



2 BEACH ROAD  
COLLARROY NSW 2097

*Development Application for the one into two lots Torrens Title Subdivision and minor alterations to an existing dwelling, at 2 Beach Road, Collaroy*

**CLAUSE 4.6 WRITTEN REQUEST – MINIMUM SUBDIVISION LOT SIZE STANDARD**



Prepared for John Bates  
Issue A – J20019  
12 May 2020

## 1. Introduction

This is a Clause 4.6 written request regarding the proposed one lot into two lot subdivision of land at 1/2 Beach Road and 2/2 Beach Road, Collaroy and minor alterations to one of the existing dwellings. For the purpose of this report, the site address will be recognised simply as 2 Beach Road, Collaroy. This written request relates to the development standard for the minimum subdivision lot size of the subject site.

This application is described in plans by Manche designs, dated 15/4/2020, including:

- Existing Site Plan – Drawing No. 1.1
- Proposed Site Plan – Drawing No. 1.2
- Dwelling 1 Floor Plans – Drawing No. 3.1
- Dwelling 2 Existing Floor Plans- Drawing No. 3.2
- Dwelling 2 Proposed Floor Plans – Drawing No. 3.3
- Dwelling 2 Elevations – Drawing No. 4.2
- Dwelling 2 Sections – Drawing No. 5.2

A survey plan and subdivision plan have been provided by CMS Surveyors, dated 19 March 2020. In addition, a stormwater concept plan has been provided by Manche Designs, dated 15 April 2020.

Part 2 of this written request describes the proposed contravention of the development standard and describes the key elements of *Clause 4.1* of the *Warringah Local Environmental Plan 2011* (WLEP 2011). Part 3 sets out that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Part 4 sets out that there are sufficient environmental planning grounds to justify the contravention of the development standard. Part 5 sets out that the proposed development is in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the R2 Low Density Residential zone. Part 5 also addresses the matters to be considered by the Secretary. Part 6 provides a brief conclusion.

The proposed development is for the purpose of a one into two lot subdivision of land at 2 Beach Road, Collaroy, which would result in one dwelling house located on each proposed lot. Currently, the site consists of a strata subdivided dual occupancy that was approved as part of DA 1995/83.

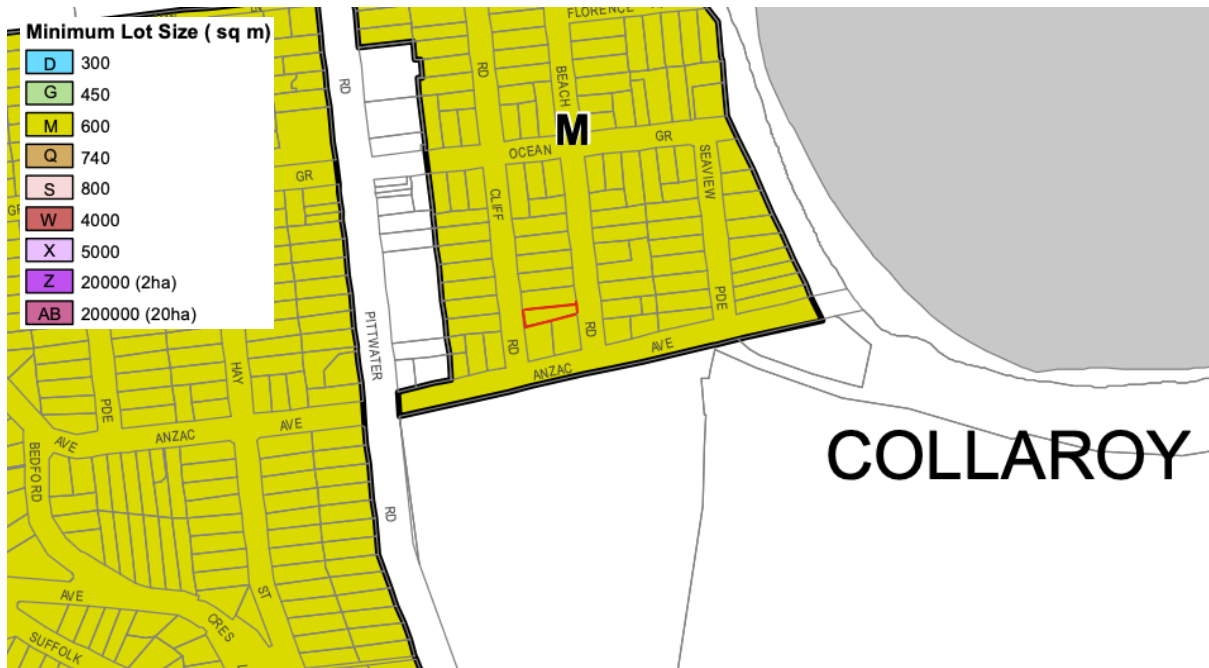
The site is zoned R2 – Low Density Residential, with dual occupancy developments being a prohibited use within the zone. This proposal will create two single dwelling houses, which are permissible within the R2 zone.

### ***Permitted with consent***

*Bed and breakfast accommodation; Boarding houses; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; **Dwelling houses**; Educational establishments; Emergency services facilities; Environmental protection works; Exhibition homes; Group homes; Health consulting rooms; Home businesses; Hospitals; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Tank-based aquaculture; Veterinary hospitals*

## 2. Proposed Contravention to the Development Standard

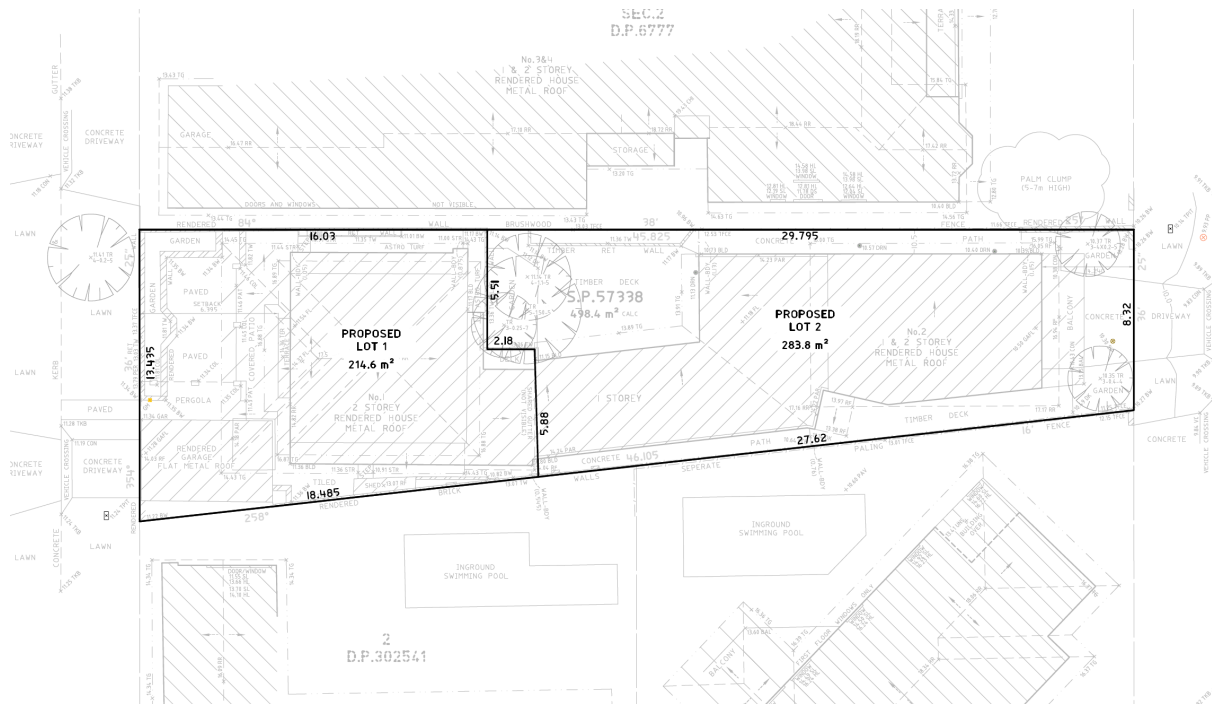
Clause 4.1 of the WLEP 2011 states that the size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the *Lot Size Map* in relation to that land. The map indicates that the minimum subdivision lot size for the subject site is 600m<sup>2</sup>. See *Figure 1* below.



**Figure 1:** Map showing the Minimum Lot Size for the subject site. Source: WLEP 2011

The existing lot is predominantly rectangular in shape and has a lot size of 498.4m<sup>2</sup>. Following the subdivision of land, proposed Lot 1 will be 214.6m<sup>2</sup> and proposed Lot 2 will be 283.8m<sup>2</sup>. Based on the above, the degree of contravention for proposed Lot 1 would be 64.2% and proposed lot 2 would be 52.7%.

Figure 2 below details the proposed subdivision and how the proposal will retain the existing dwellings on site.



**Figure 2:** Proposed subdivision plan showing the extent of the contravention to the minimum lot size control. Source: APW Designs

Clause 4.1 of the WLEP 2011 provides as follows:

**Minimum subdivision lot size**

(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,
- (b) to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development,
- (c) to protect the integrity of land holding patterns in rural localities against fragmentation,
- (d) to achieve low intensity of land use in localities of environmental significance,
- (e) to provide for appropriate bush fire protection measures on land that has an interface to bushland,
- (f) to protect and enhance existing remnant bushland,
- (g) to retain and protect existing significant natural landscape features,
- (h) to manage biodiversity,
- (i) to provide for appropriate stormwater management and sewer infrastructure.

(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.

*(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*

*(3A) For the purposes of subclause (3), in calculating the size of a lot the area of any access corridor (including any right of carriageway, access way or other area that provides for vehicle access) is to be excluded, whether the access corridor is to be created or is in existence at the time of the application for development consent for the subdivision.*

*(4) This clause does not apply in relation to the subdivision of any land—*

*(a) by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or*

*(b) by any kind of subdivision under the Community Land Development Act 1989.*

The objectives of *Clause 4.1* detail how the proposed subdivision must be appropriate for the site constraints and protects the residential character of the area. Considering that the site has consisted of a dual occupancy since approval was granted in 1995, the site has been able to demonstrate that the land is suitable to facilitate two dwellings. The subdivision of land will maintain the existing pattern and existing boundary between the two dwellings. With the exception of the minor demolition works to one of the dwellings (2/2 Beach Road), the only works involved is for a one into two lots Torrens title subdivision which would change the use of the site from being a dual occupancy (non-conforming use) to a dwelling house located on each lot of land (conforming use).

Due to the lack of physical changes to the existing site conditions, it is deemed that the subdivision of land and retention of existing dwellings will not generate any adverse impacts on adjoining properties and any potential site constraints.

### **3. That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case**

It would be unreasonable and unnecessary for the development to comply with the development standard due to the following particular circumstances of the present case:

- The dwellings located on the site are existing and are proposed to be retained as part of this application. The proposed boundary between the two proposed dwelling houses will be in line with the existing middle boundary between the dwellings.
- Whilst there is a proposed non-compliance with the lot size control for both proposed lots, the subdivision will actually reduce the building bulk as there are minor demolition works proposed to one of the dwellings. This will increase the separation between the two proposed dwelling houses.
- The current use of the site is a dual occupancy, which is a prohibited use within the R2 zone that the site is located. This proposed development for the subdivision of the existing lot into two separate lots, will create two dwelling houses. With regard to the permissible uses under the current zoning of the site, a dwelling house is permissible. Therefore, the proposed non-compliance with the lot size control is

considered to be reasonable due to the change in use from a non-conforming use to a conforming use.

- With the exception of minor demolition works towards the rear of one of the dwellings, no physical works are proposed. The site as currently configured has been inclusive of a dual occupancy since approval was granted under DA1995/83. For the past 25 years, the site has shown its ability to suitably operate with two dwellings in a way that does not create adverse impacts for property owners and the adjoining dwellings.
- The proposed development will not impact on the residential capacity of the subject site. However, the subdivision of land will enable the potential for more affordable housing within a locality that does not provide for many alternative housing options. Following the subdivision of the site, the two lots can (if so desired) be sold separately which will allow potential home buyers the opportunity for buying land that has proven to be of a suitable size for residential purposes, in an attractive location and without the burdens associated with maintaining an owner's corporation.

#### **4. Environmental planning grounds to justify contravening the development standard**

The subject site is predominantly rectangular in shape and comprises of a total area of 498.4m<sup>2</sup>. In order to maintain the existing dwellings on site and continue to retain the existing site conditions following the subdivision of land, the proposed lots will inevitably be of a size that is below the minimum lot size for the area.

The existing use as a dual occupancy has existed for approximately 25 years. As this proposal seeks to retain the current site conditions there will be minimal adverse impacts on the site surrounding land. With the exception of minor demolition works to dwelling 2, the dwellings that have become a part of the existing character of streetscape along Beach Road and Cliff Road will be retained.

There is no existing heritage item or conservation area located within close proximity to the site. As a result, no adverse impacts will be generated on surrounding heritage areas from this proposed contravention to the minimum subdivision lot size control.

A minor reduction in the built form for dwelling 2 is proposed. This will allow for an increase moveability around the site and an increase in building separation between the two proposed lots. This ensures that the proposed subdivision will enhance the liveability for residents living within both dwellings.

The proposed subdivision layout will enable the existing landscaping and private open space to be retained for the both dwellings, which will continue to enhance the environmental characteristics of the site.

## **5. Consistency with the objectives of the standard and of the zone**

### **Objectives of the Development Standard**

The proposed development would be in the public interest because it is consistent with the objectives of the development standard. Those objectives 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,*
- (b) to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development,*
- (c) to protect the integrity of land holding patterns in rural localities against fragmentation,*
- (d) to achieve low intensity of land use in localities of environmental significance,*
- (e) to provide for appropriate bush fire protection measures on land that has an interface to bushland,*
- (f) to protect and enhance existing remnant bushland,*
- (g) to retain and protect existing significant natural landscape features,*
- (h) to manage biodiversity,*
- (i) to provide for appropriate stormwater management and sewer infrastructure.*

In relation to objective (a), the proposed subdivision of land will be appropriate with regard to the site constraints. Since approval was granted for the existing dual occupancy in 1995, the site has suitably functioned with regard to its ability to contain two dwellings. Whilst the subdivision of land will not necessarily be consistent with the configuration of lots within the locality, the built form configuration will predominantly remain the same. The site has shown its ability to be of a suitable size for the existing residential demand, which will not be altered by this proposed development.

Regarding objective (b), the subject site is located within an area that is zoned R2 – Low Density Residential. As a result, the site is located within an area that is predominantly intended for residential purposes and not commercial or industrial uses.

Regarding objective (c), the site is not located within a rural locality.

Regarding objective (d), the proposed development will not increase the intensity of land use in the locality. Furthermore, the site itself is not located within an area that is classified as environmentally significant.

Regarding objective (e), the proposed development is not located within an area that is classed as bush fire prone land. Furthermore, the site does not have an interface to bushland.

Regarding objective (f), the proposed development will not impact on the existing remnant bushland within the locality. The site is also not located within close proximity to any bushland area.

Regarding objective (g), the proposal will continue to maintain and reflect the existing natural landscape features. Due to the nature of the development, only minor physical works are involved which will not generate any adverse impacts on the natural environment.

Regarding objective (h), the nature of the development will not cause any adverse impacts on the biodiversity of land within or nearby to the subject site.

Regarding objective (i), the site has suitable stormwater management measures in place to control stormwater impacts. As minor works are proposed however, a revised concept stormwater management plan has been prepared to address stormwater management on site.

### **Objectives of the Zone**

The proposed development would also be in the public interest because it is consistent with the objectives of the zone. Those objectives are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Regarding the first objective, the proposed development will continue to meet the housing needs of the community within a low-density residential environment. The subdivision of land will continue to reflect the existing character of the site, which has shown its ability to be a suitable location for the current configuration of dwellings.

Regarding the second objective, the proposed development will also enable the adjoining properties and other land uses in the area to continue to meet their daily needs. The use of the subject site will continue to be for residential purposes, with the existing dwellings also being retained. Therefore, the proposed subdivision of land will in no way affect neighbouring land.




Regarding the third objective, the existing landscaped setting of the site will not be disturbed as part of this application. Furthermore, the landscaped setting within the natural environment of Warringah will not be disrupted by the proposal.

In relation to the functions of the secretary, it is considered that the small scale of the proposal and nature of the contravention sought, are such that no State or Regional level of significance need to be involved. There is no particular concern arising in relation to the public benefit through the proposed contravention to the development standard, as in this instance there is no adverse impacts created.

## **6. Summary and Conclusion**

The proposed development does not comply with the minimum subdivision lot size control. However, it is demonstrated in this written request that compliance with the development standard is unreasonable and unnecessary in the circumstances of the present case. Additionally, it has been demonstrated that there are environmental planning grounds that support the proposed contravention of the development standard.

Approval of the proposal will be in the public interest, notwithstanding the contravention to this development standard is considered reasonable, because the proposal is consistent with the objectives of the development standard and the zone within which the subject site is located. Therefore, this contravention to the minimum lot size control should not prevent the development application from warranting approval.

A handwritten signature in black ink, appearing to read 'Matthew Benson', with a stylized flourish at the end.

**Matthew Benson**

Principal - MB Town Planning