

Application No: PLM2014/0151

Meeting Date: 15 January 2015

Property Address: Lot 1/9999 Bangaroo Street North Balgowlah
(known as No. 2 Bangaroo Street)

Proposal: Subdivision of land (2 lots into 4 lots)

Attendees for Council: Phil Lane – Acting Development Assessment Manager
Kevin Short – Planner
Lauren Roberts – Planner
Jeremy Smith – Asset Management Manager
Sean Khoo – Senior Development Engineer (Stormwater)
Brendan Smith – Senior Environment Officer (Biodiversity)
Ben Fallowfield – Senior Environment Officer – Creeks
Duncan Howley – Floodplain Management Officer

Attendees for applicant: Vaughan Milligan – Consultant Planner
Colin Windleborn – Property Manager

General Comments:

All applications are assessed on individual merit, however a failure to comply with Council or a State Planning controls will generally indicate an over development of the site and may result in adverse impacts upon adjoining and nearby land and the streetscape.

You are advised to carefully read these notes. If there is an area of concern or non-compliance, you are strongly advised to review and reconsider the appropriateness of the design of your development for your site and the adverse impacts that may arise as a result of your development prior to the lodgement of any development application.

Council will seek to ensure that the development of land meets all provisions of all legislation and the relevant Environmental Planning Instrument/s, in addition to providing appropriate levels of amenity to surrounding and nearby lands.

Failure to achieve this may ultimately lead to the refusal of any application lodged without notice.





Warringah Local Environmental Plan 2011 (WLEP 2011)

Consideration of the proposal against the Warringah Local Environment Plan 2011

The fundamentals	
Definition of proposed development: (ref. WLEP 2011 Dictionary)	Subdivision
Zone:	R2 Low Density Residential
Permitted with Consent or Prohibited:	Permitted with consent

Objectives of the Zone
The proposal is considered to be inconsistent with the objectives of the zone for the following reasons: <i>To provide for the housing needs of the community within a low density residential environment.</i> <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> <i>To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.</i> <u>Comment:</u> The numbers of lots proposed are considered inconsistent with a low density residential environment. The subdivision would create constrained lots that would not allow for flexibility for a dwelling house design and associated structures without compromising the development controls. Additionally, the proposal would create issues with the natural environment such impacts on the creek, trees and nature rock outcrops. It is considered that the development (in its current form) does not satisfy the zone objectives.

Principal Development Standards:			
Standard	Permitted	Proposed	Comment
Minimum subdivision lot size:	600sqm	Lot 1: 768sqm (696.45sqm – less right of way) Lot 2: 738sqm (583.65sqm – less right of way) Lot 3: 1032sqm Lot 4: 1777.1sqm (approx. – community land)	The proposal does not comply with the minimum requirements for subdivision lot size. The proposal would be inconsistent with the objectives of the zone and the development standard. Further, there is no justification for a variation to this control. The existing lot is of insufficient size and dimension to



Principal Development Standards:			
Standard	Permitted	Proposed	Comment
			facilitate a subdivision into three lots and would be an overdevelopment. Council will not support the proposal for three lots and it is recommended the number of lots be reduced to ensure compliance with the development standard.

Part 5 Miscellaneous Provisions	
Provision	Comment
5.1 Relevant acquisition authority	Not Applicable
5.1A Development on land intended to be acquired for a public purpose	Not Applicable
5.2 Classification and reclassification of public land	Not Applicable
5.3 Development near zone boundaries	Not Applicable
5.4 Controls relating to miscellaneous permissible uses	Not Applicable
5.5 Development within the coastal zone	Not Applicable
5.6 Architectural roof features	Not adopted
5.7 Development below mean high water mark	Not Applicable
5.8 Conversion of fire alarms	Not Applicable
5.9 Preservation of trees and vegetation	It is noted that the subdivision has been designed to preserve the existing trees on the site. An Arborist report is to be submitted with any Development Application which demonstrates the impacts of the subdivision on the trees, including for the construction of a driveway access, drainage and utilities works.
5.10 Heritage conservation	Not Applicable
5.11 Bush fire hazard reduction	Not Applicable
5.12 Infrastructure development and use of existing buildings of the Crown	Not Applicable
5.13 Eco-tourist facilities	Not Applicable



Part 6 Relevant Additional Local Provisions	
Provision	Comment
6.1 Acid Sulfate Soils	Not Applicable
6.2 Earthworks	Not Applicable
6.3 Flood Planning	The subject site is affected by overland flow and also identified as flood affected land(s). In this regard, a flood risk assessment report is to be provided with the application. See details later in these minutes under Clause C4 - Stormwater.
6.4 Development on Sloping Land	The site is located within Landslip Risk Area B. In this regard, a preliminary geotechnical report is required to be submitted with any application.
6.5 Coastline Hazards	Not Applicable
6.6 Erection of dwelling houses in Zone E3 Environmental Management	Not Applicable
6.7 Residential Flat Buildings in Zone B4 Mixed Use	Not Applicable
6.8 Subdivision of Certain Land	Not Applicable
6.9 Location of Sex Services Premises	Not Applicable

Relevant Schedules	
Schedule	Comment
Schedule 1 Additional permitted uses	Not Applicable
Schedule 2 Exempt development	Not Applicable
Schedule 3 Complying development	Not Applicable
Schedule 4 Classification and reclassification of public land	Not Applicable
Schedule 5 Environmental heritage	Not Applicable

Other Relevant WLEP 2011 Clauses



Warringah Development Control Plan 2011 (WDCP 2011)

Consideration of the proposal against the Warringah Development Control Plan 2011

Warringah Development Control Plan			
Part B: Built Form Controls			
Control	Requirement	Proposed	Comment
B1. Wall height	7.2m	Insufficient information provided to demonstrate compliance with this clause.	If you choose to pursue a subdivision proposal which includes the construction of dwelling houses, each dwelling must be designed to meet the relevant built form controls.
B3. Side Boundary Envelope	4m/45degrees		
B5 & B6. Side Boundary Setbacks	0.9m		
B7 & B8. Front Boundary Setbacks	6.5m		
B9 & B10. Rear Boundary Setbacks	6m		

Part C: Siting Factors	
Control	Comment
C1. Subdivision	Design Requirements: The proposal does not comply with the minimum width and depth requirements of the clause. Lot 1 fails to comply with the minimum depth requirement. Lot 2 fails to comply with the minimum width requirement (in particular the ROW will narrow this lot to 4.8m in width). Lot 3 is considered to be of adequate dimensions. The proposed does provide minimum building areas of 150sqm; however they are unusually shaped and would constrain future development of the property. It is considered that the number of lots should be reduced to provide a regular shaped building area which would allow for flexibility in future dwelling design. Access: The location of the proposed access way is generally supported. However, relocation of Council's pipe will be required. The clear, constructed access way must have a minimum width of 3.5m. The access way is to be a paved or concrete surface.



	Driveway gradients should meet the requirements of the clause. All public utility services are to be provided to service the proposed lots. All public utility services are to be provided below ground. If services are to be provided in the right of carriageway, the right of carriageway is to be increased in width by an additional 1m. Design and Construction: The applicant is advised that all design and construction should be done in accordance with Council's policies as referred to in the clause. Drainage: Inter allotment drainage is to be provided for the proposed subdivision. Details are to be provided with any future application. An On-Site Detention (OSD) basin must be provided for the proposed subdivision. The OSD must be designed to Warringah Council On Site Stormwater Detention Technical Specification. Restrictions: All restrictions must be identified on the proposed subdivision plan.
C2. Traffic, Access and Safety	All vehicles are to enter and exit the proposed subdivision in a forward direction.
C3. Parking Facilities	The provision of two (2) car spaces per dwelling is the minimum requirement.
C4. Stormwater	Please refer to Development Engineers Referral comments.
C5. Erosion and Sedimentation	Development associated with the subdivision, is to be sited and designed, and related construction work carried out, so as to minimise the potential for soil erosion. A Development Application is to include an Erosion and Sedimentation Plan which shows how erosion and sedimentation will be managed during the demolition and construction stages.
C6. Building over or adjacent to Constructed Council Drainage Easements	Please refer to Development Engineers Referral comments.
C7. Excavation and Landfill	The development, as proposed, is considered to satisfy the objectives and requirements of this control. Full details of the proposed cut and fill to accommodate the access driveway and dwelling is to be provided.



	If the proposed works require areas of excavation, the proposal is required to address the objectives and requirements of the control within the Statement of Environmental Effects.
C8. Demolition and Construction	Development is to comply with the requirements of the control in particular: • An area must be allocated for the sorting and storage of materials for use, recycling and disposal. This area should be located in a disturbed area of the site, giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation, pedestrian and traffic movement and access and handling requirements. • Demolition and construction waste must be legally handled, transported and disposed • Dedicated safe pedestrian access is, at all times, to be provided around the site. • Demolition and construction waste must be minimised and source separation, reuse and recycling of materials must be maximised. • Demolition and construction sites will be managed to ensure air and water borne pollutants such as noise, dust, odour and liquids and the like are minimised. • Demolition and construction sites will be managed to minimise site disturbance, limiting unnecessary excavation. A demolition and construction plan is to be provided with any development application. The plan is to detail all proposed demolition works and proposed construction works as part of the subdivision. The proposal is required to address the objectives and requirements of the control.
C9. Waste Management	A Waste Management Plan is to be submitted with the lodgement of the development application.



Part D: Design	
Control	Comment
D1. Landscaped Open Space and Bushland Setting	40% of each lot is to be maintained as landscaped open space (with a minimum width/length of 2m). The indicative building footprint should demonstrate that this control can be satisfied.
D2. Private Open Space	Not Applicable.
D3. Noise	Not Applicable
D4. Electromagnetic Radiation	Not Applicable
D5. Orientation and Energy Efficiency	Not Applicable
D6. Access to Sunlight	Not Applicable
D7. Views	Not Applicable
D8. Privacy	Not Applicable
D9. Building Bulk	Not Applicable
D10. Building Colours and Materials	Not Applicable
D11. Roofs	Not Applicable
D12. Glare and Reflection	Not Applicable
D13. Front Fences and Front Walls	Not Applicable
D14. Site Facilities	Not Applicable
D15. Side and Rear Fences	Not Applicable
D16. Swimming Pools and Spa Pools	Not Applicable
D17. Tennis Courts	Not Applicable
D18. Accessibility	Not Applicable
D19. Site Consolidation in the R3 and IN1 Zone	Not Applicable
D20. Safety and Security	Not Applicable
D21. Provision and Location of Utility Services	
D22. Conservation of Energy and Water	Not Applicable.
D23. Signs	Not Applicable
Part E: The Natural Environment	
Control	Comment
E1. Private Property Tree Management	The subdivision application is to address and satisfy the objectives and requirements of this control within the Statement of Environmental Effects. An Arborist report is to be submitted as part of the subdivision application.
E2. Prescribed Vegetation	Not Applicable
E3. Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conversation Habitat	Not Applicable



E4. Wildlife Corridors	See Referrals
E5. Native Vegetation	Each existing allotment is identified as having native vegetation located on the land. The subdivision application is to address and satisfy the objectives and requirements of this control within the Statement of Environmental Effects.
E6. Retaining unique environmental features	Development is to be designed to retain and complement any distinctive environmental features of its site and on adjoining and nearby land. In particular, development is to be designed to incorporate or be sympathetic to environmental features such as rock outcrop, remnant trees and the creek. The development application is to address and satisfy the objectives and requirements of this control within the Statement of Environmental Effects.
E7. Development on land adjoining public open space	The site is also identified as public open space. The subdivision application is to address and satisfy the objectives and requirements of this control within the Statement of Environmental Effects.
E8. Waterways and Riparian Lands	The proposed lands are located adjacent to Burnt Bridge Creek and it is considered that the proposed design and location of future dwellings and structures will need to consider the possible impacts on this waterway. The development application is to address and satisfy the objectives and requirements of this control within the Statement of Environmental Effects and in addition a Waterways Impact Statement is also required.
E9. Coastline Hazard	Not Applicable
E10. Landslip Risk	The site is located within Landslip Risk Area B. In this regard, a preliminary geotechnical report is required to be submitted with any application.
E11. Flood Prone Land	The subject site is affected by overland flow and also identified as flood affected land(s). In this regard, a flood risk assessment report is to be provided with the application. See details later in these minutes under Clause C4 - Stormwater.



Part F: Zones and Sensitive Areas	
Control	Comment
F1. Local and Neighbourhood Retail Centres	Not Applicable
F2. Brookvale Brickworks	Not Applicable
F3. SP1 Special Activities	Not Applicable
F4. Infrastructure Zone	Not Applicable
Part G: Special Area Controls	
Control	Comment
G1. Dee Why Mixed Use Area	Not Applicable
G2. R3 Medium Density Residential bound by Sturdee Parade, Pacific Parade and land zoned B4 Mixed Use	Not Applicable
G3. Belrose Corridor	Not Applicable
G4. Warringah Mall	Not Applicable
G5. Freshwater Village	Not Applicable

Other Relevant Controls within WDCP 2011
Appendix 1 – Car Parking Requirements The provision of two (2) car spaces per dwelling is the minimum requirement.

Other Relevant Environmental Planning Instruments/SEPPs
You are advised that the following Environmental Planning Instruments apply to the development: - SEPP No. 55 – Remediation of Land; - SEPP (Infrastructure) 2007; and - Warringah Local Environment Plan 2011.

Relevant Council Policies
You are advised of the following (but not limited to all) Council's policies available at www.warringah.nsw.gov.au : - Applications for Development - Policy for the handling of unclear, non-conforming, insufficient and Amended applications: PDS-POL 140 - Stormwater drainage for low level properties PDS-POL 135 - Building over or adjacent to constructed Council drainage systems and easements: PAS-PL 130 - Common vehicular access to multiple properties: LAP-PL 310 - Vehicle access to all roadside development: LAP-PL 315 - Waste PL 850



Required Documentation

- All information required to be submitted under Schedule 1 of the Environmental Planning and Assessment Regulation 2000;
- All information as required on the Development Application form checklist;
- Waterway Impact Statement
- Fauna & Flora Report
- Site Analysis (prepared in accordance with Schedule 8 of WLEP 2000);
- Site Survey (prepared by a registered Surveyor);
- Statement of Environmental Effects addressing:
 - Section 79C of EPA Act,
 - All relevant sections of WLEP 2011, including demonstrating consistency with the R2 Low Density Residential zone and the compliance with the Height of Buildings Development Standard.
 - All relevant sections of WDCP 2011;
 - Other relevant Environmental Planning Instruments.
- Preliminary Geo-technical report;
- Landscape Plan showing the layout of the landscaping within the site and the selection of species;
- Waste Management Plan;
- Stormwater Management Plan;
- Erosion and Sedimentation Plan;
- Cost Summary Report, if the cost of works exceeds \$100,000. This report is to be in addition to the Estimated Cost of Work options in Part 2.3 of Council's Development Application Form.

Referrals

Riparian

"The proposed development falls within waterways and riparian lands, known as Burnt Bridge Creek.

- *The development is to be consistent with Warringah Council's Protection of Waterways and Riparian Lands Policy.*
- *The development is to comply with the following clauses of the Warringah Development Control Plan 2011 –*
 - *E8 - Waterways and Riparian Lands*
 - *E4 – Wildlife Corridors*
 - *C4 – Stormwater*
 - *C5 – Erosion and Sedimentation*
 - *C7 – Excavation and Landfill*
- *A Waterway Impact Statement is to be prepared by a qualified ecologist and geotechnical engineer. The contents of this report can be included in the Fauna and Flora report. Guidelines can be found at http://www.warringah.nsw.gov.au/plan_dev/documents/GuidelineforPreparingaWaterway*



Referrals

sImpactStatement.pdf

- *If stormwater is to be disposed of within the waterway, only a single outlet will be permitted with the outlet structure complying with the Office of Water Guidelines available at http://www.water.nsw.gov.au/ArticleDocuments/35/licensing_approvals_controlled_activities_outlet_structures.pdf.aspx*
- *As the development is sited on Waterfront Land under the Water Management Act 2000, and is for more than one dwelling, a referral to the NSW Office of Water is likely required.*
- *Please forward details/plans of land to be dedicated back to Council."*

Flooding

"The property is identified as being subject to flooding in the 1 in 100 year flood event and is therefore subject to residential flood related development controls as detailed in Part E11 of the DCP. The property is in the High Risk Flood Planning Precinct and would therefore be required to address the controls under this category. This information is taken from the Manly Lagoon Flood Study, 2013

From the DCP, the controls applying to subdivision on land affected by the high flood risk planning precinct are:

- *The applicant must demonstrate that future residential development as a result of the proposed subdivision can meet the relevant objectives and requirements of the Flood Prone Land section of the DCP. This can be addressed within the Statement of Environmental Effects."*

Traffic

- *"All allotments are required to have access to the public road.*
- *The access ways / driveways are to be designed in compliance with Warringah DCP- C1 Subdivision and Australian Standards AS2890.1 including the gradient, length, width, turning area and passing bay if required.*
- *All vehicles are to be able to exit and enter the driveways in forward direction.*
- *Engineering details addressing the above, including typical cross sections of the driveway, long section of driveway, etc., are to be submitted with the Development Application."*

Development Engineers

- *"Stormwater runoff from Bangaroo Street appears to enter the subject property via two stormwater pipelines and traverse the subject site as overland flows. In this regard, stormwater drainage plan showing the diversion of these pipelines into one common pipeline and piped to the downstream sides of the proposed residential lots and public open space. Council's Senior Environment Officer – Creeks is to indicate the location of*



Referrals

stormwater pipe outlet into the creek and advise of any other works required as part of this proposal.

- *Stormwater pipeline conveying stormwater runoff from Bangaroo Street, traversing the site is to be designed and constructed in accordance with Council's "Building Over or Adjacent to Constructed Council Drainage system and Easements" Policy, PAS-PL 130 and Council's AUS-SPEC #1. Engineering details of the above must be submitted with the Development Application.*
- *Easement to drain stormwater is to be created over the new stormwater pipeline (see items 1 and 2 above) to benefit Warringah Council. Dimension(s) of easement to drain stormwater is to be in accordance with Council's "Building Over or Adjacent to Constructed Council Drainage system and Easements" Policy, PAS-PL 130. Details addressing the above are to be submitted with the Development Application.*
- *This property is affected by flooding during the 1 in 100 year ARI storm. Onsite Stormwater detention (OSD) system will provide little, if any, benefit to manage flooding on the site. In this regard, OSD will not be required for this development.*
- *Stormwater runoff from each proposed lot is to be discharged to Burnt Bridge Creek by gravity. Where possible stormwater runoff from the proposed lots should be discharged at the same common point as Council's new stormwater outlet. Any inter-allotment pipes required to drain each lot must be designed and constructed as part of this proposal. Engineering details addressing the above must be submitted with the Development Application.*
- *Where possible vehicle access to the proposed lots is to be from one common driveway to Bangaroo Street. Driveway dimensions (including passing bays, where applicable) are to comply with Australian Standards AS2890.1, Council's Development Control Plan for Subdivisions, etc. Engineering details addressing the above, including typical cross sections of the driveway, long section of driveway, etc., must be submitted with the Development Application.*
- *Vehicles must enter and exit the development site in the forward direction."*

Concluding Comments

These Minutes are in response to a pre-lodgement meeting held on 15 January 2015 to discuss Subdivision of land (2 lots into 4 lots) at Lots 1 & 2 in DP130467 Nos. Lots 1 & 2/9999 Worribil Street North Balgowlah (known as No. 2 Banagaroo Street). The Minutes reference preliminary plans prepared by BBC/10/2005/3/A dated 27 October 2005 & A1 – 10660D (Sheets 1 & 2) Rev A dated 5 January 2015.

The proposal for subdivision of land into four (4) lots is not supported. Proposed Lot 2 is undersized (minus the access handle) and there is no acceptable justification for the variation to the development standard given the size of the existing site(s). In addition the site is burdened by a number of nature features which cannot be discounted or overlooked and future reports and further investigations are required by the applicant/consultants.

It is considered that a three (3) lot subdivision maybe considered (i.e. two (2) residential lots and



Concluding Comments

one (1) community allotment). It is advised that the proposed subdivision be redesigned and a reduction in the proposed lots be considered.

Based upon the above comments you are advised to satisfactorily address the matters raised in these minutes prior to lodging a development application.

Other Matters

- **Requirement to Submit Correct, Clear and Accurate Information at Lodgement**

You are advised, that if an application is unclear, non-conforming or provides insufficient information, or if Council requests additional information in accordance with Clause 54 of the EPA Regulations 2000 and it is not provided within the specified time frame, a development application may be rejected or refused without notice.

The time to discuss and amend your design is prior to lodgement of your Development Application, as there will be no opportunity to do so during the assessment process.

- **Privacy and Personal Information**

You are advised that Council is legally obliged to make Development Applications and supporting documents available for public inspection – see section 12 of the Local Government Act 1993. We do this at the Customer Service Centre and by placing copies of the applications and supporting documents on the Council website.

Should this proposal result in a development application being lodged these notes will form part of the development application documentation that will appear on Council's website – DA's online. www.warringah.nsw.gov.au

- **Monitoring DA progress after lodgement**

Once lodged you can monitor the progress of your application through Council's website – DA's online. www.warringah.nsw.gov.au