the public interest.

## **5.0 CONCLUSION**

This report demonstrates that the proposed subdivision is permissible with consent and consistent with the legislative framework as it relates to the proposed development. The proposal presents an opportunity to provide additional housing in an established residential locality with high amenity for future occupants.

The proposed subdivision provides for the creation of a compliant, complimentary and compatible subdivision pattern with the proposed allotments having compliant areas, dimensions and building platforms consistent with those established by adjoining development and allotments within the Newport locality generally.

The accompanying documentation confirms that the lots are of adequate size and dimension to accommodate compliant dwelling houses having acceptable environmental, streetscape and residential amenity consequences.

Having given due consideration to the matters pursuant to Section 4.15 of the Environmental Planning and assessment Act, 1979 as amended, it is considered that there are no matters which would prevent Council from granting consent to this proposal in this instance.



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