

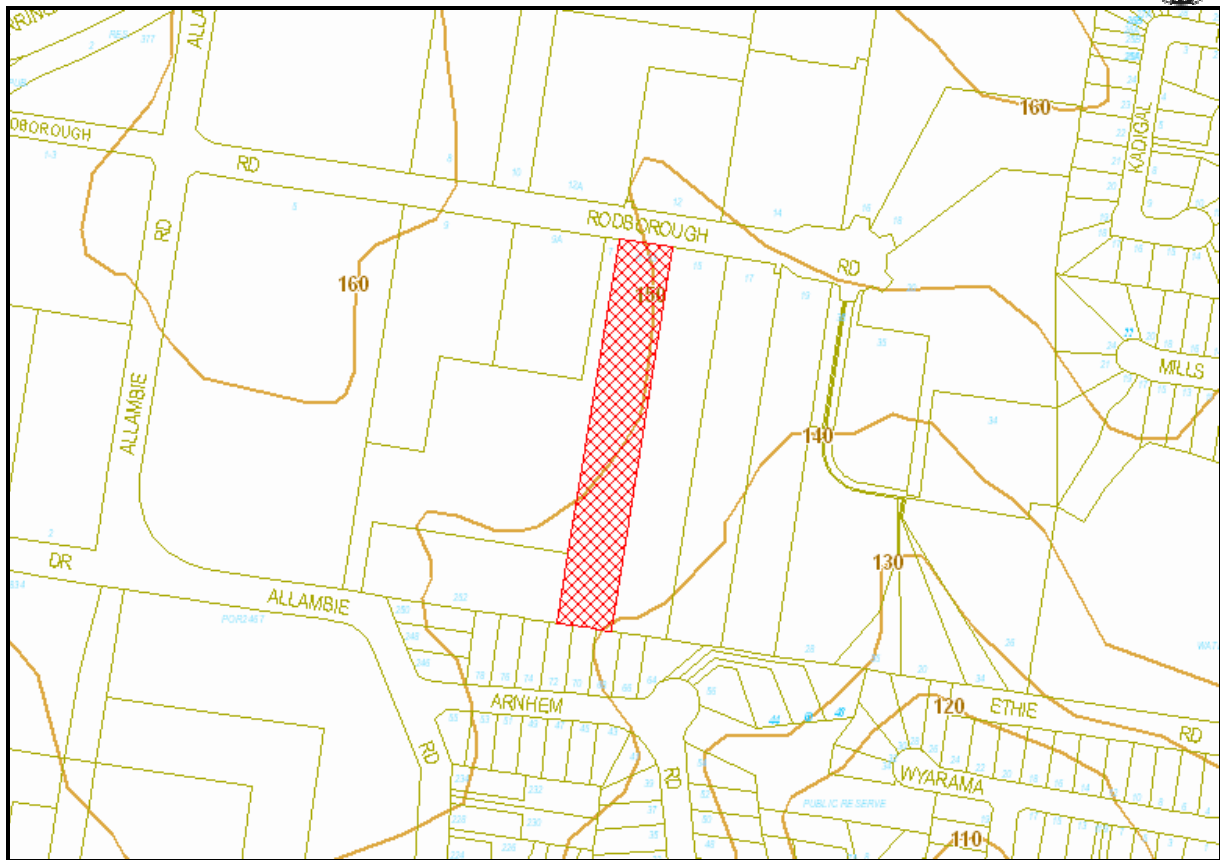


Warringah Council

DEVELOPMENT ASSESSMENT REPORT

Assessment Officer:	Mitchell Drake
Address / Property Description:	Lot C, DP 383872, No. 11-13 Rodborough Road Frenchs Forest. Subdivision of one (1) Lot into two (2) separate lots.
Development Application No:	DA2008/1405
Application Lodged:	1 October 2008
Plans Reference:	• Site Analysis Plan 1 – 4 September 2008, • Site Analysis Plan 2 – 4 September 2008, • Feature Survey Showing Underground Service Lines, Sheet 1 of 2 – 4 September 2008, • Feature Survey Showing Underground Service Lines, Sheet 2 of 2 – 4 September 2008, • Level & Feature Survey, Sheet 1 of 2 – 26 May 2005 • Level & Feature Survey, Sheet 2 of 2 – 26 May 2005 • Drainage Plan, Sheet 1 of 2 – 9 February 2009 • Drainage Plan, Sheet 2 of 2 – 9 February 2009
Amended Plans:	Amended plans with regard to drainage were submitted 13 February 2009.
Applicant:	Montek Property Pty Ltd
Owner:	J Myers, P D Watkins, M Jade.
Locality:	G4 Rodborough Road
Category:	Category 2 - Subdivision
Variations to Controls (Cl.20/Cl.18(3)):	Not applicable to this proposal.
Referred to ADP:	Not applicable to this proposal.
Referred to WDAP:	Not applicable to this proposal.
Land and Environment Court Action:	Not applicable to this proposal.
SUMMARY	
Notification Period:	9 October 2008 – 23 October 2008
Submissions:	No submissions were received in response to the proposal.
Submission Issues:	No submissions were received in response to the proposal.
Assessment Issues:	Easements, On-site-detention, Stormwater and drainage, Access.
Recommendation:	Refusal

LOCALITY PLAN (not to scale)



Subject Site: Lot C, DP 383872, No. 11-13 Rodborough Road Frenchs Forest.

Public Exhibition: The subject application has notified in accordance with the Warringah Local Environment Plan 2000 and Warringah Development Control Plan (adopted 13 December 2005). As a result, the application was notified to 36 adjoining land owners and occupiers for a period of 14 calendar days commencing on 9 October 2008 and being finalised on 23 October 2008.

SITE DESCRIPTION

The subject site is legally known as Lot C DP 383872 and commonly referred to as 11-13 Rodborough Road Frenchs Forest. The site has a depth of 240.7m and an average site width of 34.04m and presents an overall site area of 8197m². The site features a fall of 10m which begins approximately 30m from the rear or southern boundary and has a steady fall down to the rear boundary. This section of the site is occupied by existing bushland.

The site is occupied by an existing three (3) storey industrial building with vehicular and pedestrian access from the Rodborough Road entrance. An investigation of Council records indicates that there are no easements or encumbrances on or across the subject site. The site is surrounded by industrial developments, save to the south where the site adjoins residential properties occupied by detached dwellings.

SITE HISTORY

On 27 February 2008 Council approved DA2007/0949 under delegated authority. The proposal involved the subdivision of Lot C, DP 882322, and Lot 121, DP 882322, No's. 7, 11 and 13 Rodborough Road. The proposal also included a boundary adjustment which included a transfer of 4,125 m² from Lot C to Lot 121. The resultant site areas of the lots are:

- Lot 102 - 4072m²
- Lot 103 - 17480m²
- Lot C – 8197m²

Prior to subdivision approval, the site has been the subject of numerous fit out and change of use/occupation proposals which are not relevant to this application.

PROPOSED DEVELOPMENT

The applicant seeks approval to subdivide one (1) existing lot into two (2) lots. Access to the road frontage lot is directly from Rodborough Road whilst access to the rear lot is via a right of carriageway over the front lot. The identification and dimensions of the proposed lots are as follows:

Proposed Lot	Width	Depth	Area
Proposed Lot 102 – Contains existing Industrial units.	33.93m	123.19m	4187m ²
Proposed Lot 103 – Proposed internal Lot, vacant.	34.16m	117.56m	4010m ²
Total Area			8197m²
Area of right of way, (Included within total area).	5m	123.19	614.49m ²

The proposal also involves the removal of 269m² of concrete paved area from proposed lot 102. No other works are proposed.



AMENDMENTS TO THE SUBJECT APPLICATION

Amended plans and information with regard to drainage and the requirement for on-site detention, were submitted on 13 February 2009 and forwarded to Councils Development Engineers for assessment on 25 February 2009. (Refer to Development Engineers referral)

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulation 2000
- c) State Environmental Planning Policy No. 55 – Remediation of Land
- d) State Environmental Planning Policy – Infrastructure
- e) Warringah Development Control Plan

NOTIFICATION

As a result of the public notification process no submissions have been received.

MEDIATION

Mediation has not been requested.

LAND AND ENVIRONMENT COURT ACTION

No Land and Environment Court actions have been undertaken with regards to this proposal.

REFERRALS

External Referrals

The site has, in the north-west corner, existing transmission lines across the area of proposed Lot 103. Under the provisions of State Environmental Planning Policy – Infrastructure, the proposal is required to be referred to Energy Australia for comment. However, as the applicant has not alleviated other, non-related engineering issues which are considered fatal to the application, a referral in this regard would be superfluous.

Interdepartmental Referrals

Development Engineers

The proposal was referred to Councils Development Engineers on 22 October 2008. The Development Engineers made the following comments:

"In accordance with Council's on-site stormwater detention (OSD) technical specification all commercial developments require OSD. With the creation of two new lots, the proposed lot that contains the existing building and paved areas will require OSD to be provided as part of the proposed development. The applicant must submit an OSD system design for the front lot.

In terms of the proposed drainage of each lot it appears that the bottom section of the proposed access driveway may fall into the proposed second lot. The applicant must provide a drainage plan for the access driveway demonstrating the proposed method of disposal of stormwater from the access driveway. If the driveway is to drain into the proposed rear lot then a drainage design and easement to drain water is to be shown on the plans. If this portion of the driveway is connected to the existing drainage system on the front lot then an easement will not be required.



It is unclear on the submitted survey plans if the site has the benefit of the drainage easement within the rear properties. A title search is to be provided to demonstrate if the site has the benefit of this drainage easement. Also it appears that the neighbouring site drains through the property however there is no existing or proposed easement to drain water shown on the plans to legalise this occurrence. The plans are to be amended to show any additional easements or existing easements burdening the property.

The applicant must submit details of the access driveway extension from the existing bitumen driveway to the proposed new lot boundary. As detailed above, the drainage of this portion of the driveway must also be shown on the plans. A long section and cross sections detailing the proposed and existing levels together with a typical section for the method of construction must be provided.

Please inform the applicant of the above issues and refer when further information is submitted.

The applicant was forwarded this information in writing on 26 November 2008 and again on 14 January 2009. The applicant requested an additional 21 days from 14 January to supply the required documentation which was granted by Council on 16 January 2009.

The applicant submitted amended drainage plans and calculations on 13 February 2009 which was then forwarded to Council's Development Engineers on 25 February 2009 for assessment. The Development Engineers made the following comments with regard to the submission:

"The letter by C & M Consulting Engineers is considered to be unsatisfactory. As stated previously the proposed lot containing the existing building requires OSD. As the application creates a new lot it is considered that this constitutes redevelopment and Council requires OSD to be provided for all new developments where the impervious area exceeds 0%. As such OSD is required for proposed lot 102 in accordance with Council's OSD technical specification.

The applicant has provided a plan indicating how stormwater is collected and disposed of through the front of the site for proposed lot 102. The plan also shows the demolition of the existing concrete paving at the rear of this proposed lot. The previous comments requested the provision of a driveway plan with long sections and cross sections for the portion of the proposed right of way beyond the existing bitumen access road. It is considered that these drawings must be provided by the applicant to determine how stormwater from this portion of the driveway is to be collected and disposed of. As the natural ground levels for this portion of the site are lower than the front portion of the site it is considered that stormwater will need to be collected and diverted through the proposed rear lot. This will require the provision of a drainage system with an easement through proposed lot 103".

In accordance with Warringah Council Policy - Applications for Development Handling of Unclear, Nonconforming, Insufficient and Amended Applications (PDS – POL 140), Section 2 – "Principles", Paragraph (b)(i), the applicant has not, to the Development Engineers satisfaction, provided adequate information for the assessment of the proposal and therefore, the proposal is to be assessed on the basis of the information provided.

It is considered that the information in terms of OSD and drainage of the site and access driveway, is not to the Development Engineers satisfaction and does not address the outstanding drainage, OSD and access issues. The deficiency with respect to the requirements of OSD and drainage is considered fatal to the application and carries a determining weight great enough to warrant refusal of the application.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	- State Environmental Planning Policy No. 55 – Remediation of Land. - State Environmental Planning Policy – Infrastructure. - The Warringah Local Environmental Plan 2000.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no Draft Environmental Planning Instruments applicable to the proposal.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal. The application has been notified in accordance with the plan.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the regulations	Pursuant to Clause 54 and 109 of the EPA 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.
Section 79C (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	(i) The proposal is for the subdivision of a single existing lot into two (2) separate allotments. As such, in terms of the physical features being the slope at the southern end of the existing site and the bushland associated with that portion of the site, the existing building and its associated access and parking and the overall site configuration, there will be minimal environmental impacts. In terms of other environmental impacts, an assessment is made under the Part 4 – General Principles section within this report. The following summary is provided: - The existing building on proposed Lot 102 is to be retained and therefore the character and amenity of the streetscape at Rodborough Road will be retained in its current form. - Impacts of the proposed development on the natural and built environment include stormwater management, concept building footprint and its impact on vegetation, the requirements for on-site detention and the proposed access to Lot 103. The applicant has not satisfied these requirements to Councils satisfaction and therefore, the proposal may not be supported. (ii) The proposed development will not have a detrimental social impact in the locality considering the existing industrial character of the land proposed for subdivision will be unchanged and the site is within an industrial area.



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Section 79C 'Matters for Consideration'	Comments
	(iii) The proposed development will not have a detrimental economic impact on the locality considering the industrial nature of the existing land use within the industrial area.
Section 79C (1) (c) – the suitability of the site for the development	There is no proposed change to the land use on the site as part of the subdivision. Proposed Lot 102 in terms of subdivision area, functionality and numerical controls, has demonstrated that the existing building achieves compliance as a result of the subdivision. Proposed Lot 103 provides adequate built upon areas for the concept building in addition to satisfying the relevant built form controls and General Principles. Therefore the site may be suitable for the subdivision. However, it is unclear whether the small parcel of bushland at the southern end proposed Lot 103 is able to be retained. Further, the proposal is deficient in terms of access, stormwater and on site detention information, particularly with regard to Lot 103. These deficiencies have follow-on impacts in terms of existing flora on the subject site. It is considered that a design solution for access stormwater and OSD may be provided by the applicant. However, as adequate information in this regard has not been provided, a full assessment in terms of impacts upon the site, particularly the remaining bushland, is unable to be undertaken. In terms of drainage and OSD, the applicant has failed to satisfy Councils Engineers that the site is suitable in terms of drainage and OSD (Refer to Engineers referrals) and therefore, the proposal may not be supported.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	The subject application has notified in accordance with the Warringah Local Environment Plan 2000 and Warringah Development Control Plan. There were no submissions received with regards to the proposal.
Section 79C (1) (e) – the public interest	The proposal is considered to not be in the public interest as the proposal has failed to satisfy Councils drainage and OSD requirements which go to the protection of the street stormwater infrastructure and protection of the adjoining properties. Therefore, this non-compliance with Drainage and OSD requirements should carry a determining weight and justify the refusal of the application in the public interest.



ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for Industrial/Warehouse purposes for a significant period of time with no prior land uses involving dangerous goods or chemicals.

In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the subdivision in this regard.

State Environmental Planning Policy – Infrastructure

Clause 45 of SEPP Infrastructure 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 5m 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 5m of an overhead electricity power line

The site has, in the north west corner, existing transmission lines across the area of proposed Lot 103. As, such the development application is caught by the provision of the policy and required to be referred to Energy Australia.

However, as the applicant has not alleviated other, non-related engineering issues which are considered fatal to the application, a referral in regard to infrastructure would be superfluous. Therefore, the subject application is considered to not satisfy the provisions of Clause 45 SEPP Infrastructure due to the proposal not being referred.

Were the applicant able to resolve the outstanding engineering issues, a referral for comment by Energy Australia would proceed and an assessment undertaken in accordance with the policy, therefore the non-compliance with the policy is not considered fatal to the application.

Regional Environment Plans (REPs)

No Regional Environment Plans are applicable to the proposal.



Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

Desired Future Character (DFC)

The subject site is located in the G4 Rodborough Road Locality under Warringah Local Environmental Plan 2000. The Desired Future Character Statement for this locality is as follows:

“The Rodborough Road Locality will continue to be developed as a high quality business park style employment area by ensuring development is set within generous landscaped areas, is sensitive to nearby housing and creates an attractive landscaped corridor along Warringah Road and the Wakehurst Parkway.

Future development will maintain the predominant scale of existing development in the locality. Development is to include measures to minimise the potential impacts upon the water quality of Manly Dam.

The proposed development is defined as “Subdivision” under the WLEP 2000 dictionary. “Subdivision” is identified as Category 2 development in this locality in accordance with Clause 14 (2) which states:

“Notwithstanding subclause (1), subdivision, other than when exempt development, is Category Two development.”

Clause 12(3)(b) of WLEP 2000 requires the consent authority to be satisfied that the proposed development is consistent with the Locality’s DFC statement. Accordingly, an assessment of consistency of the proposed development against the locality’s DFC is provided hereunder:

Requirement: *The Rodborough Road Locality will continue to be developed as a high quality business park style employment area.*

Comment: The proposed subdivision will allow the locality to further contribute to employment opportunities within the locality as the provision of additional allotments allows for the future development of additional commercial/industrial land uses.

Requirement: *Development is to include measures to minimise the potential impacts upon the water quality of Manly Dam.*

Comment: The proposal is not compliant with Councils OSD and stormwater drainage design requirements. The resultant subdivision will be unable to adequately drain without placing unreasonable stress on existing stormwater and drainage infrastructure and will create runoff which will feed, via the street and existing drainage measures, into Manly Dam, thereby potentially increasing turbidity, sediment and nutrient loads within the waterway.

The proposal is inconsistent with the requirement in this regard.

Built Form Controls (Development Standards)

The following tables outline compliance with the relevant Built Form Controls of the above Locality statement for the existing lot and the two (2) proposed lots:



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Built Form Compliance Table G4 Rodborough Road Locality: Existing Lot C, DP 383872					
Built Form Standard	Required		Proposed	Comment	Compliance
Front Building Setback	To Warringah Road & Wakehurst Pky.	30m	Not Applicable	Not Applicable	Not Applicable
	To other roads	10m	16m	Complies	YES
Landscaped Open Space	33% of the total site area =2705.01m ²		7129.5m ²	Complies	YES
Site Coverage	33% of the total site area =2705.01m ²		1067.5m ²	Complies	YES
Subdivision	4000m ²		8197m ²	Complies	YES

Built Form Compliance Table G4 Rodborough Road Locality: Proposed Lot 102 – Existing Buildings					
Built Form Standard	Required		Proposed	Comment	Compliance
Front Building Setback	To Warringah Road & Wakehurst Pky.	30m	Not Applicable	Not Applicable	Not Applicable
	To other roads	10m	16m	As Existing	YES
Landscaped Open Space	33% of the total site area =1395.66m ²		3119.5m ²	Complies	YES
Site Coverage	33% of the total site area =1395.66m ²		1067.5m ²	Complies	YES
Subdivision	4000m ²		4187m ²	Includes right of carriageway	YES

Built Form Compliance Table G4 Rodborough Road Locality: Proposed Lot 103 – Currently Vacant (Concept Buildings Only)					
Built Form Standard	Required		Proposed	Comment	Compliance
Front Building Setback	To Warringah Road & Wakehurst Pky.	30m	Not Applicable	No street frontage	Not Applicable
	To other roads	10m	16m	No street frontage	Not Applicable
Landscaped Open Space	33% of the total site area =1323.3m ²		2686.7m ²	Complies	YES
Site Coverage	33% of the total site area =1323.3m ²		1003.1m ²	Complies	YES
Subdivision	4000m ²		4010m ²	Includes right of carriageway	YES

Clause 21 – Can land Be Subdivided?

Clause 21 provides that land can be subdivided with consent subject to the qualifying statements addressed as follows:

1. (a) *Can the resulting allotments be developed in accordance with the requirements of WLEP 2000? Or*

(b). *Will the resulting allotments contain buildings or works lawfully created or approved?*

Both proposed Lot 102 and 103 are compliant with the Built Form Controls with regard to “Subdivision” in this locality and can be developed in accordance with the requirements of WLEP 2000.

Additionally, proposed Lot 102 contains buildings lawfully approved which have been shown to remain compliant with the Built Form Controls as a result of the subdivision.

The proposal satisfies the provisions of the Built Form Controls and therefore is compliant with Clause 21(a) and (b) of the Warringah Local Environmental Plan 2000.

General Principles of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	No	No comment	N/A
CL39 Local retail centres	No	No comment	N/A
CL40 Housing for Older People and People with Disabilities	No	No comment	N/A
CL41 Brothels	No	No comment	N/A
CL42 Construction Sites	YES	Were the application considered worthy of approval, conditions would be imposed to address hours of operation, noise generation and other construction related issues.	YES – Subject to Conditions
CL43 Noise	No	No comment	N/A
CL44 Pollutants	No	No comment	N/A
CL45 Hazardous Uses	No	No comment	N/A
CL46 Radiation Emission Levels	No	No comment	N/A
CL47 Flood Affected Land	No	No comment	N/A
CL48 Potentially Contaminated Land	YES	A review of Council records and the past commercial /industrial operations on-site indicate that the site is not subject to contamination.	YES

General Principles	Applies	Comments	Complies
CL49 Remediation of Contaminated Land	YES	The site has been considered in terms of contamination. Whilst the site is considered to not be contaminated, conditions of consent would be imposed, were the application be considered worthy of approval, requiring any evidence of contamination discovered, to be reported and the appropriate remediation measures be undertaken.	YES – Subject to Conditions
CL49a Acid Sulphate Soils	No	No comment	N/A
CL50 Safety & Security	No	No comment	N/A
CL51 Front Fences and Walls	No	No comment	N/A
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	No	No comment	N/A
CL53 Signs	No	No comment	N/A
CL54 Provision and Location of Utility Services	YES	The existing site does not have adequate services for the provision of the subdivision. Were the application to be considered worthy of approval, conditions of consent would be imposed requiring the provision of appropriate services.	YES subject to conditions
CL55 Site Consolidation in 'Medium Density Areas'	No	No comment	N/A
CL56 Retaining Unique Environmental Features on Site	No	No comment	N/A
CL57 Development on Sloping Land	No	No comment	N/A
CL58 Protection of Existing Flora	YES	A review of the concept building submitted with the application for subdivision indicates that the remaining bushland at the southern end of proposed lot 103 will not be impacted upon by the development. However, as the information with regards to access stormwater and OSD measures are incomplete, it is not possible to undertake a comprehensive assessment in this regard. It is considered that a design solution for access stormwater and OSD may be provided by the applicant. Notwithstanding the proposal fails to adequately address any potential impacts on the flora of the subject site resulting from these works. The proposal is deficient in this regard and the deficiency is considered to carry a determining weight enough to warrant refusal of the application.	NO
CL59 Koala Habitat Protection	No	No comment	N/A



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General Principles	Applies	Comments	Complies
CL60 Watercourses & Aquatic Habitats	No	No comment	N/A
CL61 Views	No	No comment	N/A
CL62 Access to sunlight	No	No comment	N/A
CL63 Landscaped Open Space	No	No comment	N/A
CL63A Rear Building Setback	No	No comment	N/A
CL64 Private open space	No	No comment	N/A
CL65 Privacy	No	No comment	N/A
CL66 Building bulk	No	No comment	N/A
CL67 Roofs	No	No comment	N/A
CL68 Conservation of Energy and Water	No	No comment	N/A
CL69 Accessibility – Public and Semi-Public Buildings	No	No comment	N/A
CL70 Site facilities	No	No comment	N/A
CL71 Parking facilities (visual impact)	No	No comment	N/A
CL72 Traffic access & safety	YES	Access to the rear lot (Lot 103) will be gained from the existing entry, access driveway over the front lot (Lot 102) from Rodborough Road which is considered satisfactory for the proposed subdivision.	YES
CL73 On-site Loading and Unloading	No	No comment	N/A
CL74 Provision of Carparking	YES	The subdivision allows the existing parking servicing the industrial building on the front lot (Lot 102) to be retained in its current form. It is considered that this parking is adequate for the development.	YES
CL75 Design of Carparking Areas	No	No comment	N/A
CL76 Management of Stormwater	YES	The applicant has provided a plan indicating how stormwater is collected and disposed of through the front of the site to Rodborough Road for proposed Lot 102. However, the provision of a driveway plan with long sections and cross sections for the portion of the proposed right of way beyond the existing bitumen access road was additionally required for assessment as these drawings would determine how stormwater from this portion of the driveway would be collected and disposed of. Despite requests, these plans were not provided.	NO



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General Principles	Applies	Comments	Complies
		The drainage and OSD detention measures required in support of the proposal have not been provided by the applicant. It is considered that a solution for the proposal in terms of OSD and drainage has not been demonstrated to the Development Engineers satisfaction and therefore, the proposal does not address the outstanding drainage and OSD issues. The non-compliances with the requirements of OSD and drainage are considered fatal to the application and carry a determining weight great enough to warrant refusal of the application.	
CL77 Landfill	No	No comment	N/A
CL78 Erosion & Sedimentation	YES	Were the proposal be considered worthy of approval, appropriate conditions of consent would be imposed in this regard.	YES subject to conditions
CL79 Heritage Control	No	No comment	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	No	No comment	N/A
CL81 Notice to Heritage Council	No	No comment	N/A
CL82 Development in the Vicinity of Heritage Items	No	No comment	N/A
CL83 Development of Known or Potential Archaeological Sites	No	No comment	N/A

SCHEDULES

Schedule 7 - Matters for consideration in a subdivision of land

Schedule 7 of WLEP 2000 requires the consent authority to consider matters relating to environmentally sensitive/constrained land, drainage, general site restrictions, access, design and construction. The specific matters raised under Schedule 7 are addressed as follows:

Environmentally sensitive/constrained land

There are no constraints in terms of flooding, tidal inundation, subsidence, slip, bushfire or any other risks, upon the subject site.

Drainage

The applicant has provided a plan indicating how stormwater is collected and disposed of through the front of the site to Rodborough Road for proposed lot 102.



The provision of a driveway plan with long sections and cross sections for the portion of the proposed right of way beyond the existing bitumen access road was additionally required for assessment as these drawings would determine how stormwater from this portion of the driveway is to be collected and disposed of. However, these plans were not provided.

As the natural ground levels for the rear portion of the existing site are lower than the front portion of the existing site, it is considered that stormwater will need to be collected and diverted through the proposed rear lot. This will require the provision of a drainage system with an interallotment drainage easement through proposed Lot 103 to the existing easement over the rear properties being Lot 6 DP 231428 and Lot 1 Sec 102 DP 248495 (Refer also to General Principle 76 and Engineers referral comments)

These drainage issues remain outstanding and carry determining weight enough to warrant refusal of the application.

Restrictions

The site has, in the north west corner, existing transmission lines across the area of proposed Lot 103, however there is no evidence that the transmission lines are encumbered by an easement. Additionally, the proposal includes a right of carriageway to service proposed Lot 103, burdening Lot 102.

Were the application considered worthy of approval, conditions of consent with regards to Council being nominated in the creation of any easements or rights of way would adequately address this requirement of the schedule. With regard to the transmission lines, Energy Australia would also be required to be nominated in the creation of an easement as a condition of consent.

Access

The plans submitted indicate that vehicular access is to be provided across proposed Lot 102 to service proposed Lot 103 of sufficient width (5m) to satisfy the numerical controls of the schedule. The proposal is considered compliant in this regard.

Bushfire

The subject land is not identified as bushfire prone land or within a bushfire prone area. This requirement is not applicable to the proposal.

Design and Construction

Referring to the comments from the Development Engineers, the applicant has failed to demonstrate the proposals functionality in terms of OSD and drainage. In addition, the applicant has failed to provide long sections of the proposed vehicular access way.

These issues have not been resolved to the Development Engineers satisfaction and therefore must be considered to be deficient in terms of the proposal. The lack of information in terms of the driveway and the OSD solution is fatal to the proposal and carries determining weight enough to warrant refusal of the application.

Lot Dimensions

The minimum width and depth controls are not applicable within this locality as the built form controls for the G4 Locality do not include a maximum density standard for the control of development. The G4 Locality relies upon a minimum subdivision area of 4000m² for the control of allotment sizes.

Schedule 8 - Site Analysis

The applicant has provided a site analysis plan indicating that the proposal is generally consistent with the requirements of the Schedule. However, the proposal has failed to provide adequate information with regard to drainage and stormwater which is also a requirement of the Schedule. (Refer to General Principles Clause 76 – Management of Stormwater for further assessment).

It is considered that the applicant has not submitted adequate information to satisfy the requirements of the Schedule and that this is fatal to the application.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft planning instruments applicable to the proposal.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan (adopted 10 June 2008)

The proposal is not subject to the application of Council's Section 94A Development Contributions Plan adopted by Council on 10 June 2008 and became effective on 1 July 2008 as the estimated cost of works are less than \$100,000.00.

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy – Infrastructure, Warringah Development Control Plan and the relevant codes and policies of Council.

In terms of subdivision area, the functionality and numerical compliance of the existing building and the concept building, the proposal has demonstrated that the subdivision can achieve consistency and compliance with the controls.

The proposed subdivision is however, deficient in terms of access, stormwater and on site detention. These deficiencies have follow-on impacts in terms of existing flora on the subject site. It is considered that a design solution for access stormwater and OSD may be provided by the applicant. However, as the information required has not been submitted, a full assessment of the potential impacts of the proposal upon the site is not able to be undertaken and therefore the application may not be supported.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have not been satisfactorily addressed. Accordingly, it is recommended that the application be refused for the reasons set out below.

RECOMMENDATION – REFUSAL

That Council, as the consent authority refuse development consent to Development Application No. DA2008/1405 for the subdivision of one (1) lot into two (2) separate lots on land at Lot C, DP 383872, No. 11-13 Rodborough Road Frenchs Forest, for the following reasons outlined below:

1. Pursuant to Clause 54 of the Environmental Planning and Assessment Regulation 2000, insufficient information was submitted with the Development Application to properly consider the application. In this regard, the following information was requested but not submitted:
 - a) The applicant has not submitted an OSD system design.
2. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be inconsistent with the provisions of Clause 12(3)(b) of Warringah Local Environment Plan 2000 (as amended), in that the proposed development is inconsistent with the Desired Future Character Statement for the G4 – Rodborough Road Locality in regards to:
 - a) The proposed development is inconsistent in terms of the potential impacts on the water quality of Manly Dam.
3. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with Clause 12(1)(a) of Warringah Local Environment Plan 2000 (as amended) in that the proposed development is inconsistent with the General Principles outlined under Part 4 of WLEP 2000 as follows:
 - a) Clause 58 – Protection of Existing Flora; The proposal fails to adequately address any potential impacts on existing trees resulting from any on-site stormwater detention OSD and drainage works,
 - b) Clause 76 – Management of Stormwater; The proposal fails to adequately address the disposal of stormwater, the impact of stormwater on the nearby Manly Dam, water quality and control measures and the provision of on-site detention of stormwater.
4. Pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the subject site is unsuitable for the proposed development in that:
 - a) The proposal fails to demonstrate that the site is suitable in terms of drainage and on-site stormwater detention (OSD).
5. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest in that it does not satisfy the requirements of the Warringah Local Environmental Plan 2000, in particular:
 - a) The proposal is inconsistent with the General Principles of Development Control in terms of Clause 58 – Protection of Existing Flora,



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- b) The proposal is inconsistent with the General Principles of Development Control in terms of Clause 76 Management of Stormwater,
- c) The proposal has failed to demonstrate compliance with Schedule 7 – Matters for Consideration in the Subdivision of Land in terms of drainage, and
- d) The proposal has failed to demonstrate compliance with Schedule 8 – Site Analysis in terms of outstanding site stormwater and drainage measures.

Signed

21 April 2009

Mitchell Drake, Development Assessment Officer

Signed

21 April 2009

Steve Findlay, Team Leader Development Assessment