

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2025/0384	
Responsible Officer:	Brittany Harrison	
Land to be developed (Address):	Lot B DP 409707, 58 A Elimatta Road MONA VALE NSW 2103 Lot 8 DP 611691, 56 Elimatta Road MONA VALE NSW 2103	
Proposed Development:	Alterations and additions to a dwelling house including the subdivision of one lot into two and construction of a hardstand parking area and passing bay	
Zoning:	C4 Environmental Living	
Development Permissible:	Yes	
Existing Use Rights:	No	
Consent Authority:	Northern Beaches Council	
Land and Environment Court Action:	No	
Applicant:	Michael James Ludowici	
Application Lodged:	15/04/2025	
Integrated Development:	No	
Designated Development:	No	
State Reporting Category:	Residential - Alterations and additions	
Notified:	24/04/2025 to 08/05/2025	
Advertised:	Not Advertised	
Submissions Received:	1	
Clause 4.6 Variation:	Nil	
Recommendation:	Refusal	

PROPOSED DEVELOPMENT IN DETAIL

Estimated Cost of Works:

This Development Application seeks consent for the alterations and additions to a dwelling and the subdivision of one (1) lot into two (2) including the construction of a hardstand parking area and passing bay.

\$ 22,000.00

Specifically, the works comprise of the following:

• Torrens Title Subdivision of the existing lot into two (2) new lots (see subdivision plan below);

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- The application seeks to rely on the existing right of carriageway benefiting the subject site over the adjacent driveway and access handle to No 58A Elimatta Road. Owner's Consent provided;
- A new hardstand parking area in proximity to the existing dwelling (proposed Lot 2);
- The provision of a passing bay to benefit both the proposed Lot 2 and the existing northern neighbouring properties No 58 & 58A Elimatta Road;
- The location of the services easement and pedestrian access to Proposed Lot 2 along the southern boundary of Lot 1 will necessitate the removal of two (2) trees; and
- Associated stormwater works.

Note: Proposed Lot 2 is to accommodate for the existing dwelling house and included alterations. Proposed Lot 1 is to be vacant.

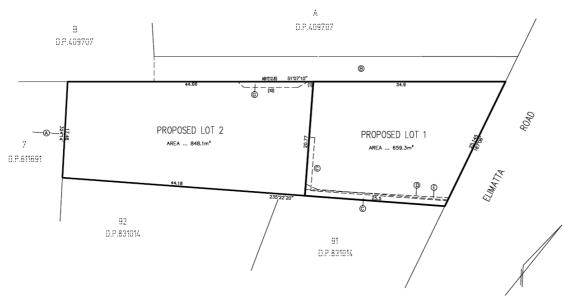


Figure 1: Draft Plan of Subdivision, prepared by Adam Clerke, dated 27 November 2024.

OWNERS CONSENT

Owner's consent from No. 58A Elimatta Road, Mona Vale (Lot B DP 409707) has been provided. The Owner's consent is in reference to DA2025/038 and the works within the right of carriageway that burdens No. 58A Elimatta Road and benefits No. 56 Elimatta Road.

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

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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

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living

Pittwater Local Environmental Plan 2014 - 7.10 Essential services

Pittwater 21 Development Control Plan - A1.7 Considerations before consent is granted

Pittwater 21 Development Control Plan - A4.9 Mona Vale Locality

Pittwater 21 Development Control Plan - B2.2 Subdivision - Low Density Residential Areas

Pittwater 21 Development Control Plan - B6.2 Internal Driveways

Pittwater 21 Development Control Plan - B6.7 Transport and Traffic Management

Pittwater 21 Development Control Plan - C4.2 Subdivision - Access Driveways and Off-Street Parking

Facilities

Pittwater 21 Development Control Plan - C4.3 Subdivision - Transport and Traffic Management

SITE DESCRIPTION

Property Description:	Lot B DP 409707 , 58 A Elimatta Road MONA VALE NSW
	2103
	Lot 8 DP 611691 , 56 Elimatta Road MONA VALE NSW 2103

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Detailed Site Description:

The subject site consists of one (1) allotment located on the south-western side of Elimatta Road.

The subject site is legally identified as Lot 8 in Deposited Plan 611691, No. 56 Elimatta Road, Mona Vale.

The site is irregular in shape with a splayed frontage of 25.2m along Elimatta Road and a maximum depth of 79.6m along the northern boundary. The site has a surveyed area of 1507.0m².

The site is located within the C4 Environmental Living zone pursuant to the Pittwater Local Environmental Plan 2014 and accommodates a dwelling house. The subject site is benefitted by a Right of Carriageway (ROC) used for vehicular access to the north. Such ROC burdens No. 58AElimatta Road.

The site slopes downward towards the street boundary with an approximate fall of 8.0m. The site consists of well-established canopy trees, various shrubbery and large open lawn areas.

Detailed Description of Adjoining/Surrounding Development

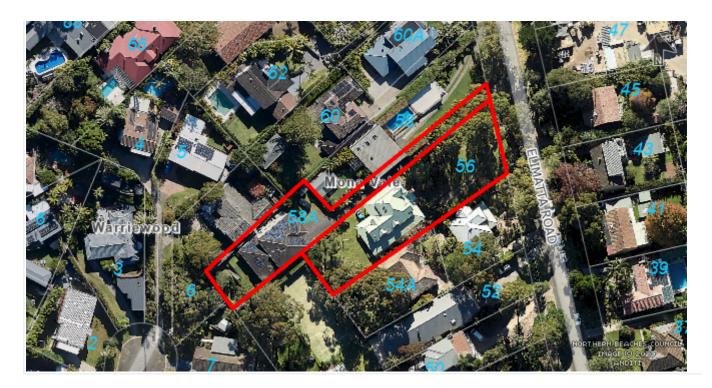
Adjoining and surrounding development is characterised by low density residential development situated within a landscaped setting.

There is a variation in the prevailing subdivision pattern and shape of allotments within Elimatta Road and the surrounding outer streets. These include both rectangular, irregular and battle-axe shaped allotments, with several consisting of right of ways for vehicular access.

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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:

DA2022/1645

Development Application for the subdivision of one lot into two including alterations and additions to an existing dwelling.

Withdrawn on February 2023.

DA2023/0728

Development Application for the subdivision of one lot into two and alterations and additions to an existing dwelling.

Determined on 16 May 2025, by way of refusal.

DA2025/0384 - Current Application

This application was formally notified in accordance with Council's current Community Participation Plan (CPP) which was for a period of fourteen (14) days. One (1) submission was received during the assessment of the application.

The below matters were raised with the Applicant through a 'Request for Further Information' (RFI) Letter dated 1 August 2025. The RFI was released on Council's webpage as part of the application's documentation:

1. Driveway Plans - Upgrade

The application is for the one lot into two subdivisions with provision of suitable access to the proposed Lot 2. Lot 1 will retain the direct access from the Elimatta Road carriageway.

Additional assessment of the dwelling on proposed Lot 1 will need to consider impact on the Elimatta Road frontage of the site once the development application has been lodged.

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Current application provides for two parking spaces for proposed Lot 2, a passing bay in an appropriate location along the RoW shared with 58A Elimatta Road. The existing shared driveway will need to be reconstructed to support the development and improve user safety.

The applicant is required to provide detailed engineering plans to allow a full assessment of the upgraded driveway required.

The proposal is currently not supported and additional information is required.

2. Updated Arboricultural Report

The submitted Arboricultural Report would be required to be amended to assess the impacts of surrounding trees in relation to the upgraded driveway

No further information was received. However, Council met with the Applicant during the assessment process in relation to the above matters. Council's Traffic Engineer re-considered the submitted documentation and initial non-supportive referral comment. The Traffic Referral comment was revised and amended to a supportive outcome subject to conditions.

The recommended conditions request that the existing driveway demonstrate compliance with the relevant Australian Standard AS 2890. The width required for an internal driveway would be a minimum of 3.0m, the existing internal driveway has a width ranging form 2.4m - 2.6m. As such, would not comply. Due to the unknown impacts that may occur in relation to widening the driveway to demonstrate compliance i.e. unknown impacts on the land and surrounds including any impacts to nearby canopy trees, it would be unacceptable to recommend support of this application with such conditions, without first assessing driveway engineering plans and supporting documentation that would be required.

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	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.

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Section 4.15 Matters for	Comments
Consideration	
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters would be addressed via a condition of consent, if the application were to be supported.
	Clause 29 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.
	Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested, refer to 'Site History'.
	Clause 61 of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter would be addressed via a condition of consent, if the application were to be supported.
	Clauses 62 and/or 64 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.
	Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.
	Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter would be addressed via a condition of consent, if the application were to be supported.
	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.
social and economic impacts in the locality	(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 not suitable for the proposed development in reference to the inconsistency with the Australian Standards (AS 2890) the existing driveway on the ROW. The condition recommended by Council's Traffic Team does not factor in the impacts that may be a result of upgrading the driveway and as such, as there are no known impacts, the development application cannot be supported, in its current form.
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.

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Section 4.15 Matters for Consideration	Comments
interest	The proposed development is inconsistent with the Australian Standards (AS 2890) in regard to the existing driveway on the ROW. The condition recommended by Council's Traffic Team does not factor in the impacts that may be a result of upgrading the driveway and as such, as there are no known impacts, the development application cannot be supported, in its current form.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 24/04/2025 to 08/05/2025 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 Murray Francis Laracy	58 A Elimatta Road MONA VALE NSW 2103
Mrs Anne Margaret Laracy	

One (1) submission was received during the assessment process, and the issues raised in the submission are summarised and addressed below.

• DA is substantially unchanged from the previous DA2023/0728 which was refused largely due to the inability to provide "suitable vehicular access". Suitable vehicular access required a passing bay on Lot 1 and the driveway widened to 3.5 metres. This application proposes a passing bay on Lot 2 where it cannot provide the safety and suitable vehicle access required or comply with the P21DCP and Australian Standards. There is also no proposal to widen the driveway to 3.5m.

Comment

The issues raised above have been considered and are addressed elsewhere in this assessment report. Such issues form reasons for refusal of this application.

 Adam Clerke Survey (inaccuracies) - This DA involves works not only on No 56 Elimatta Road, but also works on the parcel of our land No 58A Elimatta Road that forms the access handle. The survey submitted as part of this DA fails to show a large section of rock retaining wall that extends into No 58A Elimatta Road.

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Comment

The issue above is noted, and the rock wall was identified on site. Such structure should be noted on the survey plans, due to the proximity of the structure to the driveway. Despite this, the proposal did not include any works to the driveway, and rather sought to retain the existing driveway arrangement with the Right of Carriageway. The works included parking to Lot 2 and a passing bay further up the driveway. It should be noted that if any further applications are lodged for driveway works than such wall should be identified on the plans.

TTPA Traffic Report

Issues raised in relation to the submitted Traffic Report being inadequate by not assessing the ROW in full, failing to provide evidence that the driveway complies with AS2890.1:2004. In response, the objector provided a peer traffic review by McLaren Traffic Engineering (MTE).

Comment

Council's Traffic Engineer reviewed both reports and other relevant documentation submitted. Whilst Council's Traffic Engineer supports the application, subject to conditions. These conditions require that all driveways demonstrate compliance with AS2890.1:2004. As the subject driveway does not, such condition cannot be achieved without physical works to the driveway. As this application does not include works to the driveway and any impact would be unknown due the lack of driveway plans and assessment of impact on the land if works were to occur, this application cannot be supported.

Access Handle and Passing Bay

The objection raises concern with the location of the passing bay and non-compliance with the relevant controls i.e. Clause B6.2 Internal Driveways and Clause C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities.

Comment

Council's Development Engineer has assessed the application and is in support of the passing bay and parking for Lot 2. The issues regarding the access driveway are discussed under both Clause B6.2 Internal Driveways and Clause C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities elsewhere in this report and will form part of the reasons for refusal of this application.

Incidents on Driveway

Comment

The objection notes of various incidents that have occurred on the existing driveway including damage over the years. These incidents have been noted and considered.

Surrounding Character

Comment

The submitted SEE makes mention that the proposed subdivision is consistent with the subdivision pattern of the area, which include battle-axe allotments. The objection notes that the allotments mentioned in the SEE to be of a similar subdivision pattern do not have a similar access driveway i.e. topography, width. Despite the driveway, it is determined that the subdivision pattern is consistent with the area, and as such this element does not form part of reasons for refusal. The matters relating to the driveway and access are discussed elsewhere in this report as mentioned above.

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Environmental Impact - Tree Removal

Comment

The objection raises issue with the number of trees proposed to be removed with resultant impacts being loss of canopy and habitat, and the future impact of further trees in regard to the building footprint of Lot 1. It is also noted in the objection that the landscape referral comment and Arboricultural Report recommendations differ to previous applications. Council's Landscape Officer has reviewed the proposal and is in support of the removal of Tree 1, 2 and 20. It is noted that tree 2 is an exempt species. Council's Landscape Referral makes the following comment in reference to the indicative building footprint on Lot 1:

"the footprint location over proposed Lot 1 impacts upon existing trees and in principle should the indicative building footprint continue into a separate development application a total of three A1 significance rated trees and two A2 significance rated trees will require removal. The landscape character of the property is able to be maintained with a total of five native A1 significance rated trees able to be preserved, and based on such retention of significant rated trees, and other tree replacement planting applicable to any separate development application, no concerns are raised with this subdivision application, subject to future considerations dependent on the final building footprint."

Proposed subdivision - Amenity Impacts and Setbacks

The front setback of the existing house is less than 3.0m. Clause D9.6 states a front building line have a minimum setback of 6.5m. The proposed subdivision will result in impacts on private open space areas, visual privacy, view loss (to proposed Lot 2), solar access to No. 54 and streetscape character (visual dominance).

Comment

Whilst amenity impacts (solar access, views and privacy) are considered under a subdivision application, no dwelling is proposed on Lot 1, and as such, these impacts would be assessed in greater detail within a future application. The subdivision pattern proposed is consistent with the streetscape character, and such allotment layout is not considered to impact the existing streetscape character. Visual dominance of a future build would be assessed under a future application. The setbacks of both the existing dwelling and indicative building footprint demonstrate general compliance with the P21DCP controls. Lot 2 does not have a frontage to the street.

 Application History - Previous applications refused on inadequate and unsafe access including such access not being in accordance with the requirements of AS/NZ 2890.

Comment

The history of the subject site and previous subdivision applications have been noted and considered.

REFERRALS

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Internal Referral Body	Comments
Landscape Officer	Supported, subject to conditions if the application were to be approved.
	The proposed application is for Torrens Title subdivision of one lot into two including alterations and additions to an existing dwelling and driveway works. The proposed works under the development application includes: subdivision of existing one lot into two; a new hardstand parking area and passing bay; and services easement.
	Council's Landscape Referral is assessed against the Pittwater Local Environment Plan, and the following Pittwater 21 DCP controls (but no limited to): B2.2 Subdivision - Low Density Areas; B4.22 Preservation of Trees and Bushland Vegetation; C4.4 Subdivision - Public Roads, Footpath and Streetscape; C4.7 Subdivision - Amenity and Design; C4.8 Subdivision - Landscaping on the existing and proposed public road reserve frontage to subdivision lots.
	Under C.7, a subdivision shall clearly demonstrate that a building envelope can be built on site that has regard for the following, including: retention of trees and bushland; vehicular access; and provision of services.
	The Arboricultural Impact Assessment (AIA) is noted, and this considers the impacts of the proposed stormwater works within the services easement along the southern boundary of the proposed Lot as well as impacts resulting from the proposed building envelope within the proposed Lot 1.
	The Stormwater Plans are noted with connection of stormwater services to the existing infrastructure located within the road reserve verge. The road reserve verge supported two existing native trees in close proximity to the existing stormwater infrastructure proposed for connection including tree 3 (Eucalyptus botryoides) and tree 4 (Banksia serrata). It is assumed the existing stormwater pipe within th road verge is to remain in place, otherwise any upgrading of this pipe will result in impacts to the existing street trees and impacts to the existing trees are not supported.
	Three existing trees identified as tree 1 (Magnolia grandiflora), tree 2 (Lagerstoemia indica) and tree 20 (Acer palmatum) are proposed to be removed for the subdivision works (hardstand parking area and services easement) and no concerns are raised. It is noted that tree 2 is an exempt species.
	In consideration of the overall subdivision landscape character should the application be approved, we note that the footprint location over proposed Lot 1 impacts upon existing trees and in principle should the indicative building footprint continue into a separate development application a total of three A1 significance rated trees and two A2 significance rated trees will require removal. The landscape character of the property is able to be maintained with a total of five native A1

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Internal Referral Body	Comments			
	significance rated trees able to be preserved, and based on such retention of significant rated trees, and other tree replacement planting applicable to any separate development application, no concerns are raised with this subdivision application, subject to future considerations dependent on the final building footprint.			
NECC (Development Engineering)	Supported, subject to conditions if the application were to be approved.			
	The proposed 2 lot subdivision is now supported subject to conditions.			
	The adjoining property owner has now provided their consent to undertake works on the right of way.			
NECC (Water Management)	Supported, if the application were to be approved.			
	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 			
	The proposal is a subdivision resulting in the creation of two (2) lots where the total post-development impervious area of the new lots does not exceed 40%.			

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Internal Referral Body	Comments
Traffic Engineer	Supported, subject to conditions.*
	The application has been assessed and the submissions have been considered as part of the assessment.
	The application is for the one lot into two subdivision with provision of suitable access to the proposed Lot 2. Lot 1 will retain the direct access from the Elimatta Road carriageway.
	The proposal meets the general requirements of the Pittwater DCP and addresses the access requirements subject to compliance with the consent conditions provided in this referral to meet the topographical issues associated with the subject site.
	Additional assessment of the dwelling on proposed Lot 1 will need to consider impact on the Elimatta Road frontage of the site once the development application has been lodged.
	Current application provides for two parking spaces for proposed Lot 2, a passing bay in an appropriate location along the RoW shared with 58A Elimatta Road.
	The proposal is supported.
	*Planner Note: Despite the recommendation for approval by Council's Traffic Team, the conditions provided below are not considered acceptable. The internal driveway located on the Right of Carriageway has an existing width of ≈ 2.4m - 2.6m, rather than the required 3.0m as set out in AS 2890 (Off-street Parking standards). As such, the driveway will be unable to demonstrate compliance with AS 2890 (Off-street Parking standards) and will not be able to satisfy the Traffic conditions. If the Traffic Team are seeking compliance with AS 2890 (Off-street Parking standards) then plans must be submitted during assessment phase to ascertain any impacts that may occur as a result of any work that may be required to be undertaken to demonstrate compliance with AS 2890 (Off-street Parking standards).

External Referral Body	Comments
` .	Supported, subject to conditions if the application were to be approved.
	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.

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.

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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)

SEPP (Transport and Infrastructure) 2021

<u>Ausgrid</u>

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 if the application were to be approved.

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.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes	
After consideration of the merits of the proposal, is the development consistent with:		
aims of the LEP?	No	
zone objectives of the LEP?	No	

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Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size	550.0m²	Lot 1: 659.3m ² Lot 2: 848.1m ²	-	Yes
Height of Buildings	8.5m	Lot 1: No physical works Lot 2: No change to existing dwelling Passing Bay/Hardstand Parking: less than 8.5m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.1 Minimum subdivision lot size	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	No

Detailed Assessment

Zone C4 Environmental Living

The C4 Environmental Living zone objectives are discussed below:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To provide for residential development of a low density and scale integrated with the landform and landscape.
- To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.

Comment

The proposed subdivision in isolation is supported and has been found to achieve the objectives noted above.

Council's Traffic Team have recommended support, subject to conditions that ensure compliance with relevant Australian Standards i.e. internal driveways. It was established that the internal driveway within the Right of Carriageway does not comply with AS 2890.1, and as such the approval of this application based on those conditions would not be acceptable. For the subject driveway to be in accordance with the relevant Australian Standard it is likely that physical works would need to occur. It would not be known where those works would need to occur and such impacts that may result. For example it is noted that the driveway is in close proximity to canopy trees and works to such driveway may impact upon those trees.

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As such, it cannot be considered that the development (in its current form) would be of low-impact on the values of the site, as the impacts are unknown if further works are to occur to the driveway in order for the development to satisfy the recommended conditions.

7.10 Essential services

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.10 Essential services of the Pittwater Local Environmental Plan 2014.

The provision states that development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

Comment

For the reasons set out in this report, the application cannot achieve (in its current form) suitable vehicular access.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front Building Line	6.5m	Lot 1: 6.5m Lot 2: No front setback to street	-	Yes
Rear Building Line	6.5m	Lot 1: 6.5m Lot 2: > 6.5m (Existing)	-	Yes
Side Building Line	2.5m	Lot 1: 6.5m Lot 2: 2.2m (Existing)	-	Yes
	1.0m	Lot 1: 1.5m Lot 2: 1.2m (Existing)	-	Yes
Building Envelope	3.5m	Lot 1: Within Envelope Lot 2: No change to existing	-	Yes
	3.5m	Lot 1: Within Envelope Lot 2: No change to existing	-	Yes
Landscaped Area	60.0%	Lot 1: ≈ 66.6% Lot 2: ≈ 60.0%	-	Yes

The built form table is in reference to the below:

- Lot 1: Newly created allotment Building Footprint
- Lot 2: Existing Dwelling

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The proposed allotments demonstrate that compliance with the relevant built forms controls of the P21DCP can be achievable.

Compliance Assessment

Clause	Compliance	Consistency
	with Requirements	Aims/Objectives
A1.7 Considerations before consent is granted	No	No
A4.9 Mona Vale Locality	No	No
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B2.2 Subdivision - Low Density Residential Areas	No	No
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	No	No
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C4.1 Subdivision - Protection from Hazards	Yes	Yes
C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities	No	No
C4.3 Subdivision - Transport and Traffic Management	Yes	Yes
C4.4 Subdivision - Public Roads, Footpath and Streetscape	Yes	Yes
C4.5 Subdivision - Utility Services	Yes	Yes
C4.6 Service and delivery vehicle access in subdivisions	Yes	Yes
C4.7 Subdivision - Amenity and Design	Yes	Yes

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Clause	Compliance with Requirements	Consistency Aims/Objectives
C4.8 Subdivision - Landscaping on the Existing and proposed public road reserve frontage to subdivision lots	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	Yes	Yes
D9.7 Side and rear building line	Yes	Yes
D9.9 Building envelope	Yes	Yes
D9.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes

Detailed Assessment

A1.7 Considerations before consent is granted

Before granting development consent, Council must be satisfied that the development is consistent with:

- Pittwater Local Environmental Plan 2014: and
- the desired character of the Locality; and
- the development controls applicable to the development.

Comment

The proposed works do not comply with all relevant clauses of the Pittwater Local Environmental Plan 2014 nor Pittwater 21 Development Control Plan. And as such, this application cannot satisfy this clause nor the matters for consideration under section 4.15 Evaluation of the *Environmental Planning and Assessment Act 1979*.

A4.9 Mona Vale Locality

Clause A4.9 Mona Vale Locality requires the following relevant character:

• Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.

For the reasons set out in this report, the application does not wholly achieve this requirement and as such is inconsistent with the desired future character of the Mona Vale Locality.

B2.2 Subdivision - Low Density Residential Areas

Description of Non-Compliance

Clause B2.2 Subdivision - Low Density Residential Areas stipulates the following requirements:

- Any lot (or lots) to be created by a subdivision of an existing lot (or lots) shall have a minimum lot depth of 27.0m.
- Any lot (or lots) to be created by a subdivision of an existing lot (or lots) on land identified as
 Area 1 on the Landscaped Area Map shall have a minimum lot width at the building line of
 16.0m.

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- Any lot (or lots) to be created by a subdivision of an existing lot (or lots) on land identified as Area 2 or 3 on the Landscaped Area Map shall have a minimum lot width at the building line of 15.0m.
- Any lot (or lots) to be created by a subdivision of an existing lot (or lots) shall have a minimum lot width at the building line of 9.0m at the waterfrontage.
- Any lot (or lots) are to be capable of providing for the construction of a building which is safe from hazards, does not unreasonably impact on the natural environment, does not adversely affect heritage, and can be provided with adequate and safe access and services.
- A person shall not subdivide land if the allotment(s) intended to be created have a slope in excess of 16.7 degrees (30.0%), measured between the highest and lowest points on any such allotment(s).
- The minimum area for building shall be 175.0m².

Requirement	Proposal	Compliance
Minimum Allotment Size – 550m²	Lot 1: 659.3m ² Lot 2: 848.1m ²	Yes Yes
Minimum Allotment Width – 16m	Lot 1: 20.77m Lot 2: 17.47m	Yes Yes
Minimum Allotment Depth – 27m	Lot 1: 25.5m Lot 2: 44.18m	No – discussion Yes
Minimum Building Area – 175m²	Lot 1: 175m ² (area available approx. 214m ² , subject to future application) Lot 2: 256m ² (approx. existing dwelling footprint+ carstand)	Yes Yes

Table 1: Extract from Statement of Environmental Effects - summarising the controls of Clause B2.2.

The proposed subdivision complies with the above controls in exception to the following:

- Any lot (or lots) to be created by a subdivision of an existing lot (or lots) shall have a minimum lot depth of 27.0m.
- Any lot (or lots) are to be capable of providing for the construction of a building which is safe
 from hazards, does not unreasonably impact on the natural environment, does not adversely
 affect heritage, and can be provided with adequate and safe access and services.

Proposed Lot 1 has a depth of 34.9m to the northern boundary and 25.5m to the southern boundary, exhibiting a partial non-compliance. Proposed Lot 2 complies. The non-compliance to the southern boundary results from the irregular angle of the front (eastern boundary) and streetscape including the retention of the existing dwelling on Lot 2. The non-compliance is partial and only limited to the southern portion of the site, but is compensated by the depth to the northern portion of the site.

The proposed subdivision does not provide for adequate and safe access and services for the reasons set out in Clause B6.2 Internal Driveways and C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities, elsewhere in this report.

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Merit Consideration

Achieve the desired future character of the locality. (S)

Comment

The proposed subdivision pattern is compatible with the existing pattern of the streetscape which evidently demonstrates allotments of similar sizes, shapes and dimensions. This can be ascertained both north and south of the subject site. In terms of built form, future dwellings will be subject to a separate application, however, the projected building footprint as shown on the plans demonstrate that a future dwelling can comply with the relevant built form controls and be integrated within the existing natural and built landscape.

Despite this, the application has not demonstrated consistency with the desired future character of the Mona Vale locality in terms of vehicular access and safety.

The proposal does not achieve this outcome

Maintenance of the existing environment. (En)

Comment

As discussed above, the proposed pattern of subdivision is consistent with the surrounding area and existing allotments. However, the existing driveway on the Right of Carriageway will not be in accordance with Australian Standard AS/NZS 2890.1-2004, and as such will not be able to satisfy the conditions placed by Council's Traffic Engineer. Additional works to the subject driveway are likely to be needed, and as we do not know what those works will need to be, nor the impacts they may pose, subject to insufficient information, the proposal **does not** achieve this outcome.

Equitable preservation of views and vistas to and/or from public/private places. (S)

Comment

The proposed application does not include the construction of a new dwelling. It is not considered that a future dwelling on Lot 1 would result in adverse view impacts.

• The built form does not dominate the natural setting. (En)

Comment

The proposed subdivision has demonstrated that a future dwelling on both Lot 1 and Lot 2 can be accommodated and generally comply with the relevant built form controls. In terms of built form, future dwellings will be subject to a separate application,

- Population density does not exceed the capacity of local and regional infrastructure and community services. (En, S, Ec)
- Population density does not exceed the capacity of local and regional transport facilities. (En, S, Ec)

Comment

In regard to the two (2) points above, the proposed subdivision is for a one (1) lot into (2) to accommodate an additional future dwelling house. It is not considered that the development will contribute to a population density that exceeds the capacity of local and regional transport facilities.

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Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant outcomes of this clause. Accordingly, this assessment finds that the proposal is **not supported**, in this particular circumstance

B6.2 Internal Driveways

Detailed Assessment

Clause B6.2 Internal Driveways relevant states that if the applicant proposes to retain an existing driveway, the applicant will need to demonstrate compliance with the outcomes and driveway standards of this control.

The design of all Internal Driveways and ramps shall be in accordance with the current edition of the following Australian Standards:

Australian Standard AS/NZS 2890.1-2004: Parking Facilities - Off-Street Car Parking.

Combined driveway for more than 2 dwellings: 3.0 metres minimum except where the driveway length exceeds 40 metres, a passing bay to an overall minimum width of 5.0 metres for a length of 10 metres with suitable transitions to the adjacent narrow driveway.

The location of the passing bay is supported by Council's Development Engineer on merit. Council's Traffic Engineer however supports the application subject to the below conditions:

1. Vehicle Access & Parking

All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

With respect to this, the following revision(s) must be undertaken;

All internal driveways and vehicle access ramps must have ramp grades and transitions complying with AS 2890.1. To ensure the gradient requirements and height clearances are satisfied, a driveway profile must be prepared for all internal ramps showing ramp lengths, grades, surface RL's and overhead clearances, taken from the crest of the ramp to the base. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

Plans prepared by a suitably qualified Engineer shall be submitted to the Principal Certifier prior to the issue of a Construction Certificate

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

2. Compliance with Standards

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

At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 Demolition of Structures**
- (b) AS4361.2 Guide to lead paint management Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 2007 'Pruning of amenity trees' (Note: if approval is granted) **

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- (e) AS 4970 2009 'Protection of trees on development sites'**
- (f) AS/NZS 2890.1:2004 Parking facilities Off-street car parking**
- (g) AS 2890.2 2002 Parking facilities Off-street commercial vehicle facilities**
- (h) AS 2890.3 1993 Parking facilities Bicycle parking facilities**
- (i) AS 2890.5 1993 Parking facilities On-street parking**
- (j) AS/NZS 2890.6 2009 Parking facilities Off-street parking for people with disabilities**
- (k) AS 1742 Set 2010 Manual of uniform traffic control devices Set**
- (I) AS 1428.1 2009* Design for access and mobility General requirements for access New building work**
- (m) AS 1428.2 1992*, Design for access and mobility Enhanced and additional requirements Buildings and facilities**

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Principal Certifier to ensure compliance with this condition and that the relevant Australian Standards are adhered to.

The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website.

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

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

In reference to the above, Council's Traffic Engineer originally requested that the existing shared driveway be reconstructed to support the development and improve user safety, detailed engineering plans to allow a full assessment of the upgraded driveway were required. These plans were not provided, and it was requested that the application be re-considered based on the information provided in the submitted Traffic Report.

Council's Traffic Engineer revised the referral comment, subject to the conditions provided above being satisfied. However, it was established that the internal driveway within the Right of Carriageway does not comply with AS 2890.1, and as such the approval of this application based on those conditions would not be acceptable, as the development would not satisfy those conditions, without the likelihood of further works occurring to the driveway. It would not be known where those works would need to occur and such impacts that may result. It is therefore considered that the development in it's current form cannot be supported and would not achieve all the objectives below:

- Safe and convenient access.
- Reduce visual impact of driveways.
- Pedestrian safety.
- An effective road drainage system.
- Maximise the retention of trees and native vegetation.
- Reduce contaminate run-off from driveways.

Comment

The current driveway on the right of carriageway does not comply with the Australian Standard AS/NZS 2890.1-2004: Parking Facilities - Off-Street Car Parking and it is of the understanding that the development would not then satisfy the recommended conditions (above) as set out by Council's Traffic Engineer, without

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further works to the subject driveway. As it is unknown what those works are due to a lack of driveway engineering plans, and what any impacts may be to surrounding trees/structures on the land, it cannot be determined that the proposal (in it's current form) would provide safe and convenient access nor the acceptable retention of trees and native vegetation.

Therefore, this application cannot be supported, based on the reliance of these conditions, in this particular instance.

B6.7 Transport and Traffic Management

A Traffic Assessment was provided by both the Applicant and objecting parties. Such reports have been reviewed and were considered in the assessment of this application. Council's Development and Traffic Engineers are in support of the proposal i.e. subdivision including the nominated location of the passing bay, subject to conditions.

As noted throughout the report however, the retention of the existing driveway on the Right of Carriageway will not satisfy the conditions recommended by Council's Traffic Team and as such this application cannot be supported.

C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities

Clause C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities stipulates the following requirements:

(i) Off-Street Parking Requirements: The design of each individual lot created within the subdivision is to provide for off street parking facilities compatible with the proposed development uses for that lot.

Comment

The proposed Lot 1 will be accessed via the existing vehicular crossing currently through the centre of the site. It is considered that this lot has opportunity to provide off-street parking. Lot 2 will accommodate the existing dwelling house, this application proposes a formal parking area to the rear of the dwelling which will be accessed via the Right of Carriageway through No. 58A Elimatta Road.

(ii) Access Driveways (i.e.; driveway crossings): A safe and functional access driveway must be designed and constructed from the road edge/kerb and gutter to the lot boundary for each individual lot within the subdivision as part of the subdivision works. Only one driveway access to a public road is permitted for each lot.

Comment

Each lot will have one driveway access, which is described above. Council's Traffic Engineer has provided a condition in which all driveways are to demonstrate compliance with AS 2890.1 to ensure safe and functional access for users. Despite the intent of these conditions by Traffic, it is considered that the driveway on the Right of Carriageway is not currently constructed in accordance with the relevant standard. As such, it is likely that works will need to occur to such driveway. As no works are proposed, and the impacts (if such works are to occur) are unknown, this application cannot be supported.

(iii) Internal Driveways: The design of each individual lot created within the subdivision is to provide for an internal driveway compatible with the proposed development uses for each individual lot.

Where an internal driveway is located within a 'right of way' or proposed 'right of way', the internal

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driveway is to be designed and constructed as part of the subdivision works.

Comment

As noted above.

Based on the above, the proposal does not satisfy the following objectives:

- Safe and functional access for vehicles, cyclists and pedestrians.
- Safe and convenient access and parking is provided on each lot.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant outcomes of the clause. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

C4.3 Subdivision - Transport and Traffic Management

A Traffic Assessment was provided by both the Applicant and objecting parties. Such reports have been reviewed and were considered in the assessment of this application. Council's Development and Traffic Engineers are in support of the proposal i.e. subdivision including the nominated location of the passing bay, subject to conditions.

As noted throughout the report however, the retention of the existing driveway on the Right of Carriageway will not satisfy the conditions recommended by Council's Traffic Team and as such this application cannot be supported.

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

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;

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- Pittwater Local Environment Plan;
- Pittwater 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, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2025/0384 for the Alterations and additions to a dwelling house including the subdivision of one lot into two and construction of a hardstand parking area and passing bay on land at Lot B DP 409707,58 A Elimatta Road, MONA VALE, Lot 8 DP 611691,56 Elimatta Road, MONA VALE, for the reasons outlined as follows:

Pursuant to Section 4.15(1)(a)(i) &(iii) and 4.15(1)(b) of the Environmental Planning and
Assessment Act 1979, the proposed development is inconsistent with Clause 1.2 Aims of
the Plan and Clause 7.10 Essential services of the Pittwater Local Environmental Plan 2014.

Particulars

- i. The proposal fails to achieve the desired character of Pittwater's localities i.e. Mona Vale Locality in terms of vehicular access.
- ii. The retention of the internal driveway on the Right of Carriageway does not ensure that adequate arrangements have been considered for suitable vehicular access for Lot 2, failing to achieve the intention of Clause 7.10 Essential services of the Pittwater Local Environmental Plan 2014.
- 2. Pursuant to Section 4.15(1)(a)(i) &(iii) and 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with Clause A1.7 Considerations before consent is granted, Clause A4.9 Mona Vale Locality, Clause B2.2 Subdivision Low Density Residential Areas, Clause B6.2 Internal Driveways, B6.7 Transport and Traffic Management, Clause C4.2 Subdivision Access Driveways and Off-Street Parking Facilities and C4.3 Subdivision Transport and Traffic Management of the Pittwater 21 Development Plan.

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Particulars

- i. The proposed subdivision seeks to retain the internal driveway and its current variable width within the Right of Carriageway to formally access proposed Lot 2 (rear allotment) and accommodate for No. 58A Elimatta Road, Mona Vale.
- ii. The driveway within the Right of Carriageway (in its current form) has not been designed or constructed in accordance with the Australian Standard AS/NZS 2890.1-2004: Parking Facilities Off-Street car Parking, particularly in relation to the driveway width where a standard 3.0m is required.
- iii. To ensure the subdivision is in accordance with Australian Standard AS/NZS 2890.1-2004 and to comply with the recommended conditions of Council's Traffic Engineer, the subject driveway must undergo physical upgrades including extension of the width to acceptably accommodate the need for safe and convenient access and to mitigate vehicular/traffic conflict.
- iv. In the absence of any detailed engineering plans and supporting documentation of a driveway upgrade, it cannot be ascertained what the extent of works to the driveway are necessary, or it at all. As such, where it is found that the current driveway needs to be modified to bring it into conformity with the Australian Standard there is an absence of information and detail to definitively determine what (if any) impacts will result in relation to the subject land and surrounds i.e. (but not limited to) loss of canopy trees, effects on existing structures and retaining walls.
- v. It is concluded, due to the absence of information that the development fails the outcomes of the relevant controls of the P21DCP to support the subdivision.
- 3. Pursuant to Section 4.15 (1) (c) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be suitable for the site.

Particulars

- i. The application does not propose physical works to the internal driveway within the Right of Carriageway (in exception to the passing bay) to ensure that safe and functional vehicular access can be demonstrated for proposed Lot 2 and No. 58A Elimatta Road, Mona Vale.
- ii. As articulated, in reason for refusal 2, there is a likelihood that the internal driveway will need to be upgraded to meet the generated needs of the development. However, due to the uncertainty of such works and prospective impacts, the proposal cannot be considered suitable for the site.
- 4. Pursuant to Section 4.15 (1) (e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Particulars

- i. As the proposed development has failed to demonstrate acceptable vehicular access that is safe and functional for the subject residents that utilise the Right of Carriageway daily, it would not be in the public interest to support the application (in its current form).
- ii. Further works to the internal driveway are likely required and no information is provided to address the uncertainty of potential impacts that may arise as a result.

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

Signed

an

Brittany Harrison, Planner

The application is determined on 19/09/2025, under the delegated authority of:

Adam Richardson, Manager Development Assessments

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