

# AGENDA

## NORTHERN BEACHES LOCAL PLANNING PANEL

Notice is hereby given that the Northern Beaches Local Planning Panel will deliberate and determine the matters included in this agenda via video conference on

**WEDNESDAY 2 SEPTEMBER 2020**

There will be no public meeting. A statutory Direction by the Minister of Planning and Public Spaces states the panel is only required to hold a public meeting where the development application has attracted 10 or more unique submissions by way of objection. The applications on this agenda do not satisfy that criterion.



**Peter Robinson**  
**Executive Manager Development Assessment**

**Panel Members**

|                  |                          |
|------------------|--------------------------|
| Paul Vergotis    | Chair                    |
| Marcus Sainsbury | Environmental Expert     |
| Brian Kirk       | Town Planner             |
| Ray Mathieson    | Community Representative |

**Quorum**

A quorum is three Panel members

**Conflict of Interest**

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.

## **Agenda of the Northern Beaches Local Planning Panel on Wednesday 2 September 2020**

|            |  |          |
|------------|--|----------|
| <b>1.0</b> | <b>APOLOGIES &amp; DECLARATIONS OF INTEREST</b>  |          |
| <b>2.0</b> | <b>MINUTES OF PREVIOUS MEETING</b>   |          |
| 2.1        | Minutes of Northern Beaches Local Planning Panel held 19 August 2020   |          |
| <b>3.0</b> | <b>DEVELOPMENT APPLICATIONS .....</b>  | <b>5</b> |
| 3.1        | DA2020/0501 - 1/2 Beach Road, Collaroy - Alterations and additions to a dwelling house and Torrens Title Subdivision ..... | 5        |

## **2.0 MINUTES OF PREVIOUS MEETING**

### **2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD IN CLOSED SESSION ON 19 AUGUST 2020**

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#### **RECOMMENDATION**

That the Panel note that the Minutes of the Northern Beaches Local Planning Panel held in closed session on 19 August 2020 were adopted by the Chairperson and have been posted on Council's website.

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### 3.0 DEVELOPMENT APPLICATIONS

|                     |   |
|---------------------|---|
| ITEM 3.1            | DA2020/0501 - 1/2 BEACH ROAD, COLLAROY - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE AND TORRENS TITLE SUBDIVISION  |
| AUTHORISING MANAGER | STEVE FINDLAY   |
| TRIM FILE REF       | 2020/498983   |
| ATTACHMENTS         | <ol style="list-style-type: none"><li>1 <a href="#">↓ Assessment Report</a></li><li>2 <a href="#">↓ Site Plan, Subdivision Plan and Elevations</a></li><li>3 <a href="#">↓ Clause 4.6</a></li></ol> |

#### PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as the development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

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#### RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2020/0501 for alterations and additions to a dwelling house and Torrens Title Subdivision at Lot 1 SP 57338 & Lot 2 SP 57338, 1/2 Beach Road, Collaroy for the reasons set out in the Assessment Report.

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|   |   |
|---|---|
| <b>Application Number:</b>                | DA2020/0501   |
| <b>Responsible Officer:</b>               | Thomas Prosser  |
| <b>Land to be developed (Address):</b>    | Lot 1 SP 57338, 1 / 2 Beach Road COLLAROY NSW 2097                          |
| <b>Proposed Development:</b>              | Alterations and additions to a dwelling house and Torrens Title Subdivision |
| <b>Zoning:</b>                            | Warringah LEP2011 - Land zoned R2 Low Density Residential                   |
| <b>Development Permissible:</b>           | No  |
| <b>Existing Use Rights:</b>               | Yes   |
| <b>Consent Authority:</b>                 | Northern Beaches Council  |
| <b>Delegation Level:</b>                  | NBLPP   |
| <b>Land and Environment Court Action:</b> | No  |
| <b>Owner:</b>                             | John Andrew Bates<br>David John Ronson                                      |
| <b>Applicant:</b>                         | MB Town Planning Pty Ltd  |
| <b>Application Lodged:</b>                | 18/05/2020  |
| <b>Integrated Development:</b>            | No  |
| <b>Designated Development:</b>            | No  |
| <b>State Reporting Category:</b>          | Residential - Alterations and additions                                     |
| <b>Notified:</b>                          | 29/05/2020 to 12/06/2020  |
| <b>Advertised:</b>                        | Not Advertised  |
| <b>Submissions Received:</b>              | 0   |
| <b>Clause 4.6 Variation:</b>              | 4.1 Minimum subdivision lot size: 64.2%                                     |
| <b>Recommendation:</b>                    | Refusal   |
| <b>Estimated Cost of Works:</b>           | \$ 43,670.00  |

### EXECUTIVE SUMMARY

The application seeks approval for a Torrens Title subdivision of an existing dual occupancy. The dual occupancy is approved, but is currently a prohibited use in the R2 - Low Density Residential zone and benefits from Existing Use Rights.

Specifically, the proposal involves the creation of two new lots as follows:

Lot 1: 214.6m<sup>2</sup>  
Lot 2: 283.8m<sup>2</sup>

The development standard for minimum lot size is 600m<sup>2</sup>. As such, Lot 1 would result in a 64.2% variation to the development standard and Lot 2 would result in a 52.7% variation to the development standard.

The application is referred to the NBLPP due to the extent of variation to the development standard.

The proposal also involves a minor reduction to the building bulk on proposed Lot 2 to provide greater separation between the existing dwellings.

Although the proposal would not result in any further impact caused by existing dwellings, the subdivision would restrict all opportunity for future development to provide a density that is acceptable for the area.

The application to vary the development standard under Clause 4.6 of the Warringah LEP 2011, is not supported due to the inconsistency of the proposed lots with the predominant subdivision pattern, and the lack of environmental planning grounds to justify the significant variation.

Therefore, it is recommended that the application be refused.

## PROPOSED DEVELOPMENT IN DETAIL

The proposal is for torrens title subdivision and minor alterations to the existing dwelling (No.2).

In detail this involves:

### Subdivision

- Lot 1 - 214.6m<sup>2</sup>
- Lot 2 - 283.8m<sup>2</sup>

### Alterations to the Dwelling No. 2

- Removal of existing robe
- Alterations to ensuite to provide greater separation between the two dwellings

## 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 Development Control Plan - B9 Rear Boundary Setbacks

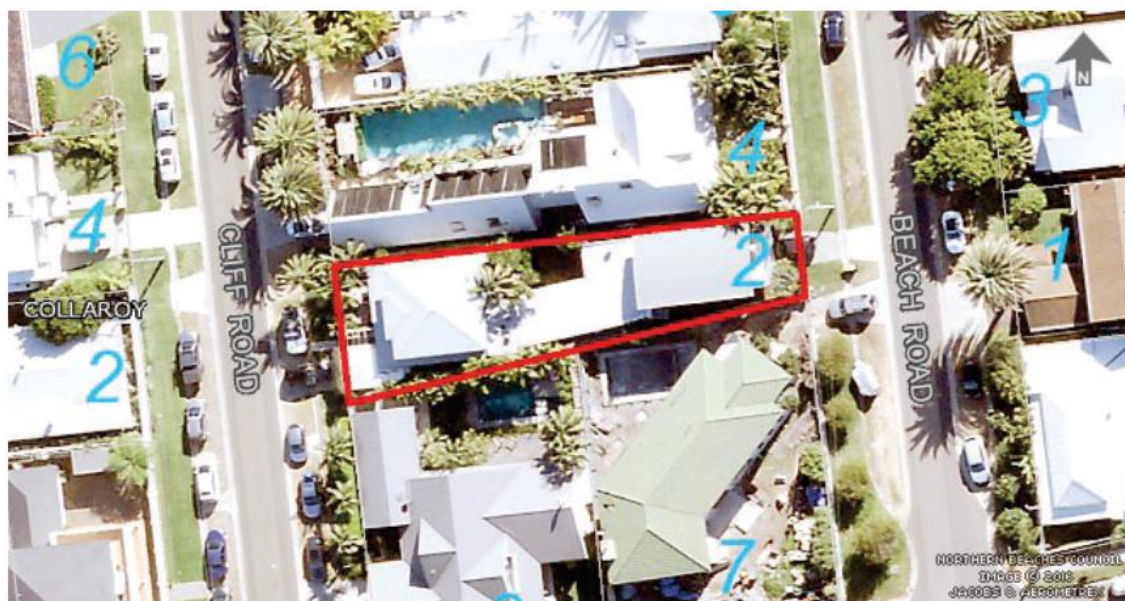
Warringah Development Control Plan - C1 Subdivision

## **SITE DESCRIPTION**

|                                   |  |
|-----------------------------------|--|
| <b>Property Description:</b>      | Lot 1 SP 57338 , 1 / 2 Beach Road COLLAROY NSW 2097  |
| <b>Detailed Site Description:</b> | <p>The subject site consists of an allotment located on the western side of Beach Road and on eastern side of Cliff Road .</p> <p>The site is regular in shape with a frontage of 8.32m along Beach Road and 13.435m. The site has a surveyed area of 498.4m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a detached dual occupancy on the site.</p> <p>The site contains one dwelling which faces Beach Road and one dwelling which faces Cliff Road. The dual occupancy is separated in the middle of the site.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by residential development.</p> |

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:

- **DA95/566** - Alterations and additions to an existing building to create a dual occupancy and strata subdivision was approved on 7 November 1995.

#### 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                                      | Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. |
| 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)(iia) – Provisions of any planning agreement  | None applicable.   |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been   |

| Section 4.15 Matters for Consideration'  | Comments   |
|--|--|
|  | addressed via a condition of consent.<br><br><u>Clause 98</u> of the EP&A Regulation 2000 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 | <p>(i) <b>Environmental Impact</b><br/>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.</p> <p>(ii) <b>Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| 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 (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

Consent was granted for the alterations and additions to create a dual occupancy on 7 November 1995. Currently, a dual occupancy is a prohibited land use in the zone of the subject site (R2 Low Density Residential zone).

A strata subdivision plan from 26.8.1998 confirms that the site has been established as a dual occupancy, and this is the existing use.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 29/05/2020 to 12/06/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

| Internal Referral Body         | Comments  |
|--------------------------------|---|
| NECC (Development Engineering) | Development Engineer has no objection to the application subject to the following condition of consent. |

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)\*

All, Environmental Planning Instruments (SEPPs, REPs 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, REPs 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 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

### SEPP (Infrastructure) 2007

#### Ausgrid

Clause 45 of the SEPP 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

### Warringah Local Environmental Plan 2011

|  |     |
|--|-----|
| Is the development permissible?  | No  |
| 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: | 600m <sup>2</sup> | Lot 1: 214.6m <sup>2</sup><br>Lot 2: 283.8m <sup>2</sup> | Lot 1: 64.2%<br>Lot 2: 52.7% | No<br>No |

### Compliance Assessment

| Clause                                  | Compliance with Requirements              |
|---|---|
| 2.6 Subdivision - consent requirements  | Yes                                       |
| 4.1 Minimum subdivision lot size        | No<br>(see detail under Clause 4.6 below) |
| 4.6 Exceptions to development standards | No  |
| 5.3 Development near zone boundaries    | Yes                                       |
| 6.2 Earthworks                          | Yes                                       |

### Detailed Assessment

#### 4.6 Exceptions to development standards

##### Description of Non-Compliance:

|                                      |  |
|--------------------------------------|--|
| Development standard:                | Minimum Subdivision Lot Size                             |
| Requirement:                         | 600m <sup>2</sup>  |
| Proposed:                            | Lot 1: 214.6m <sup>2</sup><br>Lot 2: 283.8m <sup>2</sup> |
| Percentage variation to requirement: | Lot 1: 64.2%<br>Lot 2: 52.7%                             |

##### Assessment of Request to Vary a Development Standard

The following assessment of the variation to Clause 4.1 - Minimum subdivision lot size development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

##### Clause 4.6 Exceptions to Development Standards



*(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.*

*(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 development standard is not expressly excluded from the operation of this clause.

*(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.*

*(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 Secretary has been obtained.*

**Clause 4.6 (4)(a)(i) (Justification) assessment:**

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

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

Comment:

The Applicant's written request (attached to this report as an Appendix) has not demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In this regard, the Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

*(b) that 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.'*

s 1.3 of the EPA Act reads as follows:

*1.3 Objects of Act(cf previous s 5)*

*The objects of this Act are as follows:*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

**Applicants Written Request**

The applicants written request argues, in part:

- The dwellings are part of the existing character formed in the area and subdivision would not change of the dual occupancy would not change this character
- The proposal will not have an adverse impact on heritage
- A reduction in built form will enhance livability
- The subdivision will allow landscaping and private open space to be retained
- The proposal will result in the conversion of a prohibited use to be two permissible uses
- The proposal will not impact on the residential capacity of the subject site (there will be no increase in housing density)

Despite the proposal not resulting in an increase in housing density or any substantial change to the visual character of the street or locality and there being no amenity impacts arising, the proposal will result in a lot size and pattern that is inconsistent with the surrounding area. As such, the proposed variation to the minimum lot size development standard would diminish any opportunity for future development of housing to be in a form that is consistent and complementary with the neighbouring dwellings on similar size lots.

In this regard, the applicant's written request has not demonstrated that 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, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has not adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

#### **Clause 4.6 (4)(a)(ii) (Public Interest) Assessment**

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

*(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*

#### Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Minimum Subdivision Lot Size development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

#### **Objectives of the Development Standard**

The underlying objectives of the standard, pursuant to Clause 4.1 – 'Minimum Subdivision Lot Size' of the WLEP 2011 are:

(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.*

#### Comment:

The subject site is in an a neighbourhood in which corner allotments are of a similar size and configuration and lots between each corner are also of a similar size and configuration (see extract of area map and surrounding and cadastre in Photo 1 below).

To the north of the subject site, there are 5 lots (4 Beach Road to 12 Beach Road), which are of a similar size and shape to the subject lot. Furthermore, each of these lots has a boundary to both Beach Road and Cliff Road.

The proposal would change this configuration of boundaries to each road, and also be of a size and shape that is inconsistent with the neighbouring northern lots. As such, the subdivision of the



land would result in a pattern, size and configuration that is inconsistent with the existing lots in the locality.

The proposal does not comply with this objective.



**Photo 1:** Subdivision pattern in vicinity of the subject site (highlighted in blue)

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

Comment:

Not applicable. The proposal is in a residential zone.

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

Comment:

Not applicable. The proposal is not in a rural area.



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

Comment:

The proposal would result in an irreversible change in the intensity and density that is not consistent with the character of the area (given the use is currently prohibited, and the lot size variation is significant). This means the large variation to the lot size development standard would result in a greater change in the subdivision qualities in the area than can reasonably be expected for this coastal area and low density residential zone.

The proposal does not comply with this objective.

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

Comment:

Not applicable.

*(f) to protect and enhance existing remnant bushland.*

Comment:

The site does not contain any significant amount of remnant bushland. However, the proposal for two lots would restrict opportunity for any remnant bushland to be provided on the site in the future.

The proposal does not comply with this objective.

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

Comment:

The proposal would not result in any unreasonable impact to natural landscape features.

The proposal complies with this objective.

*(h) to manage biodiversity.*

Comment:

The proposal does not remove any significant landscape features or vegetation, and does not add building bulk. As such, the proposal would not have any unreasonable impact on biodiversity.

The proposal complies with this objective.

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

Comment:

The houses are currently provided with sufficient sewer infrastructure, and Council's Engineer has stated that appropriate Stormwater management could be provided for the site.

The proposal complies with this objective.

## Zone Objectives

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.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *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 subdivision would result in a density that is significantly greater (62%) than as expected under the development standard. Future development of the proposed lots would therefore have no opportunity to complement the low density character of surrounding allotments. As such, the proposal does not support the low density environment, and does not sufficiently allow for improvements to landscaped settings.

The development does not satisfy these objectives.

## Conclusion

For the reasons detailed above, the proposal is considered to be inconsistent with the objectives of the R2 Low Density Residential zone.

## **Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment**

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the inconsistency of the variation to the objectives of the zone and the development standard, the concurrence of the Director-General for the variation to the Minimum Subdivision Lot Size Development Standard cannot be assumed.

## **Warringah Development Control Plan**

### Built Form Controls

| Built Form Control        | Requirement | Proposed                             | % Variation*                       | Complies          |
|---------------------------|-------------|--------------------------------------|------------------------------------|-------------------|
| B9 Rear Boundary Setbacks | 6m          | 0.9m-1.295m<br><br>Existing: 0m-0.5m | 78.4%-85%<br><br>Existing 99%-100% | No (see comments) |

### Compliance Assessment

| Clause   | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| A.5 Objectives                                 | Yes                          | Yes                         |
| B9 Rear Boundary Setbacks                      | No                           | Yes                         |
| C1 Subdivision                                 | No                           | No                          |
| C2 Traffic, Access and Safety                  | Yes                          | Yes                         |
| C3 Parking Facilities                          | Yes                          | Yes                         |
| C4 Stormwater                                  | Yes                          | Yes                         |
| C5 Erosion and Sedimentation                   | 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                         |
| D7 Views                                       | Yes                          | Yes                         |
| D8 Privacy                                     | Yes                          | Yes                         |
| D9 Building Bulk                               | Yes                          | Yes                         |
| D10 Building Colours and Materials             | Yes                          | Yes                         |
| D11 Roofs                                      | Yes                          | Yes                         |
| D12 Glare and Reflection                       | Yes                          | Yes                         |
| D14 Site Facilities                            | Yes                          | Yes                         |
| D20 Safety and Security                        | Yes                          | Yes                         |
| D21 Provision and Location of Utility Services | Yes                          | Yes                         |
| D22 Conservation of Energy and Water           | Yes                          | Yes                         |

#### Detailed Assessment

#### **B9 Rear Boundary Setbacks**

Although the proposed alterations do not comply with the rear setback control (6.0m), the proposal increases the setback of the eastern dwelling to the proposed new boundary from Nil to 0.9m. The reduction of building bulk is supported, however, the proposed variation to the rear setback control is not supported as it is contrary to the objectives of the control.

#### **C1 Subdivision**

| Component               | Requirement   | Proposed  | Compliant                                 |
|-------------------------|---|---|---|
| <b>Lot requirements</b> | R2 Low Density Residential zone requirements:<br><br>Proposed new allotments: | Minimum Width: 8.32m<br>Minimum depth: 16m<br>Minimum building area: 90m <sup>2</sup> | No - Refer to discussion below this table |

|               |  |                    |     |
|---------------|--|--------------------|-----|
|               | <p>a) Minimum width: 13 metres<br/>b) Minimum depth: 27 metres; and<br/>c) Minimum building area: 150m<sup>2</sup></p>   |                    |     |
| <b>Access</b> | <p>Motor vehicle access to each residential allotment is required from a constructed and dedicated public road.</p> <p>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.</p> <p>Access for Council service vehicles, emergency vehicles and garbage collection vehicles must be provided.</p> <p>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.</p> <p>Driveways in excess of 200 metres will not be allowed for residential development.</p> <p>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.</p> <p>Passing bays should have regard to sight conditions and minimise vehicular conflict.</p> <p>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.</p> <p>Rights-of-carriageway should be located so as to accommodate all vehicle turning facilities.</p> | Driveways are 3.5m | Yes |

|                               |   |                               |  |       |     |        |     |                 |   |                               |   |              |     |                |     |  |  |
|-------------------------------|---|-------------------------------|--|-------|-----|--------|-----|-----------------|---|-------------------------------|---|--------------|-----|----------------|-----|--|--|
|                               | <p>Width of accessways are to be as follows:</p> <table><tr><td>Number of lots to be serviced</td><td>Width of clear constructed accessway (m)</td></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> <p>Provision of services in rights of carriageway are as follows:</p> <table><tr><td>Number of lots to be serviced</td><td>Additional width to be provided in Right of Carriageway (m)</td></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   |                               |  |       |     |        |     |                 |   |                               |   |              |     |                |     |  |  |
| 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                      | Yes                                      |       |     |        |     |                 |   |                               |   |              |     |                |     |  |  |

### **Merit Consideration**

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

- *To regulate the density of development.*

Comment:

The subject site currently contains a dual occupancy which is a prohibited form of development

in the zone. The subdivision of this land which involves a variation of 62% to the development standard, would regularize a density and intensity that is not supported in this area.

The proposal does not comply with this objective.

- *To limit the impact of new development and to protect the natural landscape and topography.*

Comment:

The subdivision would restrict all opportunity for new development to be consistent with the density and subdivision pattern of the area. This would result in unreasonable amenity impact and would restrict opportunity for landscape corridors.

The proposal does not comply with this objective.

- *To ensure that any new lot created has sufficient area for landscaping, private open space, drainage, utility services and vehicular access to and from the site.*

Comment:

The proposed lots would not have sufficient areas for landscaping as future development could not match the landscaped character formed by lots to the north (rear yards with large landscaped areas). The proposal would also result in regularising two areas of private open space (for each dwelling) when there is a reasonable expectation for one area of private open space given the size of the lot in relation to the prescribed minimum lot size.

The proposal does not comply with this objective.

- *To maximise and protect solar access for each dwelling.*

Comment:

The proposed lots restrict opportunity for future development to provide an open corridor to the rear of the site. This means that sunlight could not be maximised to the private open space of dwellings to the south.

The proposal does not comply with this objective.

- *To maximise the use of existing infrastructure.*

Comment:

The proposal would use existing infrastructure.

The proposal complies with this objective.

- *To protect the amenity of adjoining properties.*

Comment:

The proposed reduction of built form will slightly reduce the existing amenity impact for neighbours. However, the regularisation of two new lots with a significant variation to the lot size development standard, reduces any reasonable opportunity to protect the amenity of neighbours



in relation to future development.

- *To minimise the risk from potential hazards including bushfires, land slip and flooding.*

Comment:

The proposal does not result in any change that could cause unreasonable risk in terms of bushfires, land slip and flooding.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not 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.

#### **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 2000;
- 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, 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

Council is not satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 4.1 Minimum Subdivision Lot Size has adequately

addressed and demonstrated that:

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

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

### **Conclusions on the Assessment of the Application**

In the assessment of the application, it has been found that the the proposed subdivision would regularise a density that is not supported for this area.

The subdivision would restrict all opportunity for the site to be complementary to the character of sites to the north. As such, this is not an orderly development of the land.

Furthermore, the application which seeks to vary the development standard does not provide sufficient reasons as to why the standard is unreasonable or unnecessary and does not provide sufficient environmental planning grounds for such a variation. Although the new uses would be permissible (two dwelling houses), the lots would demonstrate a character that is inconsistent with the objectives of the R2 zone (requiring a low density character) and the Minimum Lot Size standard.

Therefore, the application is recommended for refusal.

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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority REFUSE Development Consent to Development Application No DA2020/0501 for the Alterations and additions to a dwelling house and Torrens Title Subdivision on land at Lot 1 SP 57338, 1 / 2 Beach Road, COLLAROY, for the reasons outlined as follows:

1. 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 the Environmental Planning and Assessment Act 1979
2. 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 Zone R2 Low Density Residential of the Warringah Local Environmental Plan 2011.
3. 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 4.1 Minimum Subdivision Lot Size of the Warringah Local Environmental Plan 2011.
4. Council is not satisfied that:
  - 1) The applicant's written request under clause 4.6 of the Warringah Local Environmental Plan 2014 seeking to justify contravention to the development standard specified under of Clause 4.1 has adequately addressed and demonstrated that:
    - a) compliance with the standards is unreasonable or unnecessary in the circumstances of the case; and
    - b) there are sufficient environmental planning grounds to justify the contraventions.
  - 2) the proposed development will be in the public interest because it is consistent with the objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.
5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1 Subdivision of the Warringah Development Control Plan.
6. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

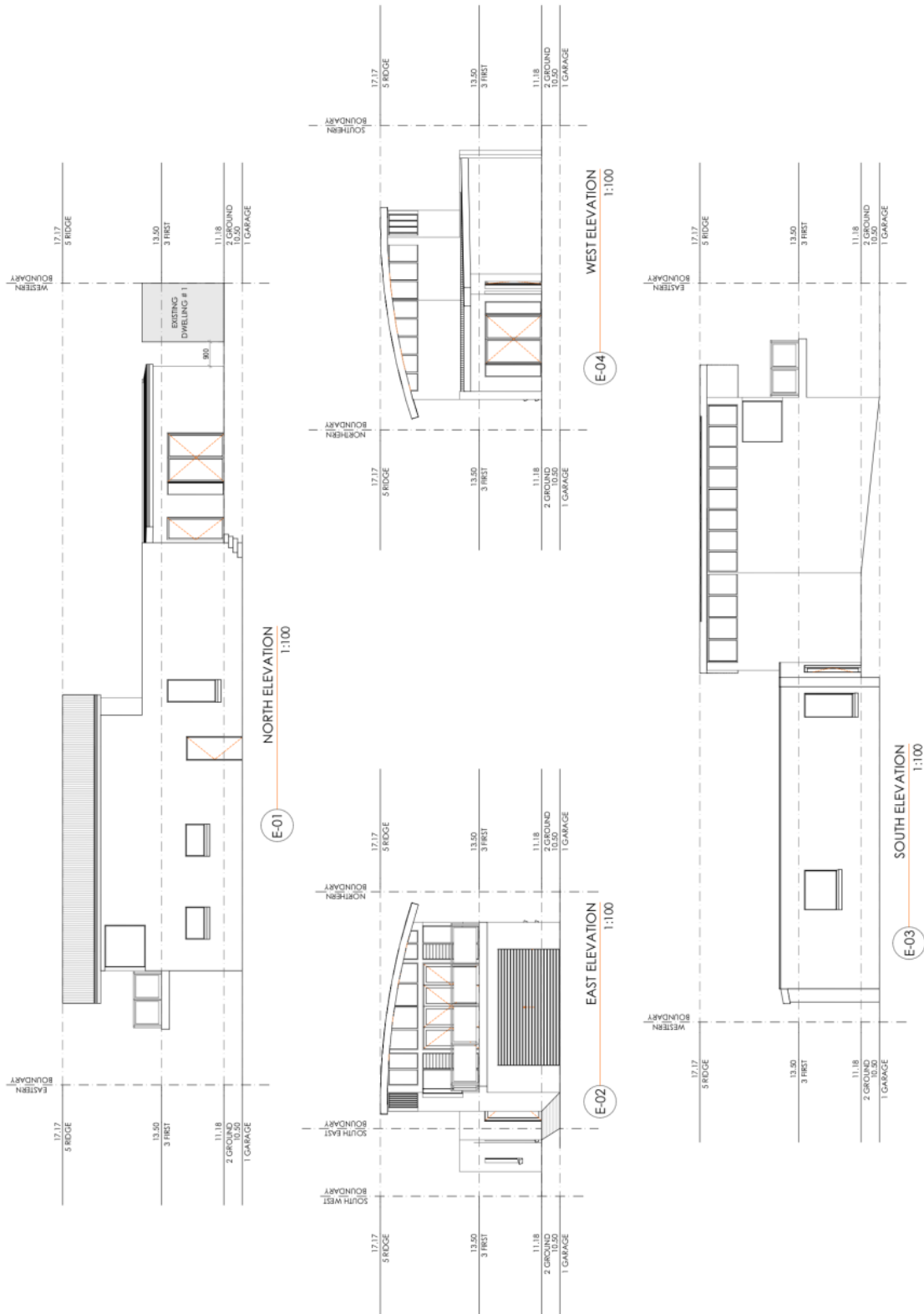


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**Project Name** Beach Rd Subdivision  
**Client** John Bates  
**Site Name** 2 Beach Rd COLLAROY NSW 2087  
**SEC** 57338  
**LOT #** 1 & 2  
**DATE** 15/04/2020

**Drawing Number** 4.2  
**Drawing Name** DWELLING 2 ELEVATIONS



Clause 4.6 Written Request, Minimum Subdivision Lot Size – 2 Beach Road, Collaroy



2 BEACH ROAD  
COLLARROY NSW 2097

*Development Application for the one into two lots Torrens Title Subdivision and minor alterations to an existing dwelling, at 2 Beach Road, Collaroy*

**CLAUSE 4.6 WRITTEN REQUEST – MINIMUM SUBDIVISION LOT SIZE  
STANDARD**



Prepared for John Bates  
Issue A – J20019  
12 May 2020

## Clause 4.6 Written Request, Minimum Subdivision Lot Size – 2 Beach Road, Collaroy

## 1. Introduction

This is a Clause 4.6 written request regarding the proposed one lot into two lot subdivision of land at 1/2 Beach Road and 2/2 Beach Road, Collaroy and minor alterations to one of the existing dwellings. For the purpose of this report, the site address will be recognised simply as 2 Beach Road, Collaroy. This written request relates to the development standard for the minimum subdivision lot size of the subject site.

This application is described in plans by Manche designs, dated 15/4/2020, including:

- Existing Site Plan – Drawing No. 1.1
- Proposed Site Plan – Drawing No. 1.2
- Dwelling 1 Floor Plans – Drawing No. 3.1
- Dwelling 2 Existing Floor Plans- Drawing No. 3.2
- Dwelling 2 Proposed Floor Plans – Drawing No. 3.3
- Dwelling 2 Elevations – Drawing No. 4.2
- Dwelling 2 Sections – Drawing No. 5.2

A survey plan and subdivision plan have been provided by CMS Surveyors, dated 19 March 2020. In addition, a stormwater concept plan has been provided by Manche Designs, dated 15 April 2020.

Part 2 of this written request describes the proposed contravention of the development standard and describes the key elements of *Clause 4.1* of the *Warringah Local Environmental Plan 2011* (WLEP 2011). Part 3 sets out that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Part 4 sets out that there are sufficient environmental planning grounds to justify the contravention of the development standard. Part 5 sets out that the proposed development is in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the R2 Low Density Residential zone. Part 5 also addresses the matters to be considered by the Secretary. Part 6 provides a brief conclusion.

The proposed development is for the purpose of a one into two lot subdivision of land at 2 Beach Road, Collaroy, which would result in one dwelling house located on each proposed lot. Currently, the site consists of a strata subdivided dual occupancy that was approved as part of DA 1995/83.

The site is zoned R2 – Low Density Residential, with dual occupancy developments being a prohibited use within the zone. This proposal will create two single dwelling houses, which are permissible within the R2 zone.

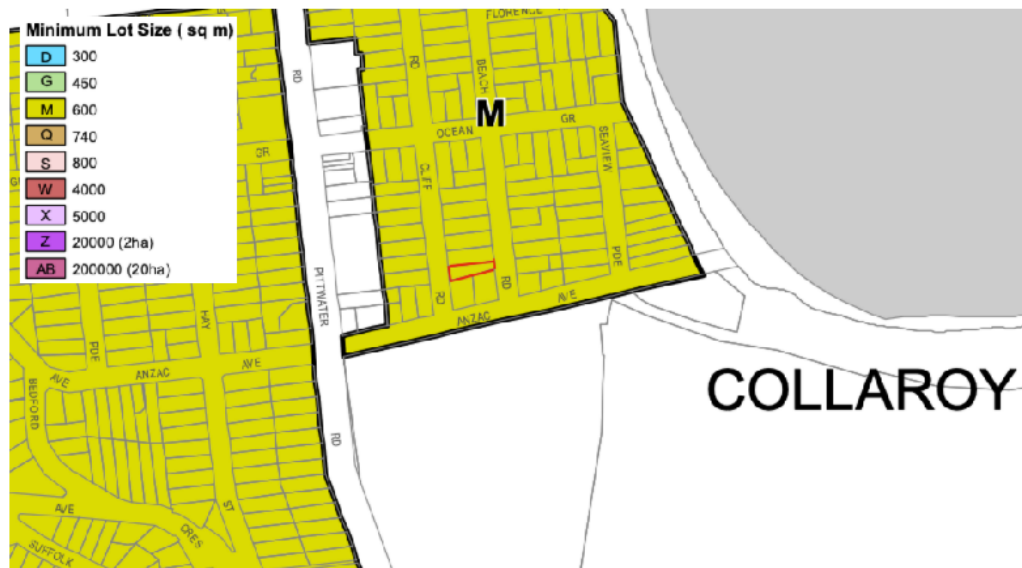
***Permitted with consent***

*Bed and breakfast accommodation; Boarding houses; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; **Dwelling houses**; Educational establishments; Emergency services facilities; Environmental protection works; Exhibition homes; Group homes; Health consulting rooms; Home businesses; Hospitals; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Tank-based aquaculture; Veterinary hospitals*

Clause 4.6 Written Request, Minimum Subdivision Lot Size – 2 Beach Road, Collaroy

## 2. Proposed Contravention to the Development Standard

Clause 4.1 of the WLEP 2011 states that 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. The map indicates that the minimum subdivision lot size for the subject site is 600m<sup>2</sup>. See *Figure 1* below.

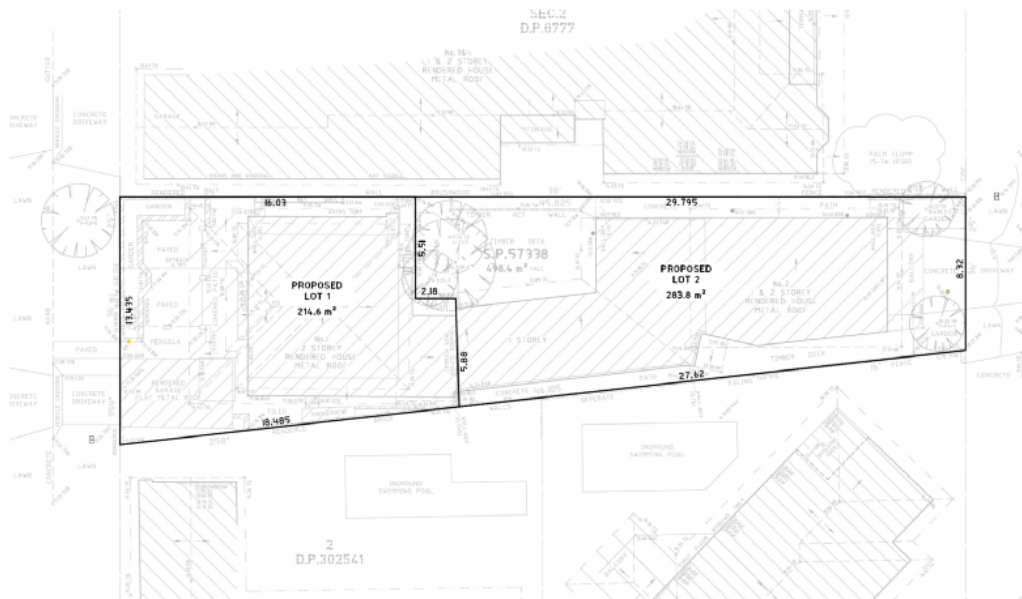


**Figure 1:** Map showing the Minimum Lot Size for the subject site. Source: WLEP 2011

The existing lot is predominantly rectangular in shape and has a lot size of 498.4m<sup>2</sup>. Following the subdivision of land, proposed Lot 1 will be 214.6m<sup>2</sup> and proposed Lot 2 will be 283.8m<sup>2</sup>. Based on the above, the degree of contravention for proposed Lot 1 would be 64.2% and proposed lot 2 would be 52.7%.

*Figure 2* below details the proposed subdivision and how the proposal will retain the existing dwellings on site.

Clause 4.6 Written Request, Minimum Subdivision Lot Size – 2 Beach Road, Collaroy



**Figure 2:** Proposed subdivision plan showing the extent of the contravention to the minimum lot size control. Source: APW Designs

Clause 4.1 of the WLEP 2011 provides as follows:

**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,
- (b) to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development,
- (c) to protect the integrity of land holding patterns in rural localities against fragmentation,
- (d) to achieve low intensity of land use in localities of environmental significance,
- (e) to provide for appropriate bush fire protection measures on land that has an interface to bushland,
- (f) to protect and enhance existing remnant bushland,
- (g) to retain and protect existing significant natural landscape features,
- (h) to manage biodiversity,
- (i) to provide for appropriate stormwater management and sewer infrastructure.

(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.



## Clause 4.6 Written Request, Minimum Subdivision Lot Size – 2 Beach Road, Collaroy

*(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.*

*(3A) For the purposes of subclause (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.*

*(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 1989.*

The objectives of *Clause 4.1* detail how the proposed subdivision must be appropriate for the site constraints and protects the residential character of the area. Considering that the site has consisted of a dual occupancy since approval was granted in 1995, the site has been able to demonstrate that the land is suitable to facilitate two dwellings. The subdivision of land will maintain the existing pattern and existing boundary between the two dwellings. With the exception of the minor demolition works to one of the dwellings (2/2 Beach Road), the only works involved is for a one into two lots Torrens title subdivision which would change the use of the site from being a dual occupancy (non-conforming use) to a dwelling house located on each lot of land (conforming use).

Due to the lack of physical changes to the existing site conditions, it is deemed that the subdivision of land and retention of existing dwellings will not generate any adverse impacts on adjoining properties and any potential site constraints.

### **3. That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case**

It would be unreasonable and unnecessary for the development to comply with the development standard due to the following particular circumstances of the present case:

- The dwellings located on the site are existing and are proposed to be retained as part of this application. The proposed boundary between the two proposed dwelling houses will be in line with the existing middle boundary between the dwellings.
- Whilst there is a proposed non-compliance with the lot size control for both proposed lots, the subdivision will actually reduce the building bulk as there are minor demolition works proposed to one of the dwellings. This will increase the separation between the two proposed dwelling houses.
- The current use of the site is a dual occupancy, which is a prohibited use within the R2 zone that the site is located. This proposed development for the subdivision of the existing lot into two separate lots, will create two dwelling houses. With regard to the permissible uses under the current zoning of the site, a dwelling house is permissible. Therefore, the proposed non-compliance with the lot size control is

## Clause 4.6 Written Request, Minimum Subdivision Lot Size – 2 Beach Road, Collaroy

considered to be reasonable due to the change in use from a non-conforming use to a conforming use.

- With the exception of minor demolition works towards the rear of one of the dwellings, no physical works are proposed. The site as currently configured has been inclusive of a dual occupancy since approval was granted under DA1995/83. For the past 25 years, the site has shown its ability to suitably operate with two dwellings in a way that does not create adverse impacts for property owners and the adjoining dwellings.
- The proposed development will not impact on the residential capacity of the subject site. However, the subdivision of land will enable the potential for more affordable housing within a locality that does not provide for many alternative housing options. Following the subdivision of the site, the two lots can (if so desired) be sold separately which will allow potential home buyers the opportunity for buying land that has proven to be of a suitable size for residential purposes, in an attractive location and without the burdens associated with maintaining an owner's corporation.

#### **4. Environmental planning grounds to justify contravening the development standard**

The subject site is predominantly rectangular in shape and comprises of a total area of 498.4m<sup>2</sup>. In order to maintain the existing dwellings on site and continue to retain the existing site conditions following the subdivision of land, the proposed lots will inevitably be of a size that is below the minimum lot size for the area.

The existing use as a dual occupancy has existed for approximately 25 years. As this proposal seeks to retain the current site conditions there will be minimal adverse impacts on the site surrounding land. With the exception of minor demolition works to dwelling 2, the dwellings that have become a part of the existing character of streetscape along Beach Road and Cliff Road will be retained.

There is no existing heritage item or conservation area located within close proximity to the site. As a result, no adverse impacts will be generated on surrounding heritage areas from this proposed contravention to the minimum subdivision lot size control.

A minor reduction in the built form for dwelling 2 is proposed. This will allow for an increase in moveability around the site and an increase in building separation between the two proposed lots. This ensures that the proposed subdivision will enhance the liveability for residents living within both dwellings.

The proposed subdivision layout will enable the existing landscaping and private open space to be retained for the both dwellings, which will continue to enhance the environmental characteristics of the site.

Clause 4.6 Written Request, Minimum Subdivision Lot Size – 2 Beach Road, Collaroy

## 5. Consistency with the objectives of the standard and of the zone

### Objectives of the Development Standard

The proposed development would be in the public interest because it is consistent with the objectives of the development standard. Those objectives are:

*(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,*
- (b) to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development,*
- (c) to protect the integrity of land holding patterns in rural localities against fragmentation,*
- (d) to achieve low intensity of land use in localities of environmental significance,*
- (e) to provide for appropriate bush fire protection measures on land that has an interface to bushland,*
- (f) to protect and enhance existing remnant bushland,*
- (g) to retain and protect existing significant natural landscape features,*
- (h) to manage biodiversity,*
- (i) to provide for appropriate stormwater management and sewer infrastructure.*

In relation to objective (a), the proposed subdivision of land will be appropriate with regard to the site constraints. Since approval was granted for the existing dual occupancy in 1995, the site has suitably functioned with regard to its ability to contain two dwellings. Whilst the subdivision of land will not necessarily be consistent with the configuration of lots within the locality, the built form configuration will predominantly remain the same. The site has shown its ability to be of a suitable size for the existing residential demand, which will not be altered by this proposed development.

Regarding objective (b), the subject site is located within an area that is zoned R2 – Low Density Residential. As a result, the site is located within an area that is predominantly intended for residential purposes and not commercial or industrial uses.

Regarding objective (c), the site is not located within a rural locality.

## Clause 4.6 Written Request, Minimum Subdivision Lot Size – 2 Beach Road, Collaroy

Regarding objective (d), the proposed development will not increase the intensity of land use in the locality. Furthermore, the site itself is not located within an area that is classified as environmentally significant.

Regarding objective (e), the proposed development is not located within an area that is classed as bush fire prone land. Furthermore, the site does not have an interface to bushland.

Regarding objective (f), the proposed development will not impact on the existing remnant bushland within the locality. The site is also not located within close proximity to any bushland area.

Regarding objective (g), the proposal will continue to maintain and reflect the existing natural landscape features. Due to the nature of the development, only minor physical works are involved which will not generate any adverse impacts on the natural environment.

Regarding objective (h), the nature of the development will not cause any adverse impacts on the biodiversity of land within or nearby to the subject site.

Regarding objective (i), the site has suitable stormwater management measures in place to control stormwater impacts. As minor works are proposed however, a revised concept stormwater management plan has been prepared to address stormwater management on site.

**Objectives of the Zone**

The proposed development would also be in the public interest because it is consistent with the objectives of the zone. Those objectives are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Regarding the first objective, the proposed development will continue to meet the housing needs of the community within a low-density residential environment. The subdivision of land will continue to reflect the existing character of the site, which has shown its ability to be a suitable location for the current configuration of dwellings.

Regarding the second objective, the proposed development will also enable the adjoining properties and other land uses in the area to continue to meet their daily needs. The use of the subject site will continue to be for residential purposes, with the existing dwellings also being retained. Therefore, the proposed subdivision of land will in no way affect neighbouring land.

## Clause 4.6 Written Request, Minimum Subdivision Lot Size – 2 Beach Road, Collaroy

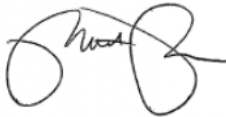
Regarding the third objective, the existing landscaped setting of the site will not be disturbed as part of this application. Furthermore, the landscaped setting within the natural environment of Warringah will not be disrupted by the proposal.

In relation to the functions of the secretary, it is considered that the small scale of the proposal and nature of the contravention sought, are such that no State or Regional level of significance need to be involved. There is no particular concern arising in relation to the public benefit through the proposed contravention to the development standard, as in this instance there is no adverse impacts created.

## 6. Summary and Conclusion

The proposed development does not comply with the minimum subdivision lot size control. However, it is demonstrated in this written request that compliance with the development standard is unreasonable and unnecessary in the circumstances of the present case. Additionally, it has been demonstrated that there are environmental planning grounds that support the proposed contravention of the development standard.

Approval of the proposal will be in the public interest, notwithstanding the contravention to this development standard is considered reasonable, because the proposal is consistent with the objectives of the development standard and the zone within which the subject site is located. Therefore, this contravention to the minimum lot size control should not prevent the development application from warranting approval.



**Matthew Benson**  
Principal - MB Town Planning