

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/1206
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Responsible Officer:	Jordan Howard
Land to be developed (Address):	Lot 18 DP 19022, 107 Iris Street BEACON HILL NSW 2100
Proposed Development:	Two stage subdivision of one lot into three lots including driveway and associated works
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Maree Jaloussis Hayes

Application Lodged:	13/09/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	25/09/2024 to 09/10/2024
Advertised:	25/09/2024
Submissions Received:	1
Clause 4.6 Variation:	4.1 Minimum subdivision lot size: 8.5%
Recommendation:	Approval

Estimated Cost of Works:	\$ 140,400.70
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PROPOSED DEVELOPMENT IN DETAIL

This Development Application seeks approval for a two stage subdivision of one lot into three lots, including driveway and associated works.

Specifically, the following is proposed:

Stage 1: Subdivision to create Lot 1 (914sqm) which is the lot closest to Iris Street, and retention of existing dwelling at the rear.

Stage 2: Demolition of existing rear dwelling and subdivision of rear allotments into Lot 2 (549sqm) and Lot 3 (549.8sqm).

Each stage involves driveway and stormwater works to be carried out to service the proposed allotments.

The application does not proposed the construction of dwellings on the newly created allotments, only providing indicative building plans and footprints.

The proposal is Integrated Development as it requires a Bushfire Safety Authority (BSA) from the NSW Rural Fire Service (RFS) under s100B of the *Rural Fires Act 1997*, and a BSA has been issued by the RFS for this development.

Additional Information

Additional information was requested in relation to referral responses from Council's Development Engineering team.

Additional information and amended plans did not require re-notification, in accordance with the Northern Beaches Council Community Participation Plan, as the changes did not involve a change in the environmental impacts of the development.

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

Warringah Local Environmental Plan 2011 - 4.1 Minimum subdivision lot size
Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential
Warringah Development Control Plan - B1 Wall Heights
Warringah Development Control Plan - B3 Side Boundary Envelope
Warringah Development Control Plan - B5 Side Boundary Setbacks
Warringah Development Control Plan - B7 Front Boundary Setbacks
Warringah Development Control Plan - B9 Rear Boundary Setbacks
Warringah Development Control Plan - C1 Subdivision
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
Warringah Development Control Plan - E6 Retaining unique environmental features

SITE DESCRIPTION

Property Description:	Lot 18 DP 19022 , 107 Iris Street BEACON HILL NSW 2100
Detailed Site Description:	The subject site consists of one (1) allotment located on the southern side of Iris Street. The site is generally regular in shape with a frontage of 34.695m along Iris Street and a depth of 65.005m. The site has a surveyed area of 2254.8sqm. The site is located within the R2 Low Density Residential zone and accommodates a dwelling house. The site slopes from a high at the rear (south) down towards the front (north), with a fall across the site of approximately 12.1m. The site contains lawn areas, garden beds and trees. There are no details of any threatened species on the subject site. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by dwelling houses.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time.

A search of Council's records has revealed the following relevant history:

Review of Determination No. REV2024/0006 - Review of Determination of DA2023/0379 Torrens title Subdivision of one lot into four lots - REFUSED

This application was recommended for refusal in the assessment. It was refused by the Northern Beaches Local Planning Panel on 5 June 2024, subject to amended reasons for refusal.

Development Application No. DA2023/0379 - Torrens title Subdivision of one lot into four lots - REFUSED

This application was recommended for refusal in the assessment. It was refused by the Northern Beaches Local Planning Panel on 13 December 2023, subject to amended reasons for refusal.

Pre-Lodgment Meeting No. PLM2022/0204 - Subdivision of two lots into five (note - this description is inaccurate, as the proposal related to a six lot subdivision) - NOT SUPPORTED

This pre-lodgment meeting was held on 8 November 2022 to discuss a proposal to subdivide two (2) lots (107 Iris Street and 45 Oxford Falls Road BEACON HILL) into six (6) lots. This proposal was not supported, due to access issues, engineering issues and landscaping / built form outcomes. It recommended that a four lot subdivision of 107 Iris Street be considered.

Development Application No. DA2019/1500 - Subdivision of 1 lot into 2 lots including the retention of the existing dwelling, the construction of a new dwelling, a secondary dwelling and landscape works - WITHDRAWN

Withdrawn from Council on 14 April 2020.

Pre-Lodgment Meeting No. PLM2019/0154 - Construction of a dwelling house including secondary dwelling, swimming pool and subdivision of one lot into two - NOT SUPPORTED

This pre-lodgment meeting was held on 8 August 2019 to discuss a proposal for the construction of a dwelling house including secondary dwelling, swimming pool and subdivision of one lot into two.

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	There are no current draft environmental planning instruments.
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	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.

Section 4.15 Matters for Consideration	Comments
Assessment Regulation 2021 (EP&A Regulation 2021)	<u>Clause 29</u> of the EP&A Regulation 2021 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. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to referral responses from Council's Development Engineering team. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 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.
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	(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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
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 Matters for Consideration	Comments
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.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land and the proposed development is for a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes. As such, the proposal is integrated development and requires a bush fire safety authority from the NSW Rural Fire Service, under section 100B of the *Rural Fires Act 1997*.

The application was referred to the NSW RFS as integrated development. The NSW RFS issued a bush fire safety authority, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS as part of the bush fire safety authority, have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 25/09/2024 to 09/10/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Joseph Pascuzzo	105 Iris Street BEACON HILL NSW 2100

The following issues were raised in the submission:

- **Lot sizes**

The submission raised concerns that proposed Lot 2 and Lot 3 exhibit lot sizes below the minimum lot size development standard.

Comment:

The Applicant has made a written request under Clause 4.6 of the WLEP 2011 seeking to justify a contravention of Clause 4.1 Minimum subdivision lot size. Refer to the section of this report on WLEP 2011 Clause 4.6 Exceptions to development standards for a detailed assessment of minimum lot size and the 4.6 request. This report concludes that Council is satisfied that the Applicant's written request has adequately addressed and demonstrated that required of it. Therefore, variation of the minimum lot size is supported, in this instance.

- **Privacy to adjoining proposed to the west (105 Iris Street)**

The submission raised concerns that the proposed subdivision and driveway would impact the privacy of the adjoining property to the west (105 Iris Street).

Comment:

The subdivision and driveway are not considered to unreasonably impact the levels of privacy afforded to neighboring properties. Driveways are transient spaces which are not in use for extended periods of time.

Construction of dwelling houses is not proposed under this application, however, indicative building footprints have been provided and assessed. The indicative building footprints demonstrate that all 3 lots are able to sustain dwellings generally in compliance with built form controls outlined by the WDCP. Nonetheless, any future application for dwellings would require assessment against WDCP controls related to privacy and other amenity considerations.

- **Boundary fencing**

The submission requests a 1.8m side boundary fence between the subject site and adjoining proposed to the west (105 Iris Street).

Comment:

Boundary fencing is not proposed under this application and it is not considered necessary to impose such conditions. Boundary fencing between private properties is a matter for respective land owners. It is noted that boundary fencing may be constructed as exempt development under the provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Should any disputes arise relating to boundary fencing, the *Dividing Fences Act 1991* provides a clear legislative framework for dispute resolution.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The application is assessed by Landscape Referral against Warringah Development Control Plan 2011, and the following Warringah Development Control Plan 2011 controls (but not limited to): C1 Subdivision; E1 Preservation of Trees or Bushland Vegetation; and E6 Retaining unique environmental features. The property supports an existing large English Oak tree in good condition and with a high retention value, and also an exposed natural sandstone outcrop that presents to the streetscape that shall be retained as exposed to the streetscape. It is noted that the exposed natural sandstone outcrop is extensive in length and this presents a physical barrier for tree root growth such that existing tree roots are unlikely to be encountered where the proposed building footprint is located. Additionally the existing ground surface from the exposed natural sandstone outcrop to the Lot 1 boundary is nominated as landscape area and thus existing ground is maintained for the preservation of existing tree roots. Furthermore landscape area is nominated adjacent in the proposed Lot 3. The submitted Arboricultural Impact Assessment (AIA) recommends

Internal Referral Body	Comments
	the retention of the English Oak and notes that building construction is below the height of the tree canopy thus minimal disturbance to the canopy is expected. Tree protection measures are recommended in the AIA including tree protection fencing and Landscape Referral raise no concerns. Submitted plans include landscape and stormwater proposals however the development application is for subdivision into three Lots and construction of a new driveway. Other development approvals are noted that include the landscape and stormwater works. Standard Council conditions shall be applied for tree protection measures under this application to ensure protection of the English Oak during construction of the new driveway, whilst separate landscape conditions shall be imposed for each future Lot development proposals. The landscape area for each Lot is not provided within either the reports or plans and it is not known if each Lot is providing 40% landscape area, and this matter shall be determined by the Assessing Planning Officer. Review from the Assessing Planning Officer has confirmed the following: Lot 1 - 47%; Lot 2 - 51%; and Lot 3 - 46%. Subsequently the landscape outcomes of D1 are able to be achieved and thus Landscape Referral raise no concerns. Future dwelling applications shall be required to comply with the provisions of the landscape areas that are defined as able to be used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.
NECC (Development Engineering)	10/02/2025: Amended Subdivision plans for Stage 1 and Stage 2 are provided and are satisfactory, refer TRIM 2025/088838,2025/088843. Amended Driveway Design plans for Stage 1 and Stage 2 are provided and are satisfactory, refer TRIM 2025/088845,2025/088851. Amended Stormwater plans for Stage 1 and Stage 2 are provided and are satisfactory, refer TRIM 2025/088860. Conditions are categorized under Subdivision Works Certificate (SWC) and Subdivision Certificate (SC). Works in this DA are staged (Stage 1 and Stage 2), hence due to not enough conditions in the Assess, conditions are mailed to the planner in word format, refer TRIM2025/094579. 09/12/2024: 1) Provided Subdivision plans are basically architectural plans. • Subdivision plans to be prepared by a registered surveyor. • Subdivision plans for each to be provided • Subdivision plans to show easement for drainage, services, passing bay, ROW with dimensions and notations and also

Internal Referral Body	Comments
	with details of lots burdening and benefitting from these easements/ROW. 2) Access plans are provided and satisfy information required under point 1 and points 3 to 8 of Development engineering assessment dated 22/10/202. 3) Point 2, Longitudinal section of driveway is also provided but center line and both edges of driveway long section shows same levels. Engineer to design and apply cross fall(camber) on road design and provide amended longitudinal section of driveway. 22/10/2024: Development Application is for the Torrens Title subdivision of the subject site from one (1) lot into three (3) lots including new vehicular access driveway. Subdivision would be carried out in two stages: Stage 1: First stage would comprise creation of Lot 1 closest to Iris Street and keeping existing dwelling at rear. Stage 2: Stage 2 would comprise subdividing existing dwelling at rear into two lots, hence creation of Lots 2 and 3 at the rear of the site. <u>Draft Subdivision plan for each stage to be provided showing all proposed easements and Right of WAY (ROW) information.</u> Access 1) It is not clear that turning movements for Lot 1 are fully within Lot 1 or Right of way(ROW) is used for tunings. Subdivision concept sheet A01 shows turning area within Lot1 while swept paths shows turnings within ROW. Turning area for Lot 1 should be within the lot1, details with level and dimensions are to be provided 2) Longitudinal section of driveway is shown in two parts. One continuous driveway longitudinal section is to be provided. Longitudinal section from street gutter to proposed lot 3 (Stage 2) is to be provided with chainage, existing and proposed levels and grades. Entrance to all the lots and passing bay location to be notated on Plans and longitudinal section. Street gutter levels to remain unchanged. 3) Steep grades (20%) at entry to Lot 1 and Lot 3 are proposed. Transitions are to be provided at the entry points to Lot1 and 3. Turning grades are to comply with AS 2890.1 4) Driveway plans to show dimensions of driveway width, passing bay (5m wide & 10m long) and turning bay within Lot 1 and Lot 3. 5) No details of turning path for proposed lot 3 are provided. Details to be provided with vehicle swept paths. 6) Vehicle entry to Lot 2 should not impact the proposed raingarden. Vehicle swept path plans to include proposed raingardens as well. 7) ROW/driveway is shown to extent along whole rear boundary of Lot 1, explanation required. 8) Separate Stage 1 and Stage 2 vehicle access plans are to be provided.

Internal Referral Body	Comments
	Stormwater Stage 1: • OSD is proposed burdening Lot 1 and benefitting Lot 1 and Lot 2 • Connection to Council pit in Iris Street is proposed. • Stormwater management plan for stage 1 development prepared by HECARD Consult Pty Ltd, titled STAGE1 SW PLAN SH 3, issue E, dated 06.09.2024 are provided and are acceptable but to smooth the entry driveway grades to Lot 1 and Lot 3 , driveway levels will change, Stormwater plans are to be revised to suit new levels. Stage 2: • 3m wide stormwater easement is proposed benefitting Council and burdening Lot 1 and Lot 3. • OSD is proposed burdening Lot 1 and benefitting Lot 1 , Lot 2 and Lot 3 • Stormwater management plan for stage 2 development prepared by HECARD Consult Pty Ltd, titled STAGE 2 SW PLAN SH 4, issue E, dated 06.09.2024 are acceptable but to smooth the entry driveway grades to Lot 1 and Lot 3 , driveway levels will change, Stormwater plans are to be revised to suit new levels. NOTE for Planner: • Proposal is to build dwelling house on proposed Lot 1, no level information is provided. • Statement of Environmental Effect Report (page 8) states that Stage 1 would include the installation of all services for the entire site being carried out, Development Engineering would prefer to work this way but provided staged stormwater and access plans are contradictory to this statement. • Subdivision plan A01, dated 22/08/2024 shows granny written on it, is there any proposal for granny flat?
NECC (Flooding)	This proposal is for the subdivision of one residential plot and the construction of a new driveway. It has been assessed against Section E11 of the Warringah DCP and Clause 5.21 of the Warringah LEP. The proposed site is not identified as flood affected in any flood studies adopted by the NBC. There is potential for overland flow in this area, and a pipe identified within the site. Please refer to the Development Engineering comments. The proposal is generally compliant with Section E11 of the Warringah DCP and Clause 5.21 of the Warringah LEP.

Internal Referral Body	Comments
NECC (Water Management)	Supported This application was assessed in consideration of: • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WM Policy), and; • Relevant LEP and DCP clauses; Section 4.0 of the WMD Policy applies. Water sensitive urban design (WSUD), water reuse and infiltration into the soil, and the resulting quality of stormwater leaving the site are interconnected concepts that guide a merit-based assessment under the section. The stormwater management features proposed, such as rainwater tanks and raingardens for each individual lots, is consistent with the outcomes sought by Council. Section 4.1 of the WMD Policy applies. The proposal must meet Table 5 – General Stormwater Quality Requirements. Evidence has been provided that the proposal would achieve the required water quality standards.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	Reference is made to the proposed development at the above area and Aboriginal heritage. No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the subdivision. Future dwelling development will require further assessment. Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.
Integrated Development - Rural Fire Service - Rural Fires Act, s100B -	The site is classified as bush fire prone land and the proposed development is for a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes. As such,

External Referral Body	Comments
Subdivisions and Special Fire Protection Purposes	the proposal is integrated development and requires a bush fire safety authority from the NSW Rural Fire Service, under section 100B of the <i>Rural Fires Act 1997</i>. The application was referred to the NSW RFS as integrated development. The NSW RFS issued a bush fire safety authority, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS as part of the bush fire safety authority, have been included as part of the recommended conditions of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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)

Housing and Productivity Contribution

Part 2 Development for which contribution is require and determination of contribution, Division 2 Housing and productivity contribution amounts, Clause 7 Base component.

This Clause details the base component amounts that apply to the calculation of the housing and productivity contribution, as set out in the following table:

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	\$12,000	new dwelling lot
	Residential strata subdivision	\$10,000	new strata dwelling lot
	Non-strata multi-dwelling development	\$10,000	new non-strata dwelling
	Commercial development	\$30	square metre of new GFA
	Industrial development	\$15	square metre of new GFA

Comment:

The proposal includes subdivision of one lot into three lots and is sited within the Greater Sydney region. As such, the contribution is \$24,000 for the creation of 2 new dwelling lots.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

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

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size	600sqm	Lot 1: 914.5sqm* Lot 2: 549sqm* Lot 3: 549.8sqm*	Lot 1: Complies Lot 2: 8.5% Lot 3: 8.4%	Yes No No

* WLEP 2011 Clause 4.1 Minimum subdivision lot size stipulates that when calculating the size of a lot area, any access corridor (including any right of carriageway, access way or other area that provides for vehicle access) is to be excluded, and the figures stated are areas excluding the access corridor).

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision - consent requirements	Yes

Clause	Compliance with Requirements
4.1 Minimum subdivision lot size	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R2 Low Density Residential

The underlying objectives of the R2 Low Density Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposed development will provide for the housing needs of the community in a way that is constant with the existing low density residential character of the area.

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

N/A - this application relates only to residential use, not other uses that services day to day needs of residents.

It is considered that the development satisfies this objective.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The proposed development retains and protects the existing natural landscape features and is in harmony with the existing low density residential character of the area and surrounding residential environment.

It is considered that the development satisfies this objective.

Overall, the proposed development is consistent with the objectives of the R2 Low Density Residential zone.

4.6 Exceptions to development standards

The application seeks consent to vary a development standard as follows:

Development standard: Clause 4.1 Minimum subdivision lot size

Requirement: 600sqm

Proposed Lot Sizes and Percentage of Variation:

- Lot 1 - 914.5sqm - complies
- Lot 2 - 549sqm - 8.5% variation
- Lot 3 - 549.8sqm - 8.4% variation

Note that WLEP 2011 Clause 4.1 Minimum subdivision lot size stipulates that when calculating the size of a lot area, any access corridor (including any right of carriageway, access way or other area that provides for vehicle access) is to be excluded. Furthermore, this assessment reflects the end result after Stage 2.

The proposed Stage 1 development (subdivision of Lot 1 closest to Iris Street) will not result in allotments smaller than the minimum lot size.

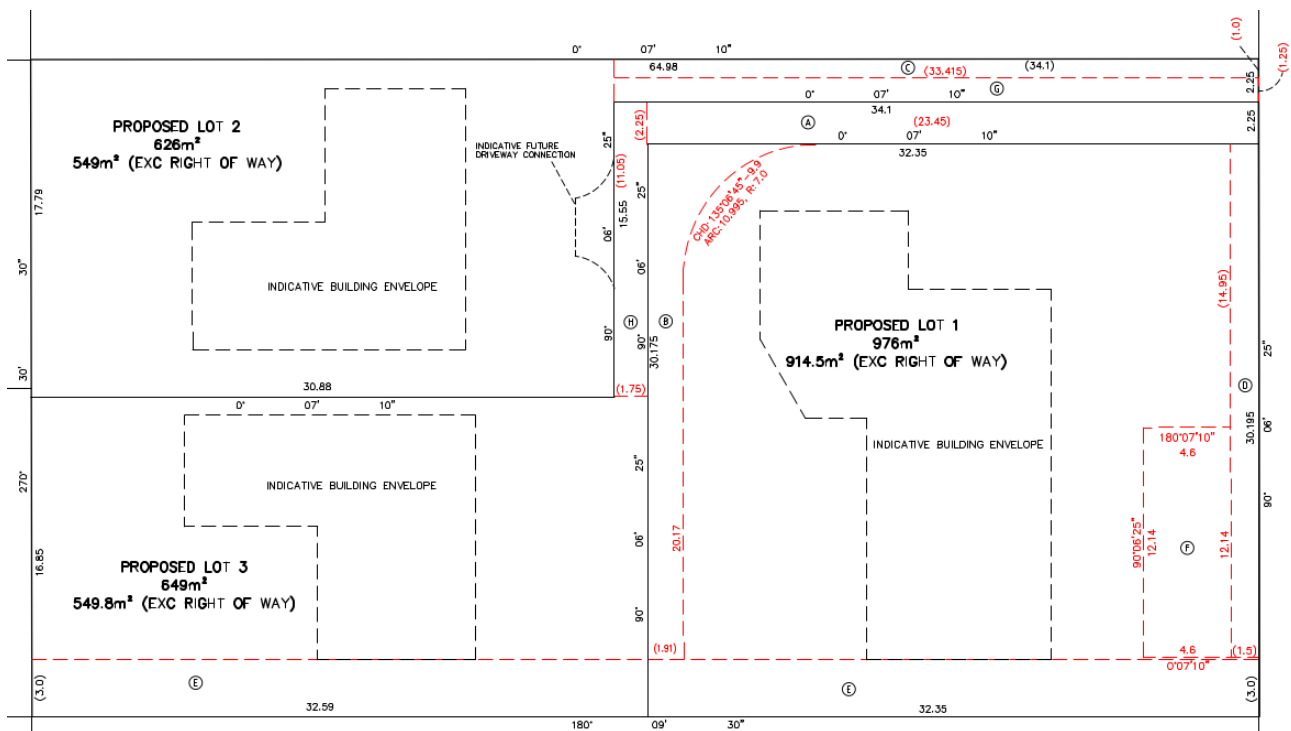


Figure 1 - Proposed Subdivision Plan

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the WLEP 2011 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.1 Minimum subdivision lot size is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

Council is satisfied that the Applicant has demonstrated that compliance with Clause 4.1 Minimum subdivision lot size is unreasonable or unnecessary in the circumstances of this application for the following reasons:

The 4.6 request addresses the first method outlined in *Wehbe v Pittwater Council [2007] NSWLEC 827*, that is demonstrating that the objectives of the standard are achieved despite the non-compliance with the standard. The objectives of the development standard are addressed within the 4.6 request 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,

Response from the Applicant:

"It is considered that the subdivision proposal would result in lots that are more consistent with the pattern, size and configurations of the existing locality along Iris Street, Beacon Hill and surrounds. It should also be noted that there is a variety of lot sizes in the area that are well below the 600sqm minimum standard. There are many lots between 540sqm - 600sqm including the direct eastern neighbour at 45 Oxford Falls Road, plus neighbours at 103a Iris St, Beacon Hill."

Assessment Officers Comments:

Previous applications at this site seeking four lot subdivisions with minimum 451.5sqm lot sizes (a 24.8% variation to the development standard) have not been supported due to inconsistency with this objective. This proposal has reduced the number of lots proposed to three and increased the size of the smallest proposed lot to 549sqm (a 8.5% variation to the development standard). The current proposal is more characteristic of the prevailing pattern, size and configuration of existing lots in the

locality.

Examples of nearby undersized allotments include:

- 43 Oxford Falls Road BEACON HILL: 574.2sqm, a 4.3% variation
- 4A Dareen Street BEACON HILL: 551.7sqm, a 8.1% variation
- 103A Iris Street BEACON HILL: 450.8sqm, a 24.7% variation

However, the most notably, a recent DA at 45 Oxford Falls Road BEACON HILL (the adjoining property to the east) was approved for subdivision of the site into two lots with sizes of 585sqm and 541sqm, representing 2.5% and 9.8% variations respectively.

These examples illustrate the fact that there is variability in the lot sizes in the surrounding area, including lots down as far as 450sqm, which is evidence that the proposal shares some compatibility with the subdivision character, with a sufficient number of lots with minor lot size variations of up to 10%. The proposed three lot subdivision will result in lots that are consistent with this pattern, size and configuration. Therefore, the applicant's argument is concurred with and it is considered that this objective is met.

(b) to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development,

Response from the Applicant:

"Not applicable."

Assessment Comment:

Not applicable. The proposal is for residential development.

(c) to protect the integrity of land holding patterns in rural localities against fragmentation,

Response from the Applicant:

"Not applicable."

Assessment Comment:

Not applicable. The proposal is for residential development.

(d) to achieve low intensity of land use in localities of environmental significance,

Response from the Applicant:

"Not applicable."

Assessment Comment:

Not applicable. The locality is zoned R2 Low Density Residential and is not environmentally significant.

(e) to provide for appropriate bush fire protection measures on land that has an interface to bushland,

Response from the Applicant:

"A Bushfire Risk Assessment Report has been prepared by Bushfire Planning Consultants dated 12 October 2022 and updated in March 2023. It is noted within the Report that the block has no hazards of concern nor increased building setback requirements, even at the standard set back of 6.5mts."

Assessment Officers Comments:

The application was referred to the NSW RFS as integrated development. The NSW RFS issued a bush fire safety authority, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS as part of the bush fire safety authority, have been included as part of the recommended conditions of consent. It is considered that this objective is met.

(f) to protect and enhance existing remnant bushland,

Response from the Applicant:

"Not applicable. The site does not contain remnant bushland."

Assessment Officers Comments:

The site contains one significant tree and Council's Landscape team has raised no concerns in relation to its retention, or the ability to retain the tree. The proposed landscaped areas are sufficient to enable additional planting through future dwelling applications, although it is noted that the site is required to be managed as an inner protection area for bushfire purposes, restricting the allowable future tree canopy and vegetation cover. There is little existing remnant bushland on the site as existing regardless. It is considered that this objective is met.

(g) to retain and protect existing significant natural landscape features,

Response from the Applicant:

"The existing rock face escarpment at the lower northern part of the site will be retained and preserved. It has been recommended by NBC that the building set back be 11.1mts to ensure this becomes a feature."

Assessment Comment:

The significant tree and rock face within the site are able to be retained. It is considered that this objective is met.

(h) to manage biodiversity,

Response from the Applicant:

"The subdivision proposal has been designed to enable the retention of the large English Oak tree at the middle, north/eastern part of the site. No other significant vegetation exists."

Assessment Comment:

The site is not located in an area of biodiversity significance the existing significant tree within the site is able to be retained.

(i) to provide for appropriate stormwater management and sewer infrastructure.

Response from the Applicant:

"The subdivision proposal will allow for the lots to be connected to a stormwater detention tank and the site's existing stormwater lines, which will be gravity fed to Iris Street. The subdivision proposal allows for all the lots to be connected to existing sewer mains on the site. Sydney Water already has Y junctions in place for the new allotment at the front Sewer Easement. The back lots will connect to the western Sewer and Stormwater services lines which will be capped off in Stage 1, all ready for when Stage 2 is implemented."

Assessment Comment:

Council's Development Engineering and Water Management teams are satisfied that the proposed stormwater design complies with the relevant controls and policies, subject to included conditions.

Based on the above assessment, the proposal is found to be consistent with the objectives of the development standard.

(b) there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the Applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

Applicants Clause 4.6 Variation Request:

The Clause 4.6 Request argues, in part:

- *The applicants have implemented the Council's request to make the front lot, Lot 1, bigger and to increase the building line back to 11.1mts so that the front rock escarpment is retained and becomes a feature of the site.*
- *The Oak tree has also caused constraints due to the TPZ requiring root investigation etc and therefore the driveway and proposed Subdivision have been designed to reduce impact on the TPZ. The tree will be retained.*
- *A 3 lot Subdivision does not conform to the average subdivision pattern but does allow for the retention of the rock face and Oak Tree and results in a better planning outcome for the site despite the variation in lot sizes.*
- *The development achieves the objectives of the zone.*
- *The development achieves the objectives of the standard and the lots exceed the minimum lot dimensions under Part C1 of the DCP.*
- *The subdivision supports compliant building envelopes despite the variation in lot sizes.*
- *The subdivision will meet and well exceed the minimum 40% landscape requirements.*
- *There is also a compliant allocation of Private Open Space for each lot.*
- *The development will utilize the existing vehicular crossing resulting in the efficient use of the land for car access and parking.*
- *The subdivision addresses the land and housing supply shortage across Sydney in general, and in the Northern Beaches LGA in particular. Strict compliance with the development standard would deny the opportunity of increased housing supply.*

The arguments provided by the Applicant are generally concurred with. Whilst adjustment of the internal lot boundaries could be made to achieve full compliance with the minimum lot size control, the subdivision pattern has been drawn to consider the TPZ of a significant site tree (Oak Tree) and rock outcrop at the front of the site. The larger front allotment allows the retention and protection of this tree and rock outcrop by providing additional area for the indicative building footprint.

Council is satisfied that the Applicant has demonstrated that there are sufficient environmental

planning grounds to justify the contravention of Clause 4.1 Minimum subdivision lot size for the following reasons:

- The proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, thereby satisfying objects 1.3(c) and (g) of the EPA Act.

Public Interest

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion

Council is satisfied as to the matters set out in Clause 4.6 of the WLEP 2011.

It is considered on balance, that having regard to the particular circumstances, the proposed departure from the development standard is acceptable and it is reasonable that flexibility to the standard be applied.

Warringah Development Control Plan

Built Form Controls

The following built form tables are related to the indicative building envelopes within the proposed allotments.

Lot 1				
Built Form Control	Requirement	Proposed	% Variation	Complies
B1 Wall height	7.2m	N/A	N/A	N/A
B3 Side Boundary Envelope	East 4m	N/A	N/A	N/A
	West 4m	N/A	N/A	N/A
B5 Side Boundary Setbacks	East 0.9m	3m	-	Yes
	West 0.9m	3.5m	-	Yes
B7 Front Boundary Setbacks	North 6.5m	11m	-	Yes
B9 Rear Boundary Setbacks	South 6m	6m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (365.8sqm)*	62.4% (570.8sqm)*	-	Yes

Lot 2				
Built Form Control	Requirement	Proposed	% Variation	Complies
B1 Wall height	7.2m	N/A	N/A	N/A
B3 Side Boundary Envelope	East 4m	N/A	N/A	N/A
	West 4m	N/A	N/A	N/A
B5 Side Boundary Setbacks	East 0.9m	3m	-	Yes

	West 0.9m	1m	-	Yes
B7 Front Boundary Setbacks	North 6.5m	9.1m	-	Yes
B9 Rear Boundary Setbacks	South 6m	8.1m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (219.6sqm)*	66.8% (366.8sqm)*	-	Yes

Lot 3				
Built Form Control	Requirement	Proposed	% Variation	Complies
B1 Wall height	7.2m	N/A	N/A	N/A
B3 Side Boundary Envelope	East 4m	N/A	N/A	N/A
	West 4m	N/A	N/A	N/A
B5 Side Boundary Setbacks	East 0.9m	2.5m	-	Yes
	West 0.9m	1.5m	-	Yes
B7 Front Boundary Setbacks	North 6.5m	7.9m	-	Yes
B9 Rear Boundary Setbacks	South 6m	8.5m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (219.92sqm)*	59.3% (326sqm)*	-	Yes

* LOS calculation are based on lot size excluding access and on indicative building footprints.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	N/A	N/A
B3 Side Boundary Envelope	N/A	N/A
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C1 Subdivision	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D8 Privacy	Yes	Yes
D14 Site Facilities	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

The proposal includes indicative building footprints, however no dwellings are proposed through this application. Regardless, it is considered feasible that any future dwelling design on each of the proposed lots could comply with the control or achieve consistency with the relevant objectives.

B3 Side Boundary Envelope

The proposal includes indicative building footprints, however no dwellings are proposed through this application. Regardless, it is considered feasible that any future dwelling design on each of the proposed lots could comply with the control or achieve consistency with the relevant objectives.

B5 Side Boundary Setbacks

Construction of dwelling houses is not proposed within this development application, however, indicative building footprints have been provided and assessed. The indicative building footprints demonstrate that all lots are able to sustain a dwelling in compliance with side setback controls.

B7 Front Boundary Setbacks

Construction of dwelling houses is not proposed within this development application, however, indicative building footprints have been provided and assessed. The indicative building footprints demonstrate that all lots are able to sustain a dwelling in compliance with front setback controls.

B9 Rear Boundary Setbacks

Construction of dwelling houses is not proposed within this development application, however, indicative building footprints have been provided and assessed. The indicative building footprints demonstrate that all lots are able to sustain a dwelling in compliance with rear setback controls.

C1 Subdivision

Component	Requirement	Proposed	Compliant
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Lot requirements	R2 Low Density Residential zone requirements: Proposed new allotments: a) Minimum width: 13 metres b) Minimum depth: 27 metres; and c) Minimum building area: 150m²	<u>Lot 1:</u> Width: 30.195m Depth: 32.35m Building Area: 258sqm <u>Lot 2:</u> Width: 17.79m Depth: 30.88m Building Area: 150sqm <u>Lot 3:</u> Width: 16.85m Depth: 32.59m Building Area: 150sm	Yes
Access	Motor vehicle access to each residential allotment is required from a constructed and dedicated public road. Where access is proposed to a section of unconstructed public road, then the subdivision will need to provide legal, constructed access to the Council's satisfaction. Access for Council service vehicles, emergency vehicles and garbage collection vehicles must be provided. Driveways, accessways, etc, to allotments should have a gradient not exceeding 1:4 and allow for transitions at a minimum length of 1.5m and at a grade no steeper than 1:10. Driveways in excess of 200 metres will not be allowed for residential development. Driveways that are 30m or more in length require a passing bay to be provided every 30m. To provide a passing bay, driveways shall be widened to 5.0m for a distance of at least 10m. Passing bays should have regard to sight conditions and minimise vehicular conflict.	The proposal includes new driveway access and crossing to Iris Street (staged), which will be shared by all three (3) properties. Council's Development Engineer has reviewed the application and provided several referral responses, ultimately supporting the proposed development following revisions and subject to conditions.	Yes

	Vehicular ingress/egress points to internal lots may be used as passing/turning bays, subject to extension of a right-of-carriageway over the passing/turning bay. Rights-of-carriageway should be located so as to accommodate all vehicle turning facilities. Width of accessways are to be as follows: <table><tr><th>Number of lots to be serviced</th><th>Width of clear constructed accessway (m)</th></tr><tr><td>1 - 5</td><td>3.5</td></tr><tr><td>6 - 10</td><td>5.0</td></tr><tr><td>in excess of 10</td><td>Access is to be provided by a private or public road constructed with a width that is in accordance with Council standard specifications for engineering works (AUSPEC 1)</td></tr></table> Provision of services in rights of carriageway are as follows: <table><tr><th>Number of lots to be serviced</th><th>Additional width to be provided in Right of Carriageway (m)</th></tr><tr><td>Up to 3 lots</td><td>0.5</td></tr><tr><td>4 or more lots</td><td>1.0</td></tr></table>	Number of lots to be serviced	Width of clear constructed accessway (m)	1 - 5	3.5	6 - 10	5.0	in excess of 10	Access is to be provided by a private or public road constructed with a width that is in accordance with Council standard specifications for engineering works (AUSPEC 1)	Number of lots to be serviced	Additional width to be provided in Right of Carriageway (m)	Up to 3 lots	0.5	4 or more lots	1.0		
Number of lots to be serviced	Width of clear constructed accessway (m)																
1 - 5	3.5																
6 - 10	5.0																
in excess of 10	Access is to be provided by a private or public road constructed with a width that is in accordance with Council standard specifications for engineering works (AUSPEC 1)																
Number of lots to be serviced	Additional width to be provided in Right of Carriageway (m)																
Up to 3 lots	0.5																
4 or more lots	1.0																
Design and construction	All roads, rights of carriageway, drainage design and construction is to be in accordance with Council's policy requirements including; AUSPEC 1 - Council's Specification for Engineering	Council's Development Engineer has reviewed the application and provided several referral responses, ultimately supporting the proposed development following revisions	Yes														

	Works, Development Engineering Minor Works Specification, On Site Stormwater Detention (OSD) Technical Specification and Council's Water Sensitive Urban Design Policy. Additionally, internal roads must be designed in accordance with the relevant Australian Standards. Subdivision design needs to maximise and protect solar access for each dwelling by considering factors such as orientation, shape, size and lot width.	and subject to conditions. The proposal complies in regard to solar access, subject to assessment of future proposed dwellings.	
Drainage	Provision should be made for each allotment to be drained by gravity to a Council-approved drainage system. The topography of the land should not be altered to adversely affect the natural drainage patterns. Stormwater should drain directly to a Council-approved drainage system and not via adjoining properties unless via a formalised interallotment drainage system. The proposed allotments are to be drained to the direction of the natural fall of the land. Interallotment drainage easements will be required through adjoining properties to adequately drain land to Council's downstream system.	Council's Development Engineer has reviewed the application and provided several referral responses, ultimately supporting the proposed development following revisions and subject to conditions.	Yes
Restrictions	Any easement, right-of-carriageway, or other restriction that is placed on the title of any land as a requirement of the approval of the subdivision is to be protected by a positive covenant or like instrument with the Council nominated as a party.	Acceptable, subject to appropriate conditions.	Yes
Environmentally constrained land	In areas subject to constraints such as flooding, tidal inundation, threatened species, landslip risk, bushfire or any other matter, adequate safe area for building, where the risk from hazard is	Complies. The proposal has been reviewed by Council's Flooding Engineer who raises no objections, without conditions. The site is not	Yes

	minimised, is to be provided within an allotment. Where possible, lot boundaries should utilise natural land features such as creeks, escarpments and rock outcrops.	mapped on the flood hazard map.	
Bushfire	Subdivision should be designed to minimise the risk from potential bushfire. Asset protection zones should be contained within the property boundaries of the new subdivision.	Complies. The site is classified as bush fire prone land and the proposed development is for a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes. As such, the proposal is integrated development and requires a bush fire safety authority from the NSW Rural Fire Service, under section 100B of the <i>Rural Fires Act 1997</i>. The application was referred to the NSW RFS as integrated development. The NSW RFS issued a bush fire safety authority, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS as part of the bush fire safety authority, have been included as part of the recommended conditions of consent.	Yes

Having regard to the above assessment, it is concluded that the proposed development complies with the requirements of this Clause, and is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979, in relation to this Clause.

D1 Landscaped Open Space and Bushland Setting

Construction of dwelling houses is not proposed within this development application, however, indicative building footprints have been provided and assessed. The indicative building footprints demonstrate that all lots are able to sustain a dwelling in compliance with landscape open space controls.

E6 Retaining unique environmental features

The subject site includes a significant rock outcrop consisting of a vertical rock face running parallel to the front boundary and a horizontal platform that extends towards the south (rear).

The Applicant has submitted indicative building footprints for each proposed lot and concept plans for

a dwelling house on Lot 1. This information is considered to satisfactorily demonstrate an appropriate balance between the retention of the rock outcrop and the development of the site consistent with surrounding properties.

To ensure this balance is met, a condition of consent is included in the recommendations of this report requiring that the rocky outcrop at the front of the subject site is preserved and protected during works. Another condition is recommended which requires a restriction on use of land to be created, burdening Lot 1, restricting future building on Lot 1 to the areas indicated within indicative building footprints.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To conserve those parts of land which distinguish it from its surroundings.*

Comment:

Information submitted with the application is able to demonstrate that the subdivision can be achieved and the lots development in the future in a way which preserves and protects the rocky outcrop at the street frontage of the subject site. Recommended conditions of consent further ensure this outcome.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$ 702 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 140,401.

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 2021;
- 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

Council is satisfied that the Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify variation of the development standard contained within Clause 4.1 Minimum Subdivision Lot Size has adequately addressed and demonstrated that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- There are sufficient environmental planning grounds to justify the variation.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

That Northern Beaches Council, as the consent authority, vary the development standard contained within Clause 4.1 Minimum Subdivision Lot Size, pursuant to Clause 4.6 of the Warringah Local Environmental Plan 2011 because the Applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) of Clause 4.6.

Accordingly Council as the consent authority grant Development Consent to DA2024/1206 for Two stage subdivision of one lot into three lots including driveway and associated works on land at Lot 18 DP 19022, 107 Iris Street, BEACON HILL, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision	Plan Title	Drawn By	Date
Sheet 1 of 1	-	Plan of Subdivision of Lot 18 in D.P. 19022 – Stage 1	Michael K. Joyce	9 January 2025 (submitted date)
Sheet 1 of 1	-	Plan of Subdivision of Lot 18 in D.P. 19022 – Stage 2	Michael K. Joyce	9 January 2025 (submitted date)
DR01	16	Driveway Design Drawing	Technical Projects Consultants	13 December 2024
DR02	16	Driveway Layout	Technical Projects Consultants	13 December 2024
DR03	14	Driveway Section 1/2	Technical Projects Consultants	13 November 2024
DR04	14	Driveway Section - 2/2	Technical Projects Consultants	13 November 2024
DR01	16	Driveway Layout - Stage 1	Technical Projects Consultants	13 December 2024
DR02	15	Driveway Section 1/2	Technical Projects Consultants	27 November 2024
DR03	15	Driveway Section - 2/2	Technical Projects Consultants	27 November 2024
SH3	G	Stage 1 Stormwater Management Plan	HECARD Consult	23 December 2024
SH4	G	Stage 2 Stormwater Management Plan	HECARD Consult	23 December 2024
SH5	G	Raingarden Detail	HECARD Consult	23 December 2024
SH6	G	Raingarden Detail	HECARD Consult	23 December 2024

SH7	G	Stormfilter Detail	HECARD Consult	23 December 2024
SH8	G	OSD Detail	HECARD Consult	23 December 2024
SH9	G	Pipes Longitudinal Section	HECARD Consult	23 December 2024
SH10	G	Pipe Connection and Trench Detail	HECARD Consult	23 December 2024
SH11	G	Pit Detail	HECARD Consult	23 December 2024

Approved Reports and Documentation			
Document Title	Version	Prepared By	Date
Arboricultural Impact Assessment	Rev. B	Sydney Arborist	27 August 2024
Geotechnical Investigation Report	G19377-1	Geotechnical Consultants Australia	3 December 2019
Preliminary Structural And Footing Report	Rev. 2	Matthew Jansen	2 September 2024
Flood Report	-	Pittwater Data Services	29 March 2023
Bushfire Risk Assessment	-	Bushfire Planning Services	12 October 2022
Stormwater Management Report	Issue F	HECARD Consult	28 November 2024
Landscape Plan, Drawing No. LD01	R1	Earth Matters Consulting	12 August 2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Referral - Ausgrid	Undated
NSW Rural Fire Service (NSW RFS)	Referral - RFS	24 October 2024

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) protect and support the adjoining premises from possible damage from the excavation, and
 - ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

4. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday, and
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (d) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Subdivision Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval..
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant

Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2024

A monetary contribution of \$702.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$140,400.70.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

6. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

7. Housing and productivity contribution - Development consents where residential subdivision is staged

1. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with sub-condition 3, is required to be made:

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	\$24,000
Transport project component	\$0
Total housing and productivity contribution:	\$24,000

2. The HPC may be paid in instalments for each stage of the subdivision authorised by this consent for which a subdivision certificate is sought. The amounts of the instalments that are payable for each stage are as follows: Each amount in the table must be adjusted at the time of payment in accordance with condition 3.

Stage 1 of residential subdivision	Amount of instalment
Housing and productivity contribution (base component)	\$12,000
Transport project component	\$0
Total housing and productivity contribution:	\$12,000

Stage 2 of residential subdivision	Amount of instalment
Housing and productivity contribution (base component)	\$12,000
Transport project component	\$0
Total housing and productivity contribution:	\$12,000

3. The amount payable at the time of payment is the amount shown as the total housing and productivity contribution for each stage specified in the tables to condition 2, adjusted by multiplying it by:

highest PPI number

consent PPI number

where—

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made.

consent PPI number is the PPI number last used to adjust HPC rates when consent was granted.

June quarter 2023 and PPI have the meanings given in clause 22 (4) of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

4. The HPC must be paid before the issue of the first subdivision certificate in relation to the development, or if it is paid in instalments, before the issue of the subdivision certificate for the relevant stage of the subdivision.
5. The HPC must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).
6. If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC may be made, instead of as a monetary contribution, in the following ways:
 - a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
 - b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 3 at the time of payment. Each part of an instalment that is to be made as a monetary contribution is also to be adjusted in accordance with condition 3 at the time its payment.

7. Despite condition 1, a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023 exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.

Reason: Statutory requirement.

8. **Construction, Excavation and Associated Works Bond (Drainage works) at STAGE 1**

The applicant is to lodge a bond of \$40 000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Subdivision Works Certificate.

Reason: Protection of Council's infrastructure.

9. Construction, Excavation and Associated Works Bond (Drainage works) at STAGE 2

The applicant is to lodge a bond of \$45 000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Subdivision Works Certificate.

Reason: Protection of Council's infrastructure.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION
CERTIFICATE**

10. Erosion and Sediment Control Plan for STAGE 1

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

Details demonstrating compliance are to be submitted to the Certifier for approval prior to the issue of the relevant Construction Certificate.

Reason: Protection of the receiving environment.

11. Detailed Design of Stormwater Treatment Measures at STAGE 1

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the stormwater management plan for stage 1 development (titled STAGE 1 SW PLAN SH 3, issue G, dated 23.12.2024) prepared by HECARD Consult Pty Ltd and Council's Water Management for Development Policy.

The certificate shall be submitted to the Certifier prior to the release of the relevant Construction Certificate.

Reason: Protection of the receiving environment.

12. Erosion and Sediment Control Plan for STAGE 2

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)

- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

Details demonstrating compliance are to be submitted to the Certifier for approval prior to the issue of the relevant Construction Certificate.

Reason: Protection of the receiving environment.

13. **Detailed Design of Stormwater Treatment Measures at STAGE 2**

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the stormwater management plan for stage 2 development (titled STAGE 2 SW PLAN SH 4, issue G, dated 23.12.2024) prepared by HECARD Consult Pty Ltd and Council's Water Management for Development Policy.

The certificate shall be submitted to the Certifier prior to the release of the relevant Construction Certificate.

Reason: Protection of the receiving environment

14. **Footing Design Near Trees to be Retained**

- a) footing structural layout plans for the works including the driveway shall be developed in coordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture, and a qualified Structural Engineer, following a non-destructive tree root investigation, complying with clause 3.3.4 of AS 4970-2009 Protection of trees on development sites, near the existing tree Quercus robur, to locate critical tree roots and recommend footing design and locations for the construction works.
- b) the Arborist shall review, comment, recommend design revision as required and approve the footing layout, to ensure the locations of footings will be manageable in terms of tree protection measures.
- c) the Arborist shall submit certification to the Certifier that the locations of the footings are accepted.
- d) the agreed footing structural layout plans shall be submitted to the Certifier for approval prior to the issue of the relevant Construction Certificate.

Reason: Tree protection.

15. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

16. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- “Tap in” details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

17. **Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to Council via an application for a Permit to Implement Traffic Control. The application form can be accessed via <https://www.northernbeaches.nsw.gov.au/council/forms>. Approval of the permit application by the Northern Beaches Council Traffic Team is required prior to issue of any relevant Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
 - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
 - No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
 - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.

- If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
- A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
- A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.

- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

18. Subdivision Works at STAGE 1

The Applicant is to submit a Subdivision Works Certificate application for approval of the Subdivision Works within the property. Engineering plans for the new development works within the property are to be submitted to the Certifier for approval under the provisions of Section 6.13 of the Environmental Planning and Assessment Act 1979. Civil Engineering plans for the subdivision works are to be designed in accordance with the Council’s specification for engineering works – AUS-SPEC #1. The plans shall be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering. The design must include the following information:

- a. Details of the interallotment drainage lines servicing proposed Lots 1 & 2, OSD system and treatment measures generally in accordance with Stage 1 concept plans prepared by HECARD Consult Pty Ltd, Job number SW-152-2307 G, Sheet Title-Stage 1 SW Plan SH3, Issue G, Dated 23/12/2024
- b. Details of connection of proposed Lot 2 (existing dwelling) to the Interallotment drainage line.
- c. Details of discharge connection from the OSD system to the existing kerb inlet pit in Iris Street.
- d. Services conduit plan.
- e. Details of internal driveway design and vehicular crossing from street gutter to proposed Lot 2 generally in accordance with Stage 1 concept driveway design by TPC, Drawing No

DR01 (Rev 16, Dated 13/12/2024) and DR02, DR03 (Rev 15, Dated 27/11/2024) and council specifications with following:

- f. The existing gutter levels are to be maintained.
- g. Vehicle crossing shall be in accordance with Council's standard vehicle crossing profile.
- h. Internal driveway to be minimum 3.5 m wide.
- i. Engineering long sections are to be provided starting from street gutter and along both edges and centreline of the proposed ROW to demonstrate compliance with AS2890.1.
- j. Transitions are to be provided in accordance with AS2890.1.
- k. Details including width and turns of the passing bay are to be shown on plan.
- l. Vehicle swept path analysis for all (in and out movements) vehicles and for all proposed Lots are to be provided.

Where Council is the Certifier, the fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

19. **Utilities Services at STAGE 1**

Prior to the issue of the Subdivision Works Certificate, written evidence of the following service provider requirements must be provided to the Principal Certifier:

- a. a letter from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity,
- b. a response from Sydney Water as to whether the proposed works subject to this consent would affect any Sydney Water infrastructure, and whether further requirements need to be met, and
- c. other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Works Certificate.

Reason: To ensure relevant utility and service providers' requirements are provided to the Principal Certifier.

20. **Submission of Roads Act Application for Civil Works in the Public Road at STAGE 1**

The Applicant is to submit an application for approval for Infrastructure works on Councils roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include Civil Engineering plans for the design of vehicle crossing, stormwater connection and associated works which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer.

The design must include the following information:

- a. A vehicular crossing 3.5 meters wide to be constructed in accordance with Council's standard Maximum High vehicle crossing profile.

- b. Existing gutter levels are to be maintained.
- c. Engineering long sections at both edges and centerline of the proposed vehicle crossing to demonstrate compliance with AS2890.1.
- d. Road reserve adjacent to the vehicle crossing to be regraded to match existing levels.
- e. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided.
- f. Details of the stormwater connection to existing kerb inlet pit in Iris Street.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifier prior to the issue of the relevant Subdivision Works Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

21. Pre-Construction Stormwater Assets Dilapidation Report at STAGE 1

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works.

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifier prior to the issue of the relevant Subdivision Works Certificate.

Reason: Protection of Council's Infrastructure.

22. Structures Located Adjacent to Council Pipeline or Council Easement at STAGE 1

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification). Structural details prepared by a suitably qualified Civil Engineer, who has National Engineers Register (NER) or Professionals Australia (RPENG) demonstrating compliance are to be submitted to the Council for approval prior to the issue of the relevant Subdivision Works Certificate.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the relevant Subdivision Works Certificate.

Reason: Protection of Council's infrastructure.

23. Geotechnical Report recommendations have been correctly incorporated into designs and structural plans at STAGE 1

The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the relevant Subdivision Works Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

24. Traffic Management and Control at STAGE 1

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the relevant Subdivision Works Certificate. The Traffic Management Plan shall be prepared to TfNSW standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

25. Subdivision Works at STAGE 2

The Applicant is to submit a Subdivision Works Certificate application for approval of the Subdivision Works within the property. Engineering plans for the new development works within the property are to be submitted to the Certifier for approval under the provisions of Section 6.13 of the Environmental Planning and Assessment Act 1979. Civil Engineering plans for the subdivision works are to be designed in accordance with the Council's specification for engineering works – AUS-SPEC #1. The plans shall be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering. The design must include the following information:

2. Stormwater connection of proposed Lot 2 & Lot 3 to the existing Interallotment drainage line, and treatment measures generally in accordance with Stage 2 concept plans prepared by HECARD Consult Pty Ltd, job number SW-152-2307 G, Sheet Title-Stage 2 SW Plan SH4, Issue G, Dated 23/12/2024
3. Details of internal driveway design between proposed Lot 2 and Lot 3 and passing bay generally in accordance with Stage 2 concept driveway design by TPC, Drawing No DR01, DR02 (Rev 16, Dated 13/12/2024) and DR03, DR04 (Rev 14, Dated 13/11/2024)

Where Council is the Certifier, the fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

26. Utilities Services at STAGE 2

Prior to the issue of the Subdivision Works Certificate, written evidence of the following service provider requirements must be provided to the Principal Certifier:

- a. a letter from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity,
- b. a response from Sydney Water as to whether the proposed works subject to this consent would affect any Sydney Water infrastructure, and whether further requirements need to be met, and
- c. other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Works Certificate.

Reason: To ensure relevant utility and service providers' requirements are provided to the Principal Certifier.

27. Pre-Construction Stormwater Assets Dilapidation Report at STAGE 2

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works.

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifier prior to the issue of the relevant Subdivision Works Certificate.

Reason: Protection of Council's Infrastructure.

28. Structures Located Adjacent to Council Pipeline or Council Easement at STAGE 2

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification). Structural details prepared by a suitably qualified Civil Engineer, who has National Engineers Register (NER) or Professionals Australia (RPENG) demonstrating compliance are to be submitted to the Council for approval prior to the issue of the relevant Subdivision Works Certificate.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the relevant Subdivision Works Certificate.

Reason: Protection of Council's infrastructure.

29. Geotechnical Report recommendations have been correctly incorporated into designs and structural plans at STAGE 2

The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the relevant Subdivision Works Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

30. Traffic Management and Control at STAGE 2

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the relevant Subdivision Works Certificate. The Traffic Management Plan shall be prepared to TfNSW standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

31. Project Arborist

- a) a Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.
- b) the Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:
 - i) any excavation or construction works for the driveway, and any required trenching for services.
- c) All tree protection measures specified must:
 - i) be in place before work commences on the site, and
 - ii) be maintained in good condition during the construction period, and
 - iii) remain in place for the duration of the construction works.
- d) the Project Arborist shall provide certification to the Certifier that all tree protection measures under AS 4970-2009 have been satisfied, and the recommendations listed for

the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s).

Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

DURING BUILDING WORK

32. Tree and Vegetation Protection

a) existing trees and vegetation shall be retained and protected, including:

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS 4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS 4373-2007 Pruning of amenity trees,

xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) the Principal Certifier must ensure that:

i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

33. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and

The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

34. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

35. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

36. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with TfNSW Traffic Control At Work Sites Manual and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

37. **Condition of Retained Vegetation**

At the conclusion of works at both Stage 1 and Stage 2, a report prepared by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained on the approved Plans or as listed in the Arboricultural Impact Assessment, including the following information:

- i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

38. Protection of Rock Outcrop and Sites of Significance

The rock outcrop at the northern street frontage of the subject site is to be preserved and protected at all times during demolition excavation and construction works.

Suitable protection measures are to be installed and maintained at all times to ensure no damage or incursion into the rock outcrop area by any excavation or construction machinery or vehicles, workers vehicles and site management buildings, equipment or storage.

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

39. Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the relevant approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate TfNSW accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

40. Installation and Maintenance of Sediment and Erosion Controls at STAGE 1

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any soil disturbance on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established.

Reason: Protection of the receiving environment.

41. Substitution of Stormwater Treatment Measures at STAGE 1

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must be submitted to the Principal Certifier for approval prior to installation. Bioretention devices can only be substituted with other bioretention devices, which must consist of the same design elements that includes vegetation and filtration media.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

42. Installation and Maintenance of Sediment and Erosion Controls at STAGE 2

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any soil disturbance on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established.

Reason: Protection of the receiving environment.

43. Substitution of Stormwater Treatment Measures at STAGE 2

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must submitted to the Principal Certifier for approval prior to installation. Bioretention devices can only be substituted with other bioretention devices, which must consist of the same design elements that includes vegetation and filtration media.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

44. Protection of stormwater treatment measures during construction at STAGES 1 & 2

Stormwater treatment measures that incorporate filter media and plantings must not be completed nor filter devices installed OR completed/installed stormwater treatment measures must be kept offline, until one of the following milestones has been reached: 1. the development site has been fully stabilised in 90 percent of the catchment area for the stormwater treatment measures 2. two years has passed since the issue of a Subdivision Certificate (where applicable).

Following this milestone, a certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures are in good condition, completed, online and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings. The certificate shall be submitted to the Principal Certifying Authority.

Stormwater treatment measures requiring rectification will be subject to compliance action under the EP&A Act and the POEO Act if a Certificate is not provided within six months of the milestone being reached.

Reason: Protection of stormwater treatment measures.

ONGOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

45. Maintenance of Stormwater Treatment Measures at STAGES 1 & 2

Stormwater treatment measures must be maintained at all times in accordance with the Stormwater Treatment Measure Operation and Maintenance Plan, manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure.

Where replacement cartridges or other necessary components for the system become unavailable, an alternative system is required to be retrofitted into the development to achieve an

equivalent pollutant reduction outcome. Evidence supporting the replacement must be retained on site and made available to Council as required.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

46. **Certification for the Installation of Stormwater Treatment Measures at STAGE 1**

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the plans prepared by HECARD Consult Pty Ltd dated 23.12.2024. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifier prior to the release of the relevant Subdivision Certificate.

Reason: Protection of the receiving environment.

47. **Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures at STAGE 1**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

48. **Stormwater Treatment Measures Operation and Maintenance Plan at STAGE 1**

An Operation and Maintenance Plan is to be prepared during Stage 1 of the development to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:
 - a) Work as executed drawings
 - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
 - c) Site detail showing catchment for each device

- d) Vegetation species list associated with each type of vegetated stormwater treatment measure
 - e) Impervious area restrictions to maintain the water balance for the site
 - f) Funding arrangements for the maintenance of all stormwater treatment measures
 - g) Identification of maintenance and management responsibilities
 - h) Maintenance and emergency contact information
2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
- a) Activity description, and duration and frequency of visits
- Additionally for vegetated devices:
- b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
 - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure.
3. Maintenance schedule and procedure – ongoing
- a) Activity description, and duration and frequency of visits
 - b) Routine maintenance requirements
 - c) Work Health and Safety requirements
 - d) Waste management and disposal
 - e) Traffic control (if required)
 - f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
 - g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request

Details demonstrating compliance shall be submitted to the Principal Certifier prior to the release of the relevant Subdivision Certificate.

Reason: Protection of the receiving environment.

49. **Works as Executed Drawings - Stormwater Treatment Measures at STAGE 1**

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifier prior to the release of the relevant Subdivision Certificate.

Reason: Protection of the receiving environment.

50. **Easement Creation at STAGE 1**

The Applicant shall create an easement for drainage (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision, to accompany the Section 88B instrument to ensure all drainage infrastructure is located within the appropriate easement(s).

The Applicant shall create an easement for services (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision, to accompany the Section 88B instrument to ensure all utility services are located within the appropriate easement(s).

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.

51. Easement for Drainage (Council Stormwater Asset) at STAGE 1

An easement for drainage 3 meters wide and located over the Council stormwater pipeline is to be created on the title in favour of Northern Beaches Council in accordance with Council's Water Management for Development Policy.

The easement is to be created to ensure all drainage infrastructure is located within the easement.

The easement plan is to be prepared to Council's requirements at the applicant's expense and be endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the relevant Subdivision Certificate.

Reason: To create encumbrances on the land

52. Sydney Water Compliance Certification at STAGE 1

The Applicant shall submit a Section 73 Compliance Certificate under the Sydney Water Act 1994 issued by Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and fees to be paid. Please make early contact with the coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water.

53. Right of Carriageway at STAGE 1

The Applicant shall create a right of carriageway (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision and accompanying 88B instrument, to include all vehicular access and manoeuvring areas.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919

54. Provision of Services for Subdivision at STAGE 1

The applicant is to ensure all services including water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan of subdivision.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: To ensure that utility services have been provided to the newly created lots.

55. Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets) at STAGE 1

The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council's acceptance of the Dilapidation Survey is to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: Protection of Council's infrastructure.

56. Certification of Structures Located Adjacent to Council Pipeline or Council Easement at STAGE 1

The Applicant shall submit a suitably qualified Structural Engineer's certification that the completed footing works have been constructed in accordance with this consent, Northern Beaches Council's Water Management for Development Policy and the approved Construction Certificate plans. Details demonstrating compliance are to be submitted to the Principal Council prior to the issue of the relevant Subdivision Certificate.

Reason: Protection of Council's infrastructure

57. Certification of Civil Works and Works as Executed Data in accordance with Road Act Approval at STAGE 1

The Applicant shall submit a certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 138 and/or Subdivision Works Certificate plans. Works as Executed data certified by a registered surveyor in relation to boundaries and/or relevant easements, prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Assets' in an approved format shall be submitted to the Principal Certifier for approval prior to the issue of the relevant Subdivision Certificate.

Reason: To ensure compliance of works with Council's specification for engineering works.

58. Positive Covenant for On-site Stormwater Detention at STAGE 1

A positive covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the final plan of subdivision and accompanying 88B instrument, requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, which are available on Northern Beaches Council website. Northern Beaches Council shall be nominated as the sole authority empowered to release, vary or modify such covenant.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate

Reason: To ensure ongoing maintenance of the on-site detention system.

59. Restriction as to User (On-site Stormwater Detention) at STAGE 1

The Applicant shall create a restriction as to user (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision and accompanying 88B instrument for the on-site stormwater detention system, restricting any alteration or additions to the system. The terms of such restriction are to be prepared to Council's standard requirements. Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: To ensure no modification to the on-site stormwater detention structure without Council's approval.

60. Certification of On-site Detention System (New Subdivision) at STAGE 1

A Certificate is to be submitted by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and has appropriate experience and competence in the related field confirming to the satisfaction of the Principal Certifier that the on-site stormwater detention system has been constructed in accordance with the approved subdivision works certificate and relevant conditions of Development Consent.

The relevant Subdivision Certificate will not be released until this certification has been submitted and the Principal Certifier has confirmed that this condition has been satisfied.

Reason: To ensure the On-site Detention System has been built to the appropriate standard.

61. Subdivision Certificate Application at STAGE 1

The Applicant shall submit a Subdivision Certificate Application to Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919, four copies of the final plan of subdivision and all relevant documents including electronic copies. This documentation is to be submitted to Council prior to the issue of the relevant Subdivision Certificate.

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.

62. Title Encumbrances at STAGE 1

The Applicant shall ensure all easements, rights of carriageway, positive covenants and restrictions as to user as detailed on the plans and required by the development consent are to be created on the title naming Council as the sole authority empowered to release or modify.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: To ensure proper management of land.

63. Restriction on Use of Land (Dwelling Envelope, Driveway and Turning Area) at STAGE 1

A Restriction on Use of Land is to be created, burdening Lot 1, restricting future building within Lot 1 to the building areas (including the driveway and turning area) shown on Plan of Subdivision of Lot 18 in D.P. 19022 – Stage 1, Sheet 1 of 1 (prepared by Michael K. Joyce,

submitted to Council on 9 January 2025) and Driveway Layout, Drawing No. DR02 (prepared by Technical Projects Consultants, dated 13 December 2024, Revision 16). Full details in this regard are to be submitted to Council on the final plan of Subdivision and an accompanying Section 88B instrument. The creation of the Restriction on Use of Land is achieved through registration of the Plan of Subdivision.

Reason: To ensure building on the approved lot is constructed safe of hazards and to preserve significant environmental features.

64. Certification for the Installation of Stormwater Treatment Measures at STAGE 2

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the plans prepared by HECARD Consult Pty Ltd dated 23.12.2024. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifier prior to the release of the relevant Subdivision Certificate.

Reason: Protection of the receiving environment.

65. Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures at STAGE 2

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater treatment measures in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Treatment Measures Operation and Maintenance Plan.

A restriction as to user shall be created on the title over the stormwater treatment measures, restricting any alteration to the measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.

66. Stormwater Treatment Measures Operation and Maintenance Plan at STAGE 2

An Operation and Maintenance Plan is to be prepared during Stage 2 of the development to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:
 - a) Work as executed drawings
 - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
 - c) Site detail showing catchment for each device
 - d) Vegetation species list associated with each type of vegetated stormwater treatment measure

- e) Impervious area restrictions to maintain the water balance for the site
 - f) Funding arrangements for the maintenance of all stormwater treatment measures
 - g) Identification of maintenance and management responsibilities
 - h) Maintenance and emergency contact information
2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
- a) Activity description, and duration and frequency of visits
- Additionally for vegetated devices:
- b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
 - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure.
3. Maintenance schedule and procedure – ongoing
- a) Activity description, and duration and frequency of visits
 - b) Routine maintenance requirements
 - c) Work Health and Safety requirements
 - d) Waste management and disposal
 - e) Traffic control (if required)
 - f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
 - g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request

Details demonstrating compliance shall be submitted to the Principal Certifier prior to the release of the relevant Subdivision Certificate.

Reason: Protection of the receiving environment.

67. Works as Executed Drawings - Stormwater Treatment Measures at STAGE 2

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifier prior to the release of the relevant Subdivision Certificate.

Reason: Protection of the receiving environment.

68. Easement Creation at STAGE 2

The Applicant shall maintain/extinguish/recreate as required the existing easements for drainage (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision, to accompany the Section 88B instrument to ensure all drainage infrastructure is located within the appropriate easement(s).

The Applicant shall maintain/extinguish/recreate, as required, the existing easement for services (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision, to accompany the Section 88B instrument to ensure all utility services are located within the appropriate easement(s).

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.

69. Sydney Water Compliance Certification at STAGE 2

The Applicant shall submit a Section 73 Compliance Certificate under the Sydney Water Act 1994 issued by Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and fees to be paid. Please make early contact with the coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water.

70. Right of Carriageway at STAGE 2

The Applicant shall maintain/extinguish/recreate, as required, the existing right of carriageway (under the provisions of Section 88B of the Conveyancing Act) on the final plan of subdivision and accompanying 88B instrument, to include all vehicular access and manoeuvring areas.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919

71. Provision of Services for Subdivision at STAGE 2

The applicant is to ensure all services including water, electricity, telephone and gas are provided, located and certified by a registered surveyor on a copy of the final plan of subdivision.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: To ensure that utility services have been provided to the newly created lots.

72. Positive Covenant for On-site Stormwater Detention at STAGE 2

A positive covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the final plan of subdivision and accompanying 88B instrument for Lot 4, requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, which are available on Northern Beaches Council website. Northern Beaches Council shall be nominated as the sole authority empowered to release, vary or modify such covenant.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate

Reason: To ensure ongoing maintenance of the on-site detention system.

73. Post- Construction Stormwater Assets Dilapidation Report (Council stormwater assets) at STAGE 2

The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council's acceptance of the Dilapidation Survey is to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: Protection of Council's infrastructure.

74. Certification of Structures Located Adjacent to Council Pipeline or Council Easement at STAGE 2

The Applicant shall submit a suitably qualified Structural Engineer's certification that the completed footing works have been constructed in accordance with this consent, Northern Beaches Council's Water Management for Development Policy and the approved Subdivision Works Certificate plans.

Details demonstrating compliance are to be submitted to the Principal Council prior to the issue of the relevant Subdivision Certificate.

Reason: Protection of Council's infrastructure

75. Subdivision Certificate Application at STAGE 2

The Applicant shall submit a Subdivision Certificate Application to Council, which is to include a completed Subdivision Certificate form and checklist, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919, four copies of the final plan of subdivision and all relevant documents including electronic copies. This documentation is to be submitted to Council prior to the issue of the relevant Subdivision Certificate.

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.

76. Title Encumbrances at STAGE 2

The Applicant shall ensure all easements, rights of carriageway, positive covenants and restrictions as to user as detailed on the plans and required by the development consent are to be created on the title naming Council as the sole authority empowered to release or modify.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of the relevant Subdivision Certificate.

Reason: To ensure proper management of land.

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

Signed



Jordan Howard, Planner

The application is determined on 18/02/2025, under the delegated authority of:



Steven Findlay, Manager Development Assessments