

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0499
Responsible Officer:	Renee Ezzy
Land to be developed (Address):	Lot 1 DP 830423, 22 - 26 Albert Street FRESHWATER NSW 2096
Proposed Development:	Strata Subdivision of the existing residential lot into 24 strata lots
Zoning:	Warringah LEP2011 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	FW Projects Pty Limited
Applicant:	Veris Australia Pty Ltd
Application lodged:	29/03/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	Not Notified
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval
Estimated Cost of Works:	\$ 2,500.00

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

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 1 DP 830423 , 22 - 26 Albert Street FRESHWATER NSW 2096
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Albert Street and at the intersection of Lawrence Street. The site is legally known as Lot 1 in DP 830423, No. 22 - 26 Albert Street, Freshwater.</p> <p>The site is generally triangular in shape with a frontage of 77.27m along Albert Street. The consistency of the front boundary is broken by the presence of the Bendigo Bank which is located at the southwestern part of the site. The site has a surveyed area of 2,283m². The northern boundary is irregular due to the variable lot depths of neighbouring residential properties along Marmora Street.</p> <p>The site gradually slopes from the south-western corner to the north-eastern corner by approximately 3.37m.</p> <p>The site is located within the B2 Local Centre zone which consists of an established commercial/mixed use area. The B2 Local Centre zone is surrounded by the larger R2 Low-Density Residential zone which predominantly consists of Low-density residential uses interspersed with residential flat buildings.</p> <p>Consequently, the site is immediately surrounded by mixed use retail, commercial and restaurant use to the east, south and west, and by low-density residential uses to the north.</p>

Map:



SITE HISTORY

The site has been the subject of the following applications:

DA2012/1235

Development Application DA2012/1235 was lodged on 18 October 2012 for demolition works and construction of a mixed use development comprising commercial and residential. The application was referred to the former Warringah Development Assessment Panel (WDAP) on 13 February 2013 where it was approved subject to conditions.

DA2016/0874

Development Application DA2016/0874 was lodged on 23 August 2016 for the subdivision on Lot 1 into 5 x stratum lots to separate the 5 approved uses into separate titles. The 5 proposed lots consist:

- Lot 1 - Residential Use;
- Lot 2 - Supermarket;
- Lot 3 - Retail shop;
- Lot 4 - Retail shops
- Lot 5 - Retail/Commercial Carpark.

The application was approved by Council on 8 November 2016. The conditions of consent issued for this application did not have any requirement for an Occupation Certificate.

MOD2017/0148

Modification Application No. MOD2017/0148 sought amendment of DA2016/0874 Condition 10 which required an Occupation Certificate to be issued prior to the lodgement of the plan with the NSW Land and Property Information Department. The condition was modified to more accurately reflect the requirements of the original consent and was approved on 24 August 2017.

DA2018/0499

Development Application No. DA2018/0499 for strata subdivision of the residential Lot 1 DP 830423 into 24 residential strata lots. This application is the subject of this assessment.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks to subdivide Lot 1 DP 830423 into 24 strata lots.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</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 clause is not relevant to this application.</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>

Section 4.15 Matters for Consideration'	Comments
	<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 clause is not relevant to this application.</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 addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
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.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application was not notified.

MEDIATION

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The proposal includes the Strata Subdivision of the existing residential lot into 24 strata lots. No objections subject to conditions.
Environmental Compliance (Building Control)	The Building control is currently investigating a compliance matter - Reference EPA2018/00875.

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. The subject application seeks consent for the strata subdivision of the development approved under DA2012/1235 and does not introduce any further excavation works which would otherwise require further consideration under the SEPP.

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

The Principal Development Standards are not applicable to this application as the scope of works is for strata subdivision of the existing approved development only.

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision - consent requirements	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

The Built Form controls are not applicable to this application as the scope of works is for strata subdivision of the existing approved development only.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C1 Subdivision	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
D14 Site Facilities	Yes	Yes
G5 Freshwater Village	Yes	Yes
1. Built form in Freshwater	N/A	N/A
2. Number of storeys	N/A	N/A
3. Street activation	N/A	N/A
4. Street facades and shopfront design	N/A	N/A

Clause	Compliance with Requirements	Consistency Aims/Objectives
5. Access and loading	N/A	N/A
6. Lighting	N/A	N/A
7. Safety and security	N/A	N/A
8. Signage	N/A	N/A
9. Awnings	N/A	N/A
10. Front setback	N/A	N/A
11. Side and rear setbacks	Yes	Yes
13. Roofs and building form	N/A	N/A
14. Building massing	N/A	N/A
15. Building sustainability	N/A	N/A
16. Materials and colours	N/A	N/A
17. Active travel links	N/A	N/A

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

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

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 DA2018/0499 for Strata Subdivision of the existing residential lot into 24 strata lots on land at Lot 1 DP 830423, 22 - 26 Albert Street, FRESHWATER, 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
Strata Plan Administration Sheets 1 to 3	Printed 21 March 2018	Linker Surveying Pty Ltd
Location Plan - Basement Level 2 (sheet 1 of 8)	21 November 2017	Karl Robertson
Location Plan - Basement Level 1 (sheet 2 of 8)	21 November 2017	Karl Robertson
Location Plan - Ground Level (sheet 3 of 8)	21 November 2017	Karl Robertson
Location Plan - Level 1 and Level 2 (sheet 4 of 8)	21 November 2017	Karl Robertson
Location Plan - Roof Level (sheet 5 of 8)	21 November 2017	Karl Robertson
Basement Level 2 (sheet 6 of 8)	21 November 2017	Karl Robertson
Level 1 (sheet 7 of 8)	21 November 2017	Karl Robertson
Level 2 (sheet 8 of 8)	21 November 2017	Karl Robertson

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

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. (DACPLB01)

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE

OCCUPATION CERTIFICATE

2. **Compliance with relevant Legislation (Strata / Stratum)**

Prior to the issue of the Strata Plan of Subdivision (including any Stratum), all relevant matters pertaining to this Plan, are to be satisfied to the satisfaction of the Certifying Authority, and evidence provided that the Plan complies with clause 17 Strata Schemes Development Regulation 2016 and the relevant parts of Section 58 Strata Schemes Development Act 2015.

Reason: To ensure compliance with the Consent issued, compliance with relevant legislation, and to ensure adequate provision is made, where required for fire safety, occupant safety, egress, access and appropriate facilities in the premises for building occupants. (DACBCFPOC2)

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

3. **Visitors Sign**

A sign, legible from the street, shall be permanently displayed to indicate that visitor parking is available on the site and the visitor car parking spaces shall be clearly marked as such.

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

Reason: To ensure that visitors are aware that parking is available on site and to identify those spaces to visitors. (DACPLG04)

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

4. **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 (DACPLHPS1)

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

Signed

Renee Ezzy, Principal Planner


The application is determined under the delegated authority of:



A handwritten signature in black ink, appearing to read "Anna Williams".

Anna Williams, Manager Development Assessments

ATTACHMENT A

Notification Plan	Title	Date
 2018/212280	Plan - Notification	03/04/2018

ATTACHMENT B

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2018/212283	Plans - Strata Subdivision with Administration Sheet	21/03/2018
 2018/212224	Owners Consent	28/03/2018
 2018/212230	Report - Statement of Environmental Effects	28/03/2018
 2018/212285	Plans - External	29/03/2018
 DA2018/0499	22-26 Albert Street FRESHWATER NSW 2096 - Development Application - Subdivision	29/03/2018
 2018/208805	DA Acknowledgement Letter - Veris Australia Pty Ltd	29/03/2018
 2018/212212	Development Application Form	03/04/2018
 2018/212215	Applicant Details	03/04/2018
 2018/212216	Letter - Cover	03/04/2018
 2018/212280	Plan - Notification	03/04/2018
 2018/212303	Plans - Internal	03/04/2018
 2018/212309	Plans - Master Set	03/04/2018
 2018/212342	E- mail - Applications Not Requiring Notification	03/04/2018
 2018/240162	Submission - Minnici	16/04/2018
 2018/240247	Submission Acknowledgement Letter - Frank Minnici - SA2018/240162	17/04/2018
 2018/243704	FW: DA 2018/0499 - Strata Subdivision - 22-26 Albert St., Freshwater	18/04/2018
 2018/288113	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/0499 - 22 - 26 Albert Street FRESHWATER NSW 2096	10/05/2018
 2018/288230	Environmental Compliance (Building Control) - Assessment Referral - DA2018/0499 - 22 - 26 Albert Street FRESHWATER NSW 2096	10/05/2018
 2018/288232	Environmental Compliance (Building Control) - Assessment Referral - DA2018/0499 - 22 - 26 Albert Street FRESHWATER NSW 2096	10/05/2018
 2018/289029	Request for update on DA - 22-26 Albert Street Freshwater	11/05/2018
 2018/288918	Referral Response	11/05/2018
 2018/289600	Building Assessment Referral Response	11/05/2018