



Date: 5 December 2016

The General Manager,
Northern Beaches Council
Civic Drive
725 Pittwater Road
DEE WHY NSW 2099

**RE: 64 Brighton Street, Freshwater NSW 2096.
Lot 241 in DP1187070
-Release of Part of Right of Access.**

Dear Sir/Madam,

We are acting for the owners of Lots 241 & 242 DP.1187070, (No.64 & 64A Brighton Street, Freshwater.)

The owners of these properties have requested that part of the existing Right of Access (as shown in the accompanying Dealing forms) is to be extinguished.

This existing Right of Access 1.76 Wide and Variable was created in the subdivision (DP.1187070) This Right of Access over the area of the Passing Bay has been found to be of little use in vehicular movements from the rear allotment.

Within the registered 88B Instrument with DP.1187070, Council has been nominated as the party, together with both owners of the land, to have the power to Release, Vary or Modify this Easement.

We formally request on behalf of the owners to have the enclosed "Transfer Releasing Easement" dealing form endorsed by Council.

The reasons for the Variation of this Easement are as follows:

1. The rear owners have enough area within the front of the house to enable forward egress of vehicles to the street. The vehicle then has clear sighting down to Brighton Street so as to negate the use of the Passing Bay. (See attached detail)
2. The owners of the rear lot have constructed the driveway to suit the variation of part of the Right of Access (Passing Bay) as detailed in Item 1 above. This construction has been certified by Council on a Construction Certificate.
3. The concrete driveway within the rear lot has been constructed too high to allow for a smooth transition of vehicles onto the passing bay and as such the vehicular turning path design for the rear house was approved without the need for the passing bay,
4. There is a safety, security and privacy issue for the occupants of the front lot in the enjoyment of the rear private open space area behind their residence. The owners have a 2 year old child and would like to secure this area off with fencing so there is no chance of the child being hit by approaching vehicles within the Right of Access. Without secure fencing, privacy and security for the owners of the front allotment cannot be guaranteed. Without the variation of the Right of Access over the passing bay it is not possible to install

a sliding gate which is the only option reasonable with the sites constraints. If a gate was constructed on the passing bay alignment it would encroach onto the Easement if opened. Any alternate gate whether it be a swinging or hinged renders the original passing bay/access design concept flawed.

5. If a vehicle happened to maneuver and prop his/her vehicle in the passing bay while trying to drive down toward the street and the owners of the front allotment were to proceed up the accessway in their vehicle, they physical cannot get pass the first vehicle to park into their car spaces.

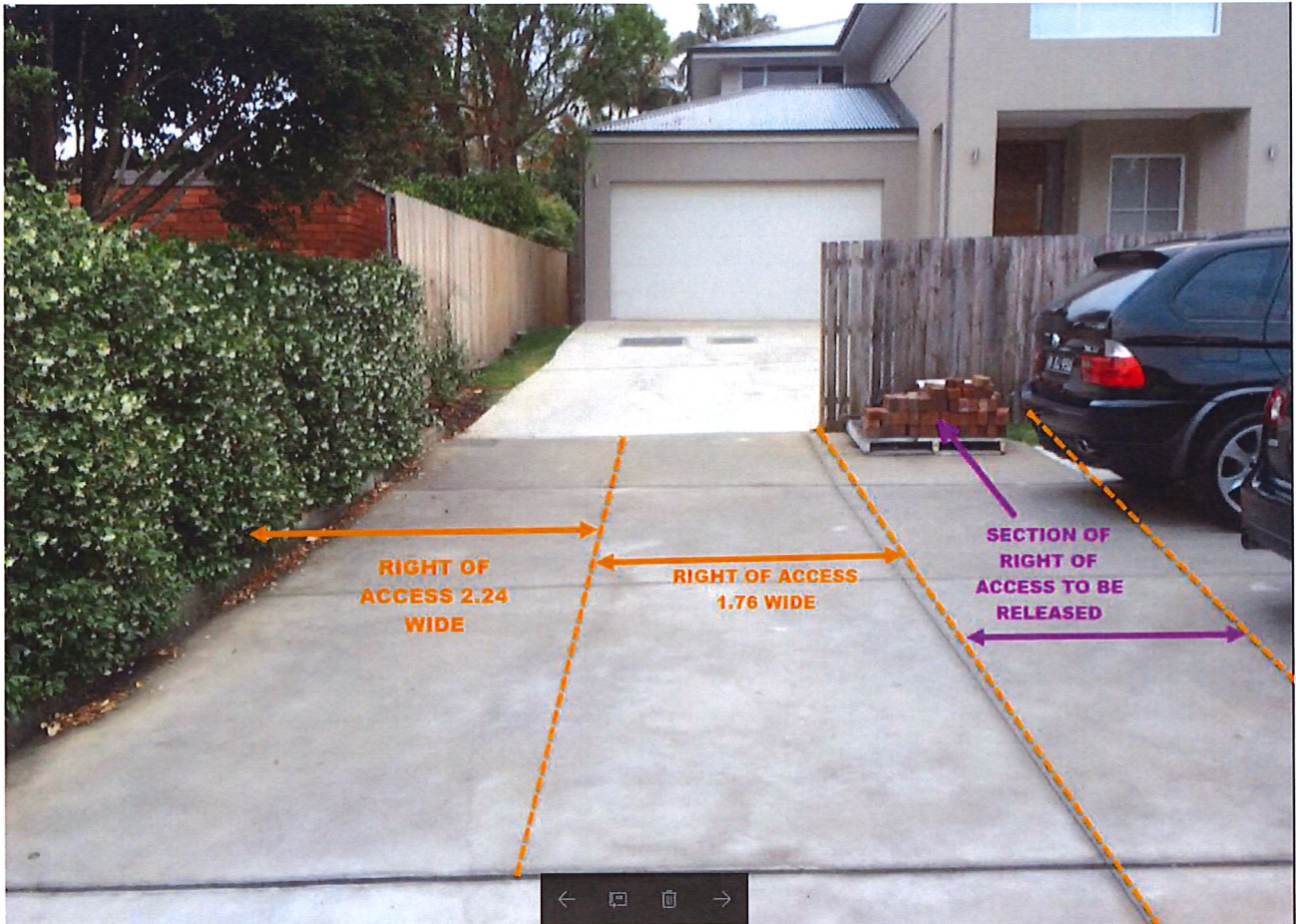


PHOTO 1: Looking towards the rear allotment (Lot 242)

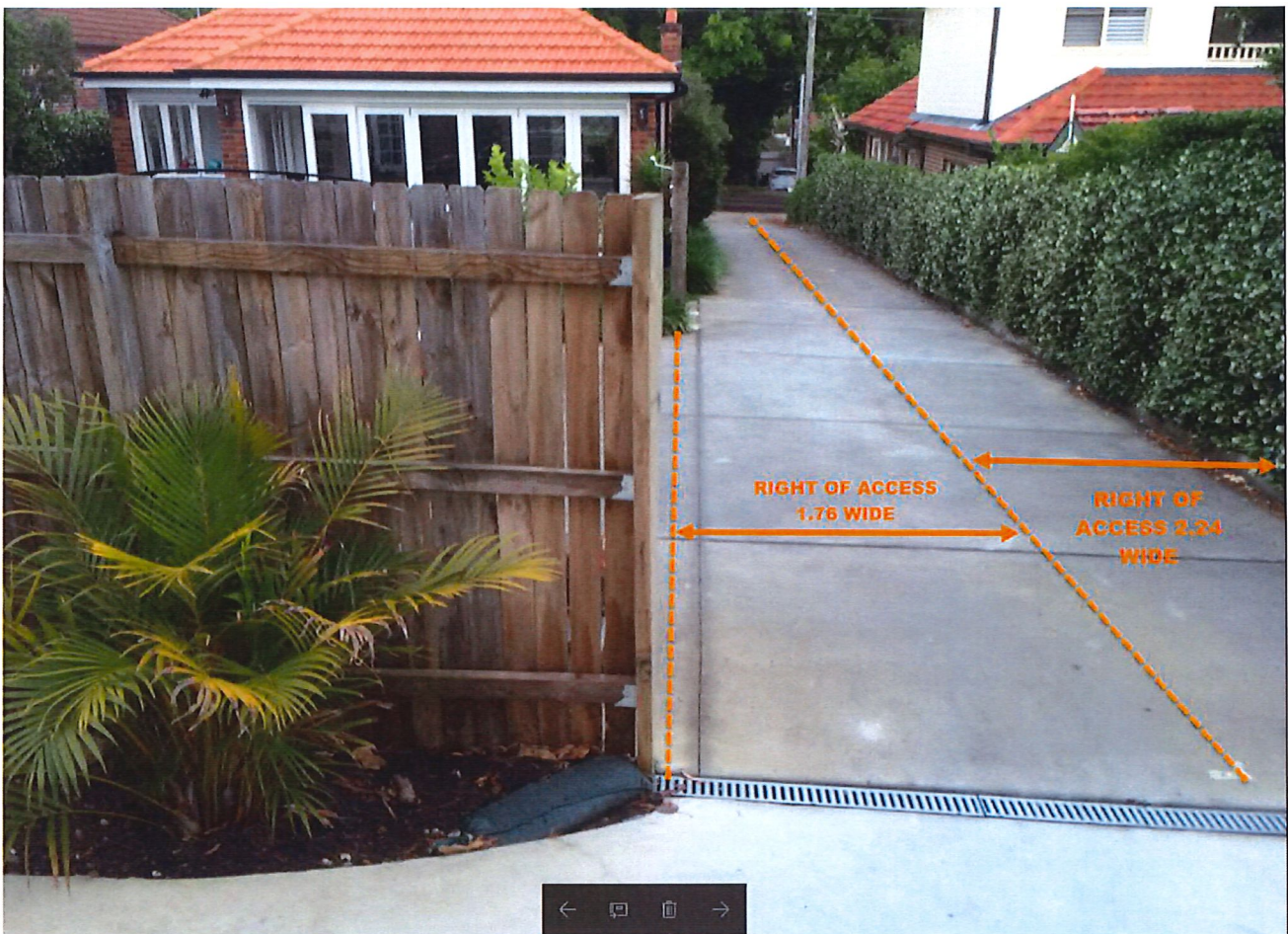


PHOTO 2: Looking down towards Brighton Street from the rear allotment (Lot 242)

We believe this modification will have no impact on the access capabilities for servicing both lots in the subdivision plan as the standard width Right of Access will be maintained to both lots.

We are of the opinion that the DCP2011 guide lines for passing bays should be read as guide only, and in this case the position of the passing bay, for the reasons as outlined above, simple just does not work.

Both owners are in complete agreement for the part release of this Right of Access, and also considering the very light usage of this accessway by vehicles from both properties at the same time, we cordially ask Council to consider endorsing the enclosed Dealing forms.

If you have any queries please contact me at this office.

Yours faithfully

Gary Skow
HAMMOND SMEALLIE & CO PTY LTD