

Appendix 1 – Variation Request

Clause 4.6 - Minimum Lot Size (4.1)

(as part of the Statement of the Environmental Effects)

For

**107 Iris Street
Beacon Hill NSW 2100**

Date:

31 March 2023

PROJECT MANAGER/APPLICANT

Maree Jaloussis

CLIENTS

Maree Jaloussis Hayes and Michael Hayes

PROPOSAL DESCRIPTION

Proposed Torrens Title Subdivision of 1 lot into 4 lots.

PROPOSAL REFERENCE NUMBER from online application

PAN 317685

PRIOR PRE-DA MEETING

PLM 2022/0204

LOT Plan Number: 1

8 / DP19022

Council:

Northern Beaches Council

Report Prepared by

Maree Jaloussis (Certificate in Prop Dev, Property Manager)

Kathryn Silk (Registered Architect)

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1. Introduction

This written submission accompanies the Statement of Environmental Effects and is pursuant to Warringah Local Environmental Plan 2011 regarding Clauses 4.1 Minimum subdivision lot size and Clause 4.6 Exception to development standards.

This written submission requests that a variation be granted to the minimum lot size subdivision at 107 Iris Street, Beacon Hill NSW 2100.

The request is to allow the sub division of one (1) lot into four (4) lots where 3 lots are approximately 12% less than the R2 zoning standard of 600 m² thus enabling four (4) viable dwelling lots that are in line with the standard rectangular sizes down in the eastern end of the road.

This submission will address the individual clauses of development standards of 4.6 and 4.1, the Northern Beaches Pre-Lodgement Meeting Notes and Northern Beaches Local Housing Strategy.

2. Warringah Local Environmental Plan 2011 (WLEP 2011)

WLEP 2011

CLAUSE 4.6 Exceptions to development standards (in italics)

"Clause 4.6 enables the applicant to request a variation to the applicable Development Standards under Part 4 of the LEP pursuant to the objectives of the relevant Standard and zone and in accordance with the principles established by the NSW Land and Environment Court." Excerpt from **Northern Beaches Council pre-lodgement meeting minutes 8/11/22.**

The objectives of Clause 4.6 are as follows:

- (1) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (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.*

Applicable standard: WLEP 2011 -CLAUSE 4.1 Minimum subdivision lot size.

Please refer to discussion in Section 3.

However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

The standard is not expressly excluded.

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Please accept this document as the written request.

Justification is contained in Section 3 below.

- (4) Development consent must not be granted for development that contravenes a development standard unless—*

- (a) the consent authority is satisfied that—*

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Planning Secretary has been obtained.*

- (5) In deciding whether to grant concurrence, the Planning Secretary must consider—*

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

- (b) the public benefit of maintaining the development standard, and*

- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

Please refer to Section 3 below.

- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note—

When this Plan was made it did not contain Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU6 Transition or Zone R5 Large Lot Residential.

The subject site is zoned R2 and so is not applicable.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(ba) clause 4.4, to the extent that it applies to land identified on the Key Sites Map as Site F, Site G, Site H or Site I,

(c) clause 5.4,

(caa) clause 5.5,

(d) clause 6.7, to the extent that it applies to land identified on the [Key Sites Map](#) as Site F or Site G.

These clauses do not apply to the subject site subdivision.

(8A) Also, this clause does not allow development consent to be granted for development that would contravene a development standard for the maximum height of a building shown on the [Height of Buildings Map](#) on land shown on the [Centres Map](#) as the Dee Why Town Centre.

(8B) Despite subclause (8A), development on Site C or Site E may exceed the maximum height of building shown on the [Height of Buildings Map](#) if the maximum height is allowable under clause 7.14.

The variation from the standard is not height related and so not applicable.

3.

PLAN FORM 2 (A2)

WARNING: CREAMING OR FOLDING WILL LEAD TO REFLECTION

Sheet 1 of 1 sheets

NOTE:

LOT DIMENSIONS AND AREAS ARE SUBJECT TO COUNCIL APPROVAL AND FINAL SURVEY.
EASEMENTS TO BE CREATED SUBJECT TO SERVICE INSTALLMENT AND DRIVEWAY CONSTRUCTION.

D.P. 204/366

1

PROPOSED LOT 3
586.9m²
525m² (EXC ACCESS HANDLE)

PROPOSED LOT 4
613.5m²
526m² (EXC ACCESS HANDLE)

PROPOSED LOT 1
526m²

PROPOSED LOT 2
525.7m²

IRIS STREET

Legend:

- (A) PROPOSED RIGHT OF WAY & EASEMENT FOR SERVICES 1.75 WIDE & VARIABLE
- (B) PROPOSED RIGHT OF WAY & EASEMENT FOR SERVICES 1.75 WIDE & VARIABLE
- (C) PROPOSED RIGHT OF WAY & EASEMENT FOR SERVICES 1 WIDE & VARIABLE
- (D) PROPOSED RIGHT OF WAY & EASEMENT FOR SERVICES VARIABLE WIDTH
- (E) PROPOSED EASEMENT FOR DRAINAGE 2.7 WIDE

Surveyor: MICHAEL K JOYCE
Date: 19/02/2022
Reference: D.P. 204/366

Plan Title: PLAN OF PROPOSED SUBDIVISION OF LOT 18
Location: LGANORTHERN BEACHES
Reduction Ratio: 1:150
Lengths are in metres

Registered:

NOTE:

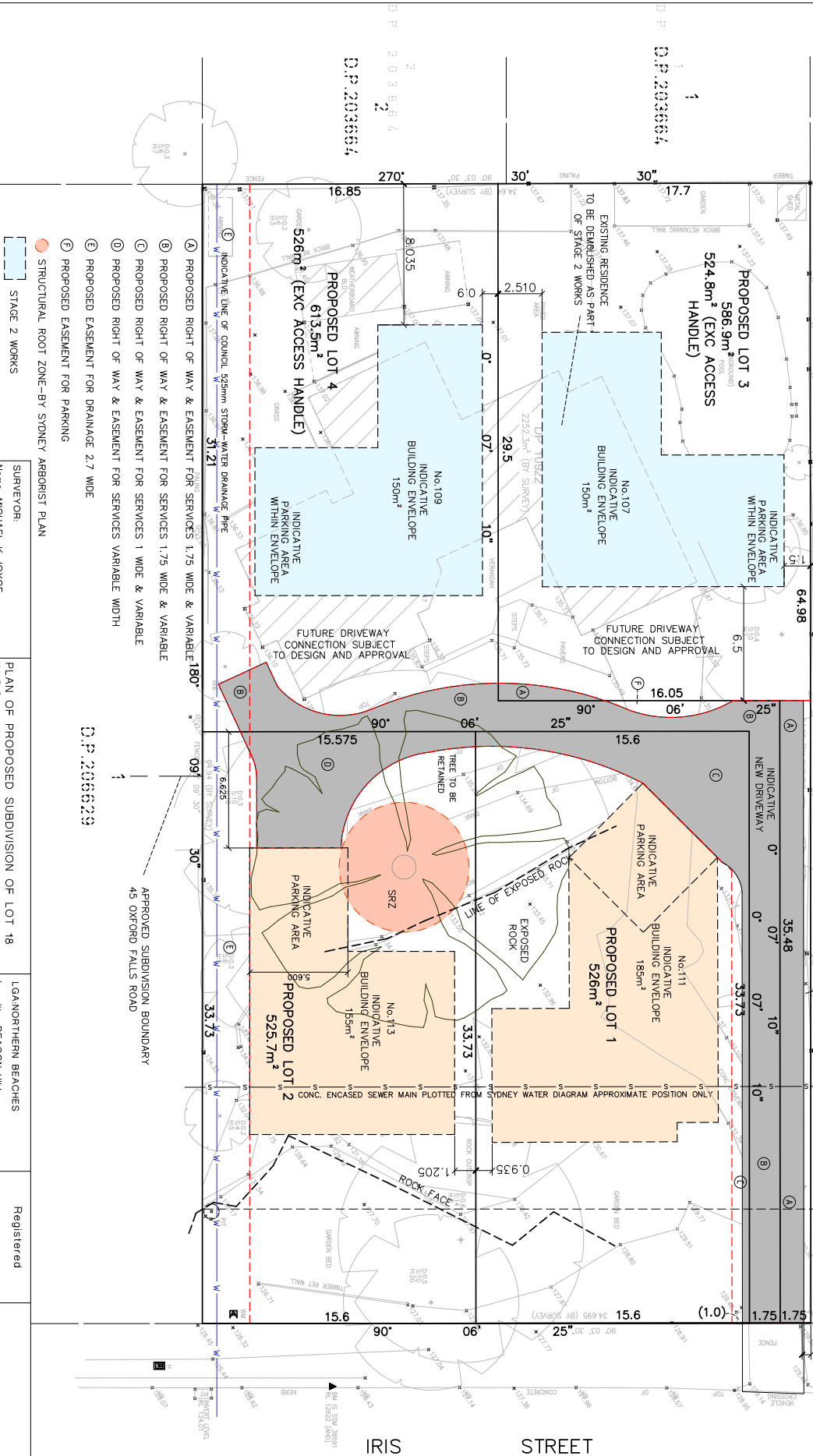
EXISTING BUILDINGS, STRUCTURES, CONTOURS AND LOT DIMENSIONS HAVE BEEN TAKEN FROM
DETAILED SITE SURVEY BY RGM PROPERTY SURVEYS, DRAWING No. 14450/001, REV A, DATED
25/07/2014. WATERVIEW SURVEYING SERVICES ACCEPTS NO LIABILITY FOR THE ACCURACY OF
THIS INFORMATION.

LOT DIMENSIONS AND AREAS ARE SUBJECT TO COUNCIL APPROVAL AND FINAL SURVEY.

BUILDING FOOTPRINTS SHOWN ARE INDICATIVE ONLY AND ARE SUBJECT TO COUNCIL APPROVAL.

PROPOSED DRIVEWAY IS INDICATIVE ONLY AND IS SUBJECT TO ENGINEERING DESIGN.

EASEMENTS TO BE CREATED SUBJECT TO SERVICE INSTALLMENT AND DRIVEWAY CONSTRUCTION.



- A PROPOSED RIGHT OF WAY & EASEMENT FOR SERVICES 1.75 WIDE & VARIABLE 180°
- B PROPOSED RIGHT OF WAY & EASEMENT FOR SERVICES 1.75 WIDE & VARIABLE
- C PROPOSED RIGHT OF WAY & EASEMENT FOR SERVICES 1 WIDE & VARIABLE
- D PROPOSED RIGHT OF WAY & EASEMENT FOR SERVICES VARIABLE WIDTH
- E PROPOSED EASEMENT FOR DRAINAGE 2.7 WIDE
- F PROPOSED EASEMENT FOR PARKING
- G STRUCTURAL ROOT ZONE-BY SYDNEY ARBORIST PLAN
- H STAGE 2 WORKS

SURVEYOR:
Name: MICHAEL K JOYCE
Date:
Reference:

PLAN OF PROPOSED SUBDIVISION OF LOT 18
IN D.P.19022

LGANORTHERN BEACHES
Locality: BEACON HILL
Reduction Ratio: 1:150
Lengths are in metres

Registered

4. Subject Site & WLEP 2011 - R2 Zoning

4.1 Subject Site Area And Subdivision Plan

1. The subject site is located at 107 Iris Street, Beacon Hill, NSW 2100.
2. The site has a large site area of 2,254.8 m².
3. The proposal is to subdivide the site into four (4) lots as per the subdivision plan...
4. The subdivision is proposed to occur in two stages.
5. The subdivision of Lots 1 and 2 (facing Iris Street), would comprise of Stage 1.
6. Stage 2 would comprise of the subdivision of Lots 3 and 4 at the rear, southern part of the site to occur. This would enable the existing house to remain, whilst allowing for future planning capacity.

4.2 WLEP 2011 - R2 Zoning

1. The subject site at 107 Iris Street, Beacon Hill, NSW 2100 is zoned as R2 Low density residential.
2. The Minimum lot area for this zoning is 600 m².
3. To enable the site to be subdivided into four viable lots the minimum lot size has been reduced from the zoning standard.
4. The site area of each lot excludes any access handles and easements.
5. The lot sizes follows including variation from the standard:

Lot 1:	526 m ²	(12.3% below the standard of 600 m ²)
Lot 2:	525.7 m ²	(12.4% below the standard of 600 m ²))
Lot 3:	525 m ²	(12.5% below the standard of 600 m ²)
Lot 4:	526 m ²	(12.3% above the standard of 600 m ²)

4.3. WLEP 2011 -CLAUSE 4.1 Minimum subdivision lot size

(1) *The objectives of this clause are 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,

The existing site is large in area for the surrounding locality.

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 600 m² minimum standard.

Many of these lot sizes range from under 300 to under 600 m² as listed below:

ADDRESS	Lot	DP	SITE AREA m²
80A Iris Street BEACON HILL NSW 2100	31	1067494	279.20
80B Iris Street BEACON HILL NSW 2100	32	1067494	279.30
51A Iris Street FRENCHS FOREST NSW 2086	2	1018589	422.50
51 Iris Street FRENCHS FOREST NSW 2086	1	1018589	670.90
49 Iris Street FRENCHS FOREST NSW 2086	1	862415	380.60
31 Iris Street FRENCHS FOREST NSW 2086	100	857954	488.40
27 Iris Street FRENCHS FOREST NSW 2086	1	848217	383.00
27A Iris Street FRENCHS FOREST NSW 2086	2	848217	434.00
25 Iris Street FRENCHS FOREST NSW 2086	1	836660	433.00
44A Oxford Falls Road BEACON HILL NSW 2100	3	862488	317.20
44B Oxford Falls Road BEACON HILL NSW 2100	2	862488	298.20
44C Oxford Falls Road BEACON HILL NSW 2100	1	862488	339.80
44D Oxford Falls Road BEACON HILL NSW 2100	4	862488	262.50
31 Oxford Falls Road BEACON HILL NSW 2100	1	661034	520.70
35 Oxford Falls Road BEACON HILL NSW 2100	1	850352	251.90
35 A Oxford Falls Road BEACON HILL NSW 2100	2	850352	382.60

The R2 low-density character would still be maintained with the subdivision pattern of the lots providing for the housing needs of the community in a low-density residential environment within the harmonious landscape settings of the natural environment of Warringah.

The subdivision design allows for all the lots to benefit from a northern aspect and leafy prospect with partial district bush views of the locality.

The Master Plan for the site is proposed that the subdivision would be carried out in two stages. The first stage would comprise of Lots 1 and 2 closest to Iris Street to be finalised and lodged with the Land Registry Services (LRS) first. Stage 1 would include the installation of all services for the whole site being carried out.

Stage 2 would comprise of Lots 3 and 4 and the rear of the site. The staged approach allows the original residence to remain until Stage 2 is enacted. Stage 2 can be implemented at a future date. This would include a Building Proposal being lodged for the rear of the property thus replacing the existing dwelling or part thereof at the rear of the property with two new dwellings.

The subdivision is also in the public interest, as it would importantly provide an increase of available residential sites in this desirable location.

The site would be able to accommodate four (4) dwellings in lieu of one (1) currently. These site lots would aid in fulfilling a demand on the Northern Beaches Council area for dwelling sites.

These dwelling lots are also in close proximity to facilities and services. These include the Northern Beaches Hospital, and future Frenchs Forest town centre (2km), Skyline (900m) and Brookvale shopping and business area (3km) employment hubs, The Forest High School, Beacon Hill Public School, Oxford Falls Grammar, the beaches and recreational areas and is serviced on Iris Street by public transport.

(b) *to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development,*
Not applicable.

(c) *to protect the integrity of land holding patterns in rural localities against fragmentation,*
Not applicable.

(d) *to achieve low intensity of land use in localities of environmental significance,*
Not applicable. The site is not considered to be of environmental significance.

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

A Bushfire Risk Assessment Report has been prepared by Bushfire Planning Consultants dated 12 October 2022.

It is noted within the Report that the block has no concerned hazards nor increased building setback requirements.

(f) *to protect and enhance existing remnant bushland,*
Not applicable. The site does not contain remnant bushland.

(g) *to retain and protect existing significant natural landscape features,*
The existing rock face escarpment at the lower northern part of the site will be retained and preserved.

(h) *to manage biodiversity*

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. The future individual Lot dwelling plans will indicate landscape planting designs adding to the biodiversity of the area. Each allotment will observe Council's minimum landscaped area of 40%.

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

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.

(2) *This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Plan.*

(3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.*

Not applicable.

(3A) *For the purposes of sub clause (3), in calculating the size of a lot the area of any access corridor (including any right of carriageway, access way or other area that provides for vehicle access) is to be excluded, whether the access corridor is to be created or is in existence at the time of the application for development consent for the subdivision.*

The proposed Lot sizes are independent of any right of carriageway, access way or other area that provides for vehicle access.

(4) *This clause does not apply in relation to the subdivision of any land—*

(a) *by the registration of a strata plan or strata plan of subdivision under the [Strata Schemes Development Act 2015](#), or*

(b) *by any kind of subdivision under the [Community Land Development Act 2021](#).*

Not applicable.

5. *Northern Beaches Council Pre-Lodgement Meeting*

Meeting Date: 8 November 2022

Application No: PLM 2022/0204

Property Address: 107 Iris Street and 45 Oxford Falls Road BEACON HILL

Attendees for Council: Daniel Milliken, Penny Wood, Aarti Kaila, Kevin Fernando

Attendees for applicant: David Hoare, Maree Jaloussis Hayes (owner of 107 Iris Street), Jiri Albrecht (Owner of 45 Oxford Falls Road), Michael Joyce, Michael Koreke, Stephen Wylie.

A pre-lodgement meeting was held on site on the 8th November 2022, with representatives of Northern Beaches Council and representatives for the owners of neighbouring properties 107 Iris Street, Beacon Hill and 45 Oxford Falls Road.

The following are some excerpts from the meeting relating to the lot size variation request relating to the subject site.

NBC Pre-lodgement Meeting Notes

Clause 4.6 – Exceptions to Development Standards (page 5)

“Clause 4.6 enables the applicant to request a variation to the applicable Development Standards”
Part 4 – Principal Development Standards

4.1 Minimum subdivision lots size.

“It was discussed on site with the Applicant, Council could support the variation to the proposed undersized lots given the existing subdivision pattern and recently approved subdivision proposals along Iris Street and Oxford Falls Road.

Whilst this would result in four (4) undersized lots, Council could support a four (4) lot subdivision at 107 Iris Street”

“A Clause 4.6 Variation would be required to address the variation to Clause 4.1 Minimum Subdivision lot size under Warringah Local Environmental Plan (WLEP) 2011.”

This Clause 4.6 Variation Request document meets this request.

Specialist Advice

Access: (page 7)

The driveway access council requirements have been applied to the subdivision.

Stormwater: (pages 7-9)

The stormwater council requirements have been applied to the subdivision.

Landscape Comments (pages 9-10)

C1 Subdivision (page 10)

"The proposed Subdivision shall limit impact of the new development to protect the natural environment and topographic features and ensure that any new lot created has sufficient area for landscape amenity."

This Development Application has met this requirement in protecting the Oak tree and rock face.

D1 Landscaped Plans and Bushland Settings (page 10)

The proposed subdivision will comply with the 40% soft landscaping requirements.

Individual landscape plans are not required with this submission and will be submitted when the individual lot dwelling Development Applications are submitted.

E1 Preservation of Trees or Bushland Vegetation (page 10)

The existing Oak tree is to be retained as a landscape feature.

An Arboricultural impact Assessment is required (page 10)

Please refer to the Arboricultural Impact Assessment Report in the Additional Documents.

E6 Retaining unique environmental features (page 10)

The site contains an expansive rock face that shall be retained. (page 10)

The existing rock face facing Iris Street will be retained and preserved.

Concluding Comments – (Page 12)

"Council recommends that a four (4) lot subdivision of 107 Iris Street would result in the most desirable planning outcome for the future of the site and would be in keeping with the surrounding character and subdivision pattern of Iris Street and Oxford Falls Road"

This Development Application meets with the council's most desirable planning outcome.

6. Northern Beaches Local Housing Strategy (LHS)

Executive Summary (excerpt in italics)

Introduction

This Northern Beaches Local Housing Strategy (LHS) looks at the mix of housing in the Northern Beaches Local Government Area (LGA) today, and at the kind of housing that will be needed in the future.

New housing will be focused in and near centres where people can easily access public transport or walk or cycle to shops and services.

The Northern Beaches will be home to a population of 288,431 people in 2036, an increase of 22,963 people from the 2016 Census. We need to plan for about 12,000 new dwellings by 2036.

Priority 1: Housing targets Meet District Plan and 6-10 year housing target

When we look at what can be achieved under current planning controls, and take into consideration the potential of the Frenchs Forest precinct (which is being planned by the NSW Government), we estimate there is capacity for a further 13,600 dwellings. However, we have also done a general analysis of what is financially feasible; this analysis finds that existing capacity is realistically around 11,700 dwellings. This equates to a deficit of around 275 dwellings, which suggests a need to plan for additional capacity for housing in the LGA in the medium to longer term.

This equates to a deficit of around 275 dwellings, which suggests a need to plan for additional capacity for housing in the LGA in the medium to longer term.

Response:

The Northern Beaches Local Housing Strategy (LHS) identifies the need for an increase in the amount of dwellings required on the Northern Beaches in proximity to the Frenchs Forest area. The subject site is two kilometres in distance from the future Frenchs Forest Precinct and three kilometres from the Brookvale precinct. The site would be able to accommodate four (4) dwellings in lieu of one (1) currently.

These dwelling lots are in close proximity to facilities and services. These include the Northern Beaches Hospital, and future Frenchs Forest town centre (2km), Skyline (900mts) and Brookvale shopping and business area (3km) employment hubs, the beaches and recreational areas and public transport services.

There is a need for smaller, more affordable blocks, which this development provides.

These proposed subdivided site lots would aid in fulfilling a demand on the Northern Beaches Council area for new dwelling sites.

7. Conclusion

This written submission in accordance with Clause 4.6 Exception to development standards, pursuant to Warringah Local Environmental Plan 2011 regarding Clauses 4.1 Minimum Subdivision Lot size requests that a variation be granted to the minimum lot size subdivision at 107 Iris Street, Beacon Hill, NSW 2100.

The request is to allow the sub division of one (1) lot into four (4) Torrens Title lots that are less than the R2 zoning standard of 600 m² to enable four (4) viable dwelling lots in line with smaller lots in the street.

The submission has addressed the individual clauses of development standards of 4.1 and 4.6, the Northern Beaches Local Housing Strategy and Northern Beaches Pre-lodgement meeting minutes.

It is considered that this submission demonstrates that an exception to the R2 zoning standard be applied as it would still achieve the objectives of the development standard.

The proposed subdivision lots will maintain in protection of the residential character that are consistent with the pattern, size and configuration of existing lots in the locality and would be in the public interest due to the demand for suitable dwelling lots in close proximity to public amenities in the Northern Beaches local government area.

The applicants trust that it has been demonstrated at approximately 525mts each lot meets the current precedence and the goals of the Council,>NNLHS and requests Development consent be granted under the authority of the Northern Beaches Council.

.....