

**STRATA SUBDIVISION APPLICATION  
TO NORTHERN BEACHES COUNCIL  
SENIORS LIVING HOUSING AT  
3A DYGAL STREET  
MONA VALE**

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# Introduction

An aerial photograph of a residential neighborhood. A central property, labeled DP21049, is highlighted with a red rectangular border. This property is a large, light-colored building with a flat roof, surrounded by trees and landscaping. To the left of the highlighted property, a road labeled 'SCARBURY GLEN LANE' runs diagonally. Other properties in the area are labeled with various DP and SS numbers, including DP270121, SS105618, DP17236, DP17235, DP14230, DP14231, DP14232, DP14233, DP14234, DP14235, DP14236, DP14237, DP14238, DP14239, DP14240, DP14241, DP14242, DP14243, DP14244, DP14245, DP14246, DP14247, DP14248, DP14249, DP14250, DP14251, DP14252, DP14253, DP14254, DP14255, DP14256, DP14257, DP14258, DP14259, DP14260, DP14261, DP14262, DP14263, DP14264, DP14265, DP14266, DP14267, DP14268, DP14269, DP14270, DP14271, DP14272, DP14273, DP14274, DP14275, DP14276, DP14277, DP14278, DP14279, DP14280, DP14281, DP14282, DP14283, DP14284, DP14285, DP14286, DP14287, DP14288, DP14289, DP14290, DP14291, DP14292, DP14293, DP14294, DP14295, DP14296, DP14297, DP14298, DP14299, DP14300, DP14301, DP14302, DP14303, DP14304, DP14305, DP14306, DP14307, DP14308, DP14309, DP14310, DP14311, DP14312, DP14313, DP14314, DP14315, DP14316, DP14317, DP14318, DP14319, DP14320, DP14321, DP14322, DP14323, DP14324, DP14325, DP14326, 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From my viewing of the proposed subdivision application documentation, I am of the view that the proposal has been completed to a standard that is able to be granted strata subdivision approval by Northern Beaches Council.

This matter would be usually dealt with by a principal certifier however due to the passage of time since the development was completed, Council is the relevant authority for the approval of the strata subdivision application.

## **Division 4.15 Evaluation**

### **4.15 Evaluation**

#### **7.6 Matters for consideration—general**

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

*(a) the provisions of:*

*(i) any environmental planning instrument, and*

*(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*

### **RESPONSE**

The relevant provisions of the PLEP and relevant SEPP have been addressed in the original assessment of the development.

*(iii) any development control plan,*

### **RESPONSE**

The relevant provisions of the Pittwater 21 DCP have been considered during the original assessment of the development.

*and*

*(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,*

**RESPONSE**

No planning agreements apply to the proposal

*and*

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

**RESPONSE**

The relevant regulations have been given due regard in the construction of this Statement.

*and*

*(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,*

**RESPONSE**

The development has been constructed in accordance with the approved plans and specifications as evidenced by the accompanying Occupation Certificate documentation and as such any impacts of the proposal were contemplated by the consent authority during the assessment of the proposal.

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

**RESPONSE**

The subject site, by virtue of its existing layout, topography and locality is suitable for the strata subdivision proposal.

*(d) any submissions made in accordance with this Act or the regulations,*

**RESPONSE**

Any submissions received in response to Councils initial notification of the development were considered as part of Councils assessment of the approved development.

(e) *the public interest.*

## **RESPONSE**

The proposal endorses the public interest by allowing the units to be held by disparate future owners.

### ***(2) Compliance with non-discretionary development standards—development other than complying development***

*If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:*

*(a) is not entitled to take those standards into further consideration in determining the development application, and*

*(b) must not refuse the application on the ground that the development does not comply with those standards, and*

*(c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards, and the discretion of the consent authority under this section and section 4.16 is limited accordingly.*

*(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:*

*(a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and*

*(b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard. Note. The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).*

### ***(3A) Development control plans***

*If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:*

*(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and*

*(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*

*(c) may consider those provisions only in connection with the assessment of that development application. In this subsection, standards include performance criteria.*

**(4) Consent where an accreditation is in force**

*A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.*

*(5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).*

**(6) Definitions**

*In this section: (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and (b) non-discretionary development standards means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.*

### Environmental Planning Instruments

The proposal as approved remains a permissible development under the provisions of the Pittwater Local Environmental Plan 2014 and relevant State Environmental Planning Policy for Housing for Seniors or People with a Disability.

### Development Control Plans

The approved development was assessed under the relevant DCP at the time.

### Impact on the Natural Environment.

The proposed subdivision will not impact upon flora and fauna, soil or water quality, air quality or the conservation of natural resources

### Impact on the Built Environment.

**Scenic qualities** – The approved development is consistent with the current and future character of the locality as expressed within the provisions of the Pittwater Local Environmental Plan 2014 and the Pittwater Development Control Plan 21.

**Compatibility with adjacent land uses** –The proposal will not materially alter the compatibility with the adjacent land uses.

**Bulk and scale** – The proposed subdivision will not alter the built form.

**Overshadowing** – The proposed subdivision will not impact upon the solar access to nearby sites.

**Views and vistas** – There will be no impacts upon views and vistas across or around the subject site.

**Site design** – The site design has been approved under the parent DA.

**Public domain** – The required works in the public domain are completed.

**Amenity Impacts** – There will be no unreasonable amenity impacts from the proposed subdivision.

*Impact on the Social and Economic Environment.*

The proposal is unlikely to result in any negative social or economic impacts.

*Suitability of the Site.*

The subject site, by virtue of its existing development, zoning, topography and locality is suitable for the proposal.

**Conclusion**

The requested strata subdivision is supported by a comprehensive accessibility evaluation report which concludes that the works, as carried out, satisfy the provisions of the State Environmental Planning Policy for Housing for Seniors or People with a Disability.

The accompanying Occupation Certificate along with relevant documentation including certificates from relevant contractors, survey information and a draft strata plan are able to be considered and approved by Council.

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**14<sup>th</sup> JUNE 2020**