

Wollongong Local Planning Panel Assessment Report | 25 July 2018

WLPP No.	Item 1
DA No	DA-2018/204
Proposal	Subdivision - Torrens title - two (2) lots and demolition of existing garage
Property	192 Lakeview Parade, PRIMBEE
Applicant	JHM Living Design
Responsible Team	Development Assessment and Certification - City Centre Team (NL)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Wollongong Local Planning Panel

The proposal has been referred to WLPP for determination pursuant to 2.19(1) (a) of the Environmental Planning and Assessment Act 1979. Under Schedule 2 of the Local Planning Panels Direction of 1 March 2018 as it proposes a departure of 17% from a development standard, being the minimum lot size under Clause 4.1 of Wollongong Local Environmental Plan 2009.

Proposal

The proposal seeks approval for demolition of a low brick wall and garage, tree removal and Torrens title subdivision, and involves a variation to the minimum lot size requirement under the WLEP 2009.

Permissibility

The proposed development is permissible with consent in the R2 Low Density Residential/RE1 Public Recreation zone.

Consultation

The proposal was notified in accordance with Council's Notification Policy and did not receive any submissions.

Main Issues

The main issues arising from the assessment process are:-

Clause 4.6 submission in relation to the minimum lot size under WLEP2009.

Variation to the lot depth under WDCP2009

RECOMMENDATION

It is recommended that the application be approved subject to the draft conditions at Attachment 6.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land
- SEPP (Coastal Management) 2018

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans

- Wollongong Development Control Plan 2009

Other policies

- Wollongong Section 94A Development Contributions Plan

1.2 DETAILED DESCRIPTION OF PROPOSAL

This application seeks consent for:

Works

- Partial demolition of brick wall along property boundary for new driveway.
- Demolition of a garage
- Removal of a number of trees. An arborist report was provided in this regard and has been reviewed by Council's Landscape Officer as being satisfactory. It is noted that the arborist report includes trees on the adjoining Lot 287 DP 9753. As that lot is not included in the development site, the trees located on that site are not approved for removal under this application and the draft conditions of consent reflect this.

Subdivision

Creation of two torrens title lots as described below and illustrated in the attached documents.

- Lot 1: 479.3m² – Excluding the RE1 portion (73m²) = 403m²
- Lot 2: 450m² – Excluding the RE1 portion (83m²) = 367m²

1.1 BACKGROUND

Pre-lodgement meeting PL-2017/123 was held recently where the prospect of subdividing each of two adjoining lots into two and constructing two new dwellings.

1.2 SITE DESCRIPTION

The site is located at 192 Lakeview Parade, Primbee and incorporates Lot 1 DP 42803 and Lot 286 DP 9753. Lot 1 is a narrow parcel of land running parallel to the road reserve and zoned RE1. The remainder of the site, Lot 286, is zoned R2.

The overall site has three street frontages, Purry Purry Avenue to the west, Bundah Place to the north and Lakeview Parade to the east.

The locality is generally characterised by low density residential development however to the north and east is public open space owned by Council.

Property constraints

Council records identify the land as being impacted by the following constraints:

- **Flooding:** The site is located within a medium flood risk precinct. The proposal does not involve significant works or result in an increased risk to life or property in regard to flooding. Any future development on the newly created lot would be subject to a full assessment against the applicable controls relating to flooding.
- **Green and Golden Bell Frogs:** There are no significant construction works and no particular concerns are raised in this regard.
- **Acid Sulfate Soils:** The site is identified as being potentially impacted by class 2 acid sulfate soils. An acid sulphate soils management plan is not required as the proposal does not involve works below the natural ground surface or works by which the water table is likely to be lowered.

There are no restrictions on the title.

1.3 SUBMISSIONS

The application was notified in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising and no submissions were received.

1.4 CONSULTATION

1.4.1 INTERNAL CONSULTATION

Council's Subdivision and landscape officers have reviewed the application providing satisfactory referrals. These include recommended conditions of consent which are included as part of attachment 6.

1.4.2 EXTERNAL CONSULTATION

None required

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION

2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.1.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

A desktop audit of previous land uses does not indicate any historic use that would contribute to the contamination of the site. There are no earthworks proposed and the proposal does not comprise a change of use. The site is considered to be suitable for the proposed development with regard to clause 7 of this policy.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018

This policy commenced on 3 April 2018 and was only draft at the time of lodgement of the development application which was 21 February 2018 and has since been gazetted. The site is located within the Proximity Area for Coastal Wetlands, Coastal Environment, and Coastal Use.

Division 1 clause 11 applies to Proximity Area for Coastal Wetlands. Consent must not be granted unless the consent authority has considered matters set out in subclause 1 and 2. These matters include biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest. The site is not classified as coastal wetlands or littoral rainforest so clause 2 does not apply. The development involves minor demolition and removal of a number of trees with no construction proposed. All matters detailed in subclause 1 and 2 are considered satisfactory subject to compliance with proposed conditions of consent. These matters

will require further detailed assessment upon the submission of any future application for construction

Division 3 clause 13 applies to coastal environment areas. Consent must not be granted unless the consent authority has considered matters set out in subclause 1 and 2. These matters include impacts on vegetation, marine life and water quality, vegetation, Aboriginal heritage and community access. The development involves minor demolition and removal of a number of trees with no construction proposed. All matters detailed in subclause 1 and 2 are considered satisfactory subject to compliance with proposed conditions of consent. These matters will require further detailed assessment upon the submission of any future application for construction.

Division 4 clause 14 applies to coastal use areas. Consent must not be granted unless the consent authority has considered matters set out in subclause 1 and 2. These matters include impacts on safe public access, overshadowing, wind funnelling, and loss of views, visual amenity, Aboriginal heritage and cultural and built environment heritage. The development can be managed (via conditions) to avoid an adverse impact referred to in subclause 1, subclause 2 is not applicable. All matters detailed in clause 1 and 2 are considered satisfactory.

Division 5 includes general provisions for development in the coastal zone. Clause 16 applies to development in the coastal zone generally and states that development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land. As detailed elsewhere within this report, due the nature of the proposal, it is not expected to increase the risk of coastal hazards on the subject land or any other land.

2.1.3 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The site comprises two lots. The primary Lot, Lot 286 DP 9753, is zoned R2 Low Density Residential.

The narrower lot (Lot 1 DP 42803) is zoned RE1 Public Recreation.

Clause 2.3 – R2 Zone objectives and land use table

The objectives of the zone are as follows:

- *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.*

The proposal has regard to the above objectives.

The land use table permits the following uses in the zone.

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home-based child care; Hospitals; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Veterinary hospitals

The proposed subdivision is permissible in the zone with development consent as per clause 2.6.

Clause 2.3 – RE1 Zone objectives and land use table

The objectives of the zone are as follows:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To cater for the development of a wide range of uses and facilities within open spaces for the benefit of the community.*

For the reasons outlined in this report, the proposal has regard to the above objectives.

The land use table permits the following uses in the zone.

Boat sheds; Camping grounds; Caravan parks; Centre-based child care facilities; Community facilities; Environmental facilities; Environmental protection works; Extensive agriculture; Helipads; Information and education facilities; Kiosks; Markets; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreational facilities (outdoor); Respite day care centres; Restaurants or cafes; Roads; Signage; Take away food and drink premises; Water recreation structures

The proposed subdivision is permissible in the zone with development consent as per clause 2.6.

Clause 2.6 Subdivision—consent requirements

(1) Land to which this Plan applies may be subdivided, but only with development consent.

Subdivision is defined under clause 6.2 of the Act as

- (1) *For the purposes of this Act, subdivision of land means the division of land into 2 or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. The division may (but need not) be effected:*
- (a) *by conveyance, transfer or partition, or*
 - (b) *by any agreement, dealing, plan or instrument rendering different parts of the land available for separate occupation, use or disposition.*

Part 4 Principal development standards

Clause 4.1 Minimum subdivision lot size

The minimum lot size applicable for subdivision of the land is 450m².

The combined area of the two lots in this case is 929.43m² however Lot 1 DP 42803 is zoned RE1 and therefore cannot be included in the site area given there is no minimum lot size for land zoned RE1.

The proposed lot sizes are as follows:

- Lot 1 – 479.3m², excluding the RE1 portion (73m²) = 403m² or 16%
- Lot 2 – 450m², excluding the RE1 portion (83m²) = 367m² or 18%

Clause 4.4 Floor space ratio

As the land on which the existing dwelling sits is being subdivided, the FSR for that dwelling on the resultant lot created needs to be calculated.

The proposed site area for that lot (excluding the RE1 portion) is 479.43 – 73 = 406m²

The existing dwelling has an approximate GFA of 110m².

The FSR for that dwelling would therefore be 110/406 = 0.27:1.

The maximum FSR for the land is 0.5:1.

It is noted that no dwelling is proposed at this stage for the proposed new lot. Whilst the zoning of Lot 1 DP 42803 remains RE1, that portion could not be utilised as site area for the purpose of calculating the maximum gross floor area permitted under clause 4.4. This would not however preclude development of the R2 portion as there is sufficient area on that lot to accommodate a dwelling.

Clause 4.6 Exceptions to development standards

The applicant has submitted a Clause 4.6 Statement in relation to the Clause 4.1 Minimum subdivision lot size which forms attachment 4 to this report.

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 4.1 Minimum subdivision lot size
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p>Yes.</p> <p>The applicants Clause 4.6 Statement at attachment 4 is based on the following rationale (summarised):</p> <ul style="list-style-type: none"> Both allotments comply with the minimum lot size control for the site of 449sqm when all of the available land is included The zoning of part of the site as RE1 Public Recreation has been identified by Council as an anomaly to be rectified as part of the next 'housekeeping' amendment to the WLEP The land is not identified upon the Land Reservation Acquisition maps and is not required by Council for the purposes of public open space. The site area of the lots will assist in maintaining the low density character of the area and has no physical impact on the land.
that there are sufficient environmental planning grounds to justify contravening the development standard.	<p>Yes.</p> <p>The sufficient planning ground to justify contravening the minimum subdivision lot size is outlined in the applicant's Clause 4.6 Statement in attachment 4. In summary the sufficient environmental planning grounds presented in support of the proposal are:</p> <ul style="list-style-type: none"> Based on the above, the applicant states that compliance with the standard is considered unnecessary because the purpose of the site's zoning will still be met by the proposed lots and there is an absence of impact resulting from this non-compliance
4.6 (4) (a) Consent authority is satisfied that:	
the applicant's written request has adequately addressed the matters required to be	<p>The applicant's written request has adequately addressed the matters required to be demonstrated under subclause 3.</p> <p>The variation to the subdivision lot size is attributed to an</p>

<p>demonstrated by subclause (3), and</p>	<p>anomaly in the zoning of Lot 1 DP 42803. The RE1 land cannot be included into the site area because the definition of site area excludes land on which the development is not permitted.</p> <p>Lot 1 DP 42803 is not in any sense public land and would logically be more appropriately zoned R2. Inclusion of Lot 1 DP 42803 would result in compliant minimum lot sizes. The variation to the lot size has no impact strategically or in any physical terms and is considered to be a temporary outcome until the lot zoning can be formally resolved through an amendment to the LEP.</p> <p>Lot 1 DP 42803 sits between road reservation and Lot 286 DP 9753. Council records indicate that DP 42803 was registered in 1981 and appears to have been undertaken by the Crown with limited Council involvement as a result the zoning of the land at that time was given little consideration. Subsequent amendments to the LEP have carried through the same or equivalent zoning. The RE1 zoning however makes no sense in the circumstances given its private ownership, configuration and lack of connection to public open space.</p> <p>The land is not identified upon the Land Reservation Acquisition maps and is not required by Council for the purposes of public open space</p> <p>There are further no easements affecting that land that would warrant the zoning being RE1. This has been brought to the attention of Council strategic planning officer in order that it can be reviewed in the next housekeeping amendment to the LEP. The likely timing of that occurring is however unknown and it is considered unreasonable to delay the current development application until such time as that occurs.</p> <p>Requiring compliance with the Minimum subdivision lot size is not considered necessary in this instance.</p>
<p>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</p>	<p>The area of non-compliance is limited to a narrow portion of land zoned RE1. The retention of this zoning into the future would not result in any significant public benefit.</p> <p><u>Objectives of Clause 4.1</u></p> <p>The objectives of Clause 4.1 are:</p> <p><i>(a) to control the density of subdivision in accordance with the character of the location, site constraints and available services, facilities and infrastructure,</i></p> <p><i>(b) to ensure lots are of a sufficient size and shape to accommodate development.</i></p> <p>With regard to objective 'a', The resultant development, from a density perspective, is no more than that that could be achieved under the development standard. In the circumstances of the case the proposed development will not impact on or provide a precedent for other similar developments.</p> <p>With regard to objective 'b', the proposed lots are able to accommodate future residential development.</p>

	The objectives of the zone have been discussed at 2.1.3 above. Requiring compliance with the minimum subdivision lot size is unreasonable or unnecessary in the circumstances of the case and an exception to the development standard is considered acceptable in the circumstances.
the concurrence of the Secretary has been obtained.	Yes – the concurrence of the secretary is provided under delegation to Council.

Part 5 Miscellaneous provisions

Clause 5.5 Development within the coastal zone

This clause has been repealed however was applicable at the time of lodgement of the application.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The development is already serviced by electricity, water and sewage services.

Clause 7.3 Flood planning area

The site is identified as being within a medium flood risk precinct. This would not preclude subdivision of the land and a full assessment against the necessary floor levels for a dwelling on the newly created lot will occur at such time as a development application is submitted for that lot.

Clause 7.5 Acid Sulfate Soils

The proposal is identified as being affected by class 2 acid sulphate soils. An acid sulphate soils management plan is not required as the proposal does not involve works below the natural ground surface or works by which the water table is likely to be lowered.

2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

At the time of lodgement of the development application, State Environmental Planning Policy (Coastal Management) 2018 was in draft form. As further detailed above, the proposal does not raise any concerns in respect of that policy.

2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

CHAPTER A1– Introduction

The development has been assessed against the relevant chapters of WDCP 2009 and found to be satisfactory. The full table of compliance can be found at Attachment 7 to this report

8 Variations to development controls in the DCP

A variation to the recommended minimum lot depth is requested for proposed lot 1. This is considered satisfactory in regard to the requirements of this section of the DCP as outlined below.

(a) The control being varied;

Chapter B2 – Residential Subdivision - 8 Lot width & depth requirements

This control requires a minimum lot depth of 25m.

(b) The extent of the proposed variation and the unique circumstances as to why the variation is requested;

Proposed lot 1 containing the existing dwelling would have a maximum depth of approximately 23m. As it is demonstrated that this lot can accommodate a dwelling and associated parking and open space, the variation is considered acceptable.

(c) Demonstrate how the objectives are met with the proposed variations;

The objectives of the control are as follows:

- (a) To ensure residential lots are designed to provide sufficient lot width and depth, to cater for a suitable range of dwelling styles having regard to any site constraints or environmental qualities of that land.*
- (b) To ensure residential lots in low density residential areas provide sufficient site area to cater for detached dwelling-houses with sufficient rear private open space which gains appropriate sunlight access during mid-winter.*

Proposed Lot contains the existing dwelling and is has been demonstrated that the necessary parking, private open space setbacks and the like can be achieved for that lot.

(d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.

The variation is minor in nature and is not expected to have any adverse impacts on the amenity or function of the dwelling located on that lot.

2.3.2 WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN

The estimated cost of works would not exceed \$100,000 and a levy is not applicable under this plan as the threshold value is \$100,000.

2.4 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 93F, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 93F

There are no planning agreements entered into or any draft agreement offered to enter into under S93F which affect the development.

2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

92 What additional matters must a consent authority take into consideration in determining a development application?

Conditions of consent are recommended in regard to demolition.

2.6 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

There are not expected to be adverse environmental impacts on either the natural or built environments. There are also not expected to be any adverse social or economic impacts in the locality.

2.7 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR DEVELOPMENT

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have any negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

2.8 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

No submissions were received following notification.

2.9 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The application is not expected to have any unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area and is therefore considered to be in the public interest.

3 CONCLUSION

This application has been assessed as satisfactory having regard to the Heads of Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies. The application involves a development departure to the minimum subdivision lot size permitted under Clause 4.1 of Wollongong Local Environmental Plan 2009. A Clause 4.6 Statement has been submitted by the applicant and has been assessed as satisfactory in the circumstances. The development also involves minor variations to Wollongong Development Control Plan 2009 with regard to minimum lot depth. This variation has been adequately justified, and is not considered to lead to adverse impacts being worthy of support in this instance.

Internal referrals are satisfactory and submissions have been considered in the assessment and no submissions were received. It is considered that the proposed development is unlikely to result in significant adverse impacts on the character or amenity of the surrounding area.

4 RECOMMENDATION

It is recommended that the development application be approved subject to appropriate conditions of consent at attachment 6.

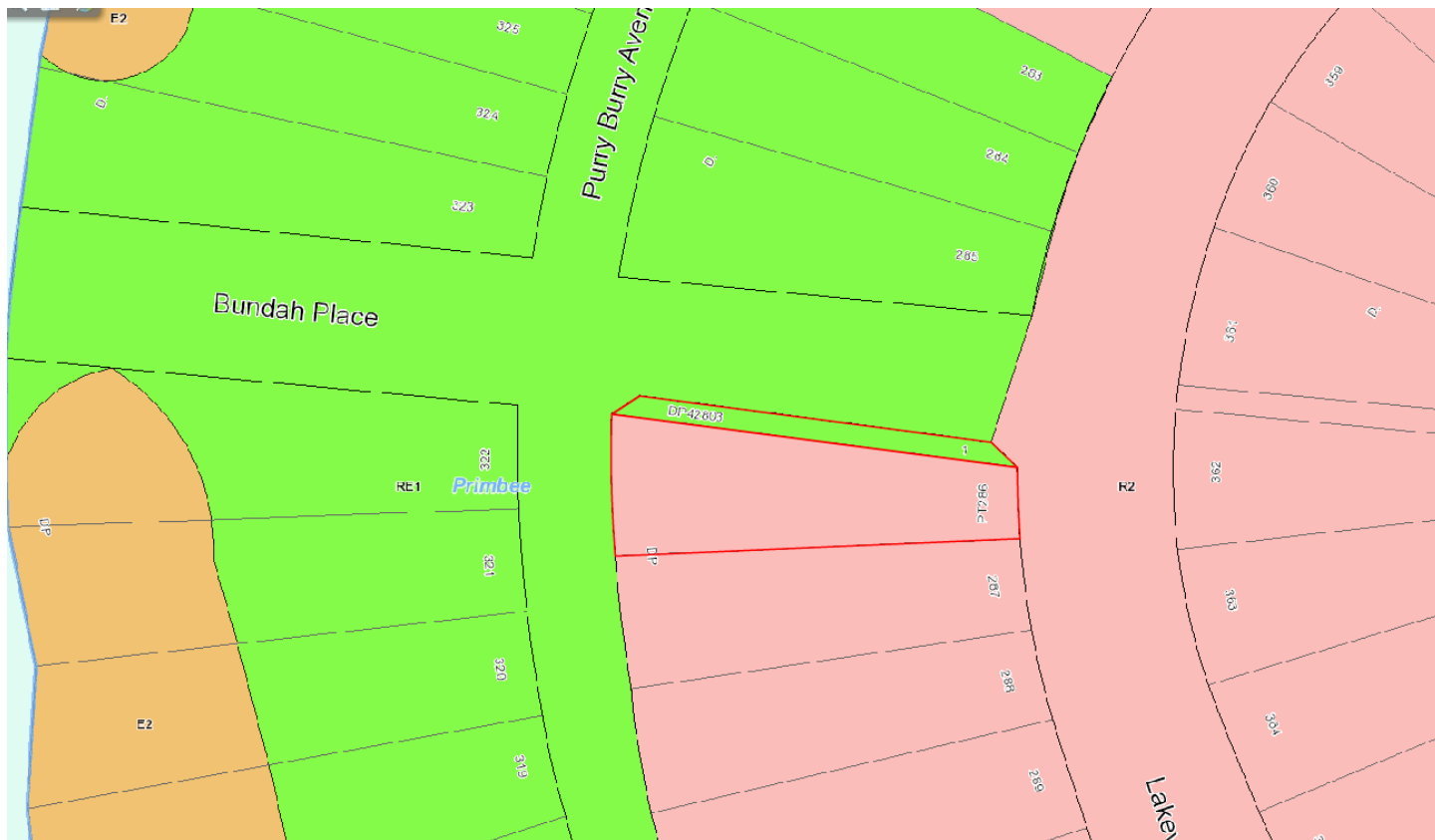
5 ATTACHMENTS

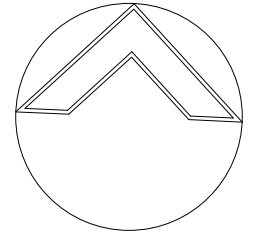
- 1 Aerial Photograph
- 2 WLEP 2009 zoning map
- 3 Plans
- 4 Clause 4.6 variation statement.
- 5 Arborist Report
- 6 Draft conditions of consent
- 7 WDCP compliance table

Attachment 1 – Aerial photograph



Attachment 2 – WLEP 2009 zoning map





1

AMENDMENTS

DRAWING TITLE

BUILDING FOOTPRINT &
TREES

PROJECT STATUS

APPLICATION FOR
DEVELOPMENT

ADDRESS
192 LAKEVIEW PARADE,
PRIMBEE NSW 2502

Date:	19.02.2018	
Drawing No:	17_46	Amend:
Sheet No:	03	The whole works to be in accordance with the National Construction Code of Australia, all relevant Australian Standards, and all other governing authorities concerned.
Scale:	1 : 200	
Drawn:	LB	All dimensions to be in millimetres unless otherwise stated.
Checked:	JMH	Use written dimensions in preference to scaled dimensions.
Sheet Size:	A3	The builder to check all dimensions on site prior to the commencement of work.
JMH Living Design ABN 41 280 852 869 John Hatch - Principal Mobile: 0447 881 736 Email: john@jmlivingdesign.com.au Website: www.jmlivingdesign.com.au		No responsibility will be accepted by JMH Living Design for builder's details, methods, set-out or design contradictions, nor council variations and conditions of this set.
		This set of drawings is subject to approval and must use the seal of a registered professional.

Website: www.jimhivingdesign.com.au

Office
 Location: 1st Floor,
 8 Park Lane,
 Caringbah, NSW 2229

Postal Address: PO Box 74,
 Caringbah, NSW 1495

Telephone: (02) 9540 3620

Industry Member of:



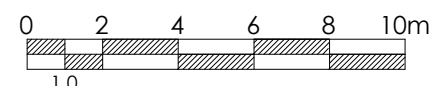

BUILDING DESIGNERS
 ASSOCIATION OF AUSTRALIA

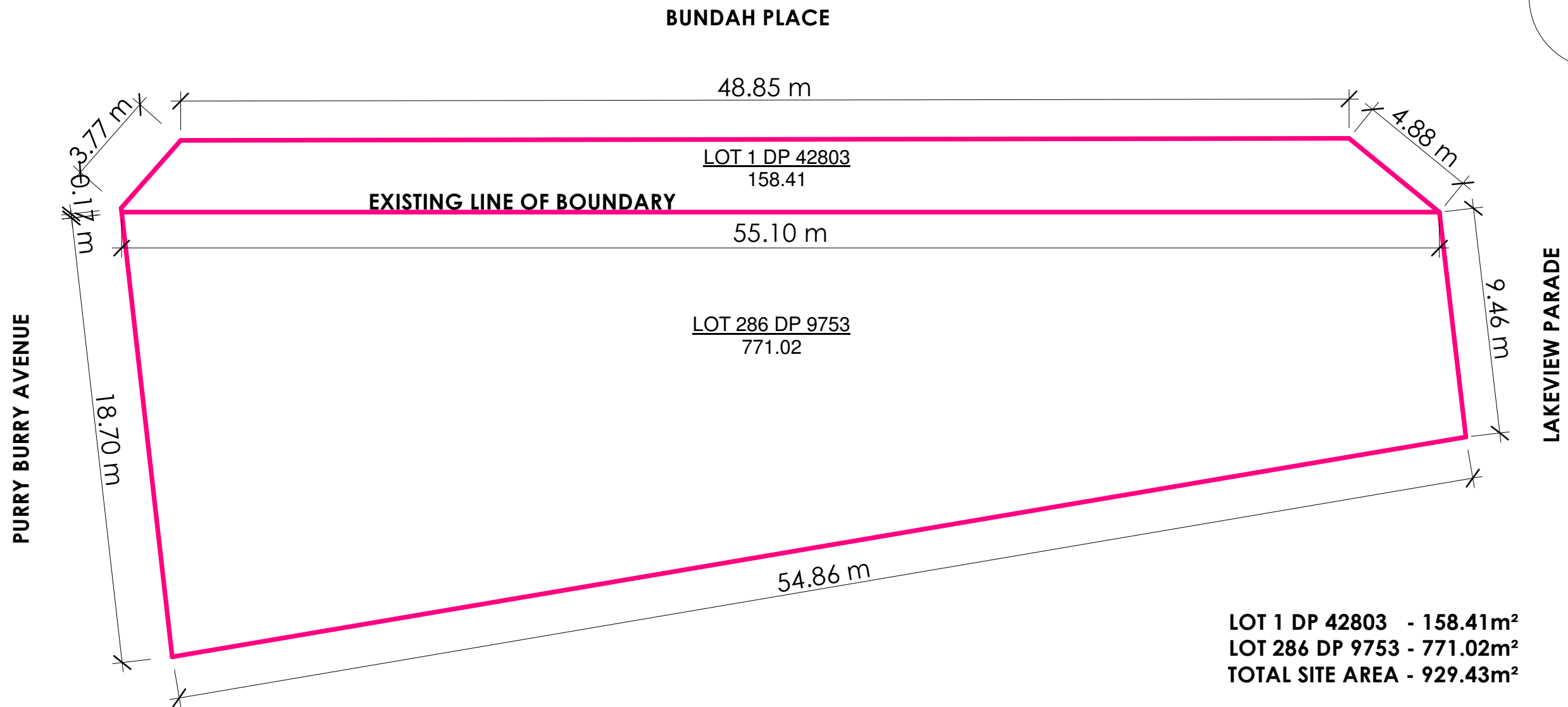
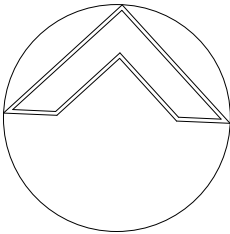
Copyright and may not be used or copied without the consent of Jim Hiving Design.

Company:



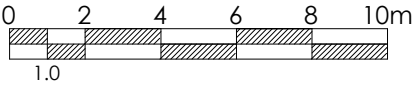
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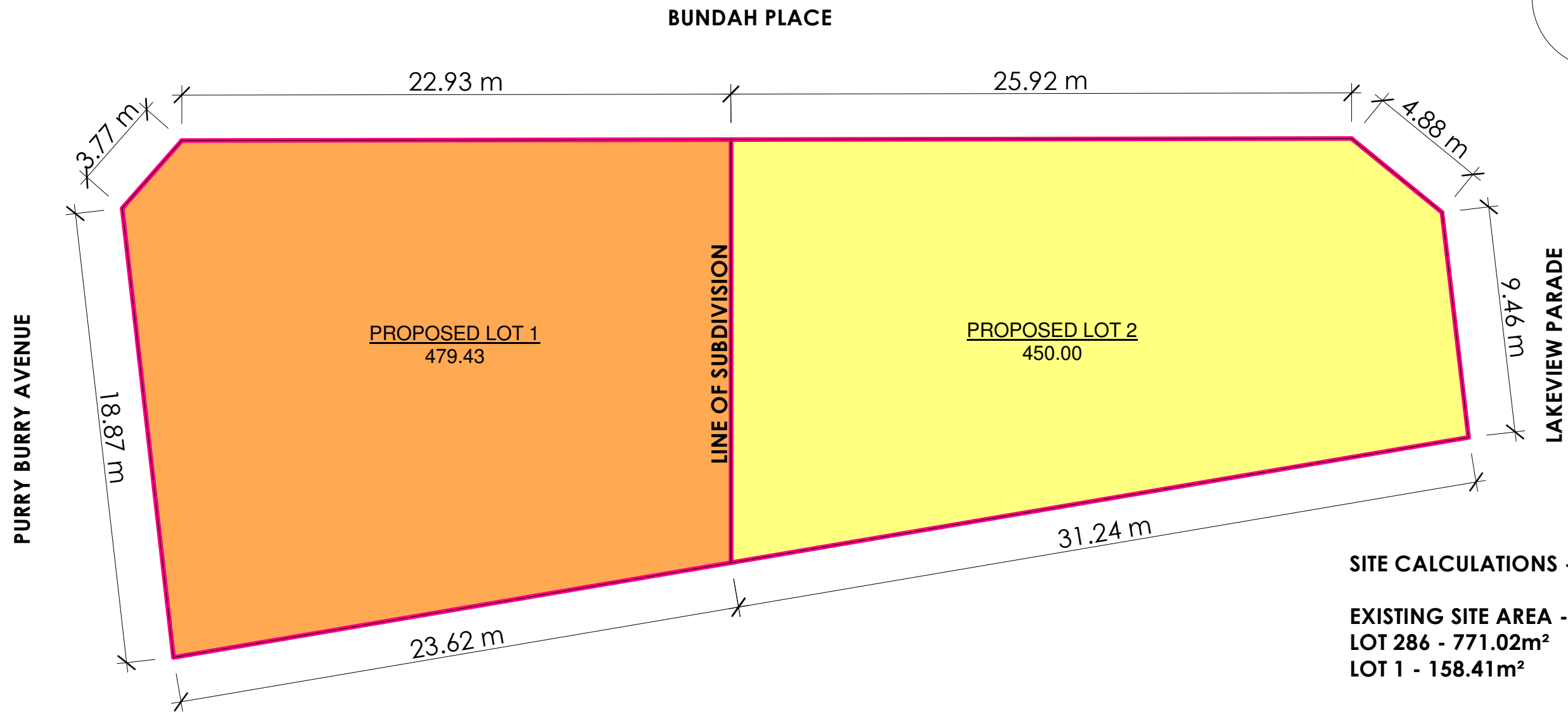
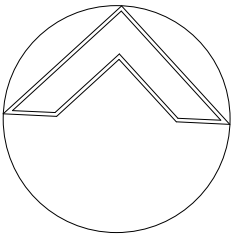
1 01 EXISTING LOTS

1 : 200



AMENDMENTS	
DRAWING TITLE	EXISTING LOTS
PROJECT STATUS	APPLICATION FOR DEVELOPMENT
PROJECT	PROPOSED TORRENS TITLE SUBDIVISION INTO 2 LOTS
ADDRESS	192 LAKEVIEW PARADE, PRIMBEE NSW 2502
CLIENT	MS G HOFMANN

Date:	19.02.2018	
Drawing No:	17_46	Amend:
Sheet No:	01	The whole works to be in accordance with the National Construction Code of Australia, all relevant Australian Standards and all other governing authorities concerned.
Scale:	1 : 200	All dimensions to be in millimetres unless otherwise stated.
Drawn:	LB	Use written dimensions in preference to scaled dimensions.
Checked:	JMH	The builder to check all dimensions on site prior to the commencement of work.
Sheet Size:	A3	No responsibility will be accepted by JMH Living Design for builder's details, methods, setout or design contradictions, nor council variations and conditions.
JMH Living Design ABN 41 280 852 869 John Hatch - Principal Mobile: 0447 681 736 E-mail: john@jmlivingdesign.com.au Web: www.jmlivingdesign.com.au		
Office Location: 1st Floor, 8 Park Lane, Caringbah, NSW 2229 Postal Address: PO Box 74, Caringbah, NSW 1495 Telephone: (02) 9540 3620 Industry Member of:		
  		



02 PROPOSED TORRENS TITLE SUBDIVISION

1 : 200

SITE CALCULATIONS -

EXISTING SITE AREA - 929.43m²
LOT 286 - 771.02m²
LOT 1 - 158.41m²

PROPOSED SITE AREA - 929.43m²
LOT 1 - 479.43m²
LOT 2 - 450.00m²

AMENDMENTS
DRAWING TITLE
**PROPOSED TORRENS
TITLE SUBDIVISION**
PROJECT STATUS
**APPLICATION FOR
DEVELOPMENT**

PROJECT
**PROPOSED TORRENS
TITLE SUBDIVISION INTO 2
LOTS**

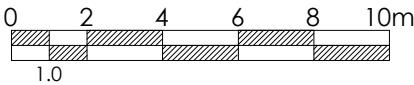
ADDRESS
**192 LAKEVIEW PARADE,
PRIMBEE NSW 2502**

CLIENT
MS G HOFMANN

Date: 19.02.2018
Drawing No: 17_46
Sheet No: 02
Scale: 1 : 200
Drawn: LB
Checked: JMH
Sheet Size: A3

JMH Living Design
ABN 41 280 852 869
John Hatch - Principal
Mobile: 0447 681 736
E-mail: john@jmlivingdesign.com.au
Web: www.jmlivingdesign.com.au

Office
Location: 1st Floor,
8 Park Lane,
Caringbah, NSW 2229
Postal Address: PO Box 74,
Caringbah, NSW 1495
Telephone: (02) 9540 3620
Industry Member of:





P 0408 473 857
E lep.planning@gmail.com
W www.leppanning.com.au
A 33 Holly Street, Bowral NSW 2576
ABN 16 820 474 487

General Manager
Wollongong City Council

Attention: Nigel Lamb

Dear Nigel,

RE: Clause 4.6 Variation Request to support Development Application DA-2018/204, Subdivision of land, being Lot 286 DP9753 and Lot 1 DP42803, Lakeview Parade, Primbee

Please find attached a formal written request, made pursuant to Clause 4.6 of Wollongong Local Environmental Plan 2009 (WLEP), for a variation to the development standard for minimum subdivision lot size required under Clause 4.1 of the WLEP.

The relevant Development Application seeks approval for the subdivision of the land into two lots – proposed Lot 1 of 479.43m² and proposed Lot 2 of 450m². The subdivision is described upon the plans prepared by JMH Living Design submitted in support of the application.

Council, via email dated 6 April 2018, has requested the submission of a formal variation request because currently part of the development site, being Lot 1 DP42803, is within the RE1 Public Recreation zone of the WLEP and cannot be included into the site area of the proposed new lots created by the subdivision until such time as it is rezoned to the R2 Low Density Residential zone. When the RE1 area is deducted, the proposed lots are no longer compliant with the minimum lot size.

The variation request is made in an appropriate format and adequately addresses the required matters for consideration.

We look forward to Councils positive consideration of this variation request and of the Development Application.

Yours faithfully,

Scott Lee
Lee Environmental Planning
10 April 2018

Clause 4.6 Objection to Minimum Subdivision Requirements

The following paragraphs form the written request under Clause 4.6 of the WLEP for a variation of the required Clause 4.1 Minimum subdivision lot size requirements relevant under the LEP.

The grounds for the required variation are specified below.

The Control to be Varied

Clause 4.1 of the WLEP provides for development standards for subdivision. The relevant control from clause 4.1 is reproduced below.

4.1 Minimum subdivision lot size

- (1) *The objectives of this clause are as follows:*
- (a) *to control the density of subdivision in accordance with the character of the location, site constraints and available services, facilities and infrastructure,*
 - (b) *to ensure lots are of a sufficient size and shape to accommodate development.*
- (2) *This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Plan.*
- (3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.*
- (4) *This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.*
- (4A) *In calculating the area of any lot resulting from a subdivision of land, if the lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included.*
- (4B) *This clause does not apply in relation to the subdivision of land for the purpose of erecting an attached dwelling or a semi-detached dwelling in a residential zone.*
- (4C) *This clause does not apply in relation to the subdivision of land in a residential zone on which there is an existing dual occupancy or multi dwelling housing.*

The Extent of the Variation Sought

The non-compliance concerns the minimum site area requirement as indicated on the relevant Lot Size Map of WLEP (LSZ_015).

The variation in lot area varies from 45m² for proposed Lot 1 and 84m² for proposed lot 2. The degree of variation to the standard is in the range of 10% to 18%.

Clause 4.6 (3) (a): that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

In this case, both allotments comply with the minimum lot size control for the site of 449sqm when all of the available land is included, with proposed Lot 1 having a site area of 479m² and proposed Lot 2 having a site area of 450m².

However, when that part of the land within the existing RE1 Public Recreation zone is excluded, these site areas drop to 405m² and 366m² respectively.

The RE1 land cannot be included into the site area because the definition of site area is as follows:

***site area** means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under this Plan.*

Within the RE1 Public Recreation zone, dwelling houses are prohibited. Because the subdivision will result in Lot 1 accommodating a dwelling house and Proposed Lot 2 being created for the purpose of accommodating a future dwelling house, the area of the RE1 zone cannot be counted as site area.

The zoning of part of the site as RE1 Public Recreation has been identified by Council as an anomaly to be rectified as part of the next 'house keeping' amendment to the WLEP. The land is not identified upon the Land Reservation Acquisition maps and is not required by Council for the purposes of public open space.

Clause 4.6 (3) (b): that there are sufficient environmental planning grounds to justify contravening the development standard.

As noted above, the configuration of the lots is acceptable in terms of the objectives of the subdivision control.

In this instance the site area of the lots will assist in maintaining the low density character of the area.

Both lots will comply with the minimum lot size requirements of the LEP once the land currently zoned RE1 Public Recreation is able to be considered as part of the site area.

The lots are fit for the purpose envisaged for their use in the residential zone and the minor non-compliance with the subdivision lot size requirement in this instance has no planning significance. The split zoning of the site has been acknowledged as being an anomaly and is to be rectified by Council by an appropriate change to the WLEP zoning maps. The zoning has no physical impact upon the land.

There are environmental planning grounds offended in the contravention of the development standard in this instance because the purpose of the site's zoning will still be met by the proposed lots and there is an absence of impact resulting from this non-compliance.

Clause 4.6 (4) (a) (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3),

The submitted Statement of Environmental Effects is the applicant's written request in regard to this matter. In brief, Proposed Lot 1 can accommodate the existing dwelling house with no breaches of any other relevant planning control, while proposed Lot 2 will have sufficient area and site dimensions to accommodate a future dwelling.

Clause 4.6 (4) (a) (ii): the proposed development will be in the public interest

The development is in the public interest because it is consistent with the objectives of the R2 Low Density zone in which the development is proposed to be carried out. The small portion of the land that is within the RE1 Public Recreation zone is not required by Council for that purpose and its logical use is as part of the proposed residential subdivision.

The proposal provides for two (2) residential lots. The proposal complies with the minimum lot size requirements and objectives of the subdivision control when all of the available land is included in the site area.

The site is not constrained in any other way in providing two suitable lots.

The future development of Lot 2 for housing is considered to be in the public interest given the zoning of the land and its suitability for that purpose. The non-compliance with the minimum lot size control still allows the lots to achieve the objectives of the standards and does not result in any adverse environmental impact.

Clause 4.6 (4) (b): the concurrence of the Director-General has been obtained.

It is assumed the concurrence of the Director-General is delegated to the relevant consent authority – in this instance Wollongong City Council – nevertheless the relevant matters to be considered by the Director are briefly considered below.

Clause 4.6 (5): In deciding whether to grant concurrence, the Director-General must consider:

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

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

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

The variations sought to the site area control are minor in a numerical sense and raise no issues of State or regional significance.

The provisions of Clause 4.6 in this LEP also have specific additional provisions relevant to subdivision at Clause 4.6 (6) – reproduced and discussed below.

Clause 4.6 (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

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

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

The proposed subdivision does not involve land in any of the nominated land use zones under Clause 4.6(6).

Conclusion

The objectives of clause 4.6 are in this instance: -

“(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.”

The variation to the subdivision control sought in this instance is considered well suited to the objectives of clause 4.6, in as much as the subdivision will comply with the minimum lot size control and the objectives of the subdivision control if the RE1 Public Recreation zone area is allowed to be considered as site area. This is reasonable given the fact Council does not want the land for that public purpose and it has not been identified upon the Land Reservation Acquisition Maps.



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This subdivision will allow for highly desirable development on the two newly created allotments as envisaged by the residential zoning of the majority of the land.

It is considered that the flexible application of the control is appropriate in the circumstances of this case and achieves a better urban design and development outcome in this accessible and desirable location. No adverse environmental impacts result from the non-compliance.

Providing a range of Planning and Development services including:

· Planning Proposals · Statement of Environmental Effects · Strategic Planning and Development advice · Advocacy and problem solving
· Land and Environment Court · Local Government specialist

Written application providing grounds for variation to development standards as per Department of Planning and Infrastructure Guidelines

1. What is the name of the environmental planning instrument that applies to the land?

Wollongong Local Environmental Plan 2009

2. What is the zoning of the land?

R2 Low Density Residential and RE1 Public Recreation

3. What are the objectives of the 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.

4. What is the development standard being varied? e.g. FSR, height, lot size

Minimum lot size for the creation of new allotments

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.1

6. What are the objectives of the development standard?

- (a) to control the density of subdivision in accordance with the character of the location, site constraints and available services, facilities and infrastructure,*
- (b) to ensure lots are of a sufficient size and shape to accommodate development.*

7. What is the numeric value of the development standard in the environmental planning instrument?

The relevant Lot Size Map (Sheet LSZ_0015) indicates a minimum lot size of 449 square metres

8. What is proposed numeric value of the development standard in your development application?

The proposed lot sizes resulting from the subdivision of the land are 479sqm for Proposed Lot 1 and 450 sqm for Proposed Lot 2, when all the land is included.

However, when the land zoned RE1 Public Recreation is excluded and only the land zoned R2 Low Density Residential is included, the lot sizes are reduced to 405sqm and 366 sqm respectively.

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

For Proposed Lot 1 the 405 sqm site area represents 90% of the 449sqm requirement and for Proposed lot 2, the 366sqm site area represents 82% of the 449sqm requirement.

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

The breach of the development standard occurs as a result of the existence of a split zoning for the land between R2 Low Density Residential and a small narrow strip of land fronting Bundah Place that is within the RE1 Public Recreation zone. This RE1 land has been identified as an anomaly and is not required by Council for public purposes. The land is not identified upon the Land Reservation Acquisition Maps.

It would be unreasonable to penalise the development for attempting to work towards a better outcome via a two lot subdivision. By not allowing either lot to be compliant with the lot size requirement because of the RE1 land, Council would be denying a suitable and logical development outcome which would be counter to the objectives of the *Environmental Planning and Assessment Act 1979*.

There are no impacts arising on any adjoining properties as a result of the proposed development and it allows the existing dwelling house to be retained with a desirable setback to the new boundaries. The new vacant lot will similarly provide a suitable development parcel. There is no overshadowing, loss of views or loss of privacy that would arise as a result of the development. A new dwelling can present an attractive address at this site, which from an urban design perspective, is a positive outcome.

It is both unreasonable and unnecessary to have strict compliance with the standard in this case.

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.

These two objectives relate to the proper management of land and the coordination of orderly and economic use of land. This site has a high degree of residential amenity. The land within the RE1 Public Recreation zone is not wanted for that purpose and has none of the attributes that would make it a useful piece of public reserve.

The whole of the land offers an opportunity for a suitable development proposal to take advantage of an opportunity without trying to yield more from the site than the planning controls allow.

If strict compliance of the minimum lot size was imposed, then it would not be supportive of the objectives of the Act. Town planning works with a range of development standards to generally guide development towards appropriate outcomes. However, they should never be given primacy over sensible decisions based on the facts of a case. In this case, the minimum lot size can be achieved through utilizing all of the land, regardless of its current zoning. This is especially so when the current zoning is recognised as being unsuitable in the long term.

The request to vary the relevant development standard is both fair and reasonable.

12. Is the development standard a performance based control? Give details.

The minimum lot size control is both performance based and arbitrary. It aims to ensure some compatibility with adjoining development and to avoid negative impacts. Issues such as overshadowing, view loss and privacy can be measured and are therefore performance based.

Other considerations such as compatibility with character are not necessarily measurable, rather they are objective and more reliant upon the particular circumstances of any location. In this case the minimum lot size for subdivision of the land has been determined by Council to be 449sqm, which is different to the existing subdivision pattern. This proposal represents the logical outcome of that decision. It also results in an outcome where the performance based controls of Council's DCP (setbacks, height, floor area etc) can readily be achieved.

13. Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why?

Yes, strict compliance would be both unreasonable and unnecessary. This is due both to the circumstances that give rise to the variation and the lack of any resultant impacts. It is not possible to comply with the current minimum lot size if the RE1 land is excluded. The variation should be granted because there is no planning outcome to be achieved by insisting upon exclusion of the RE1 land because it is not required for that public purpose and will in due course be amended to reflect the residential zoning of the rest of the land. Council should focus on the resultant development outcome as its yardstick for support and from this perspective, the development delivers a positive outcome.

14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

Yes, there are sufficient grounds to justify the variation. The proposed development achieves a suitable outcome consistent with the objectives of the WLEP2009, including those for the R2 Low Density Residential zone and the minimum lot size standard. It does so without impact on other properties.

There is a significant and identifiable reason why the proposed lots should not be forced to meet the 700sqm standard. The resultant development, from a density perspective, is no more than that that could be achieved under the development standard. The circumstances of the case will not provide a precedent for other proposed developments to seek variations to the standard.

Moore Trees
Arboricultural Services

ABN 90887347745

Arboricultural Development Assessment Report

192-194 Lakeview Parade
Primbee NSW 2502
Lot 286 DP 9753
Lot 287 DP 9753
23 January 2018
Final



Member 2018



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Summary

This report has been compiled for JMH Living Design of P O Box 74 Caringbah NSW 1495. The report concerns a proposed Development Application for 192-194 Lakeview Parade, Primbee NSW 2502. This Arborist Report refers to thirty six (36) trees.

This report contains the following information required in Wollongong City Council Development guidelines:-

- 1) All trees were assessed for Safe Useful Life Expectancy (SULE).
- 2) Genus and species of each tree.
- 3) Impact of the proposed development on each tree.
- 4) Impact of retaining tree on the proposed development.
- 5) The Tree Protection Zone (TPZ) for each tree to be retained.
- 6) Any branch or root pruning that may be required for trees.

Based on the proposed designs Trees 1, 4, 6-13 are possible to retain. Trees numbered as 2, 3, 5, 14-31 are proposed to be removed for the development to occur.

The trees that are proposed to be retained will require tree protection measures to be installed to ensure retained trees survive the construction process. A Tree Protection Plan, included in this report, shows the trees proposed to be retained. This plan is attached in Appendix 1. Wollongong City Council also requires signage is used for tree protection areas. A sample tree protection sign has been included in Appendix 6.

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VERSION CONTROL

Date of Issue	Details
17 th November 2017	Draft 1 issued
4 th December 2017	Draft 2 issued
23 January 2018	Final issued

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1 INTRODUCTION

- 1.1** This report has been conducted to assess the health and condition of thirty six (36) trees located at 192 and 194 Lakeview Parade, Primbee. This report has been prepared for JMH Living Design of P O Box 74 Caringbah NSW 1495 as required for a Development Application with Wollongong City Council at this site.

The purpose of this report is to collect the appropriate tree related data on the subject trees and to provide advice and recommendations to the design and possible construction alternatives to aid against any adverse impacts on the subject trees' health that are to be retained.

The subject trees were assessed for their health and condition. Also included in this report are tree protection measures that will help retain and ensure that the long term health of the trees to be retained are not adversely affected by the proposed development in the future.

As specified in the Wollongong City Council Development Application guidelines the following data was collected for each tree:

- 1) A site plan locating all trees over three (3) metres in height, including all street trees.
- 2) All trees were assessed for Safe Useful Life Expectancy (SULE), health and amenity value.
- 3) Genus and species identification of each tree.
- 4) Impact of the proposed development on each tree.
- 5) The Tree Protection Zone (TPZ) for each tree to be retained.
- 6) Any branch or root pruning that may be required for trees.

Also noted for the purpose of this report were:

- Health and Vigour; using foliage colour and size, extension growth, presence of deadwood, dieback and epicormic growth throughout the tree.
- Structural condition using visible evidence of bulges, cracks, leans and previous pruning.
- The suitability of the tree taking into consideration the proposed development.
- Age rating; Over-mature (>80% life expectancy), Mature (20-80% life expectancy), Young, Sapling (<20% life expectancy).

1.2 Documents and information provided: For this Arborist Report I was given a site survey of the location, undertaken by Craven Elliston & Hayes (Dapto) Pty Limited marked A3-D217145 Rev A dated 26/5/17 and proposed plans by JMH Living Design marked sheets 1-3 drawing number 17_46 dated 18/12/2017. The plans showed the proposed building location for the site.

1.3 Location: The proposed development site is located at 192 and 194 Lakeview Parade, Primbee, known as Lot 286 and 287 in DP 9753. The proposed development site from herein will be referred to as "the Site".

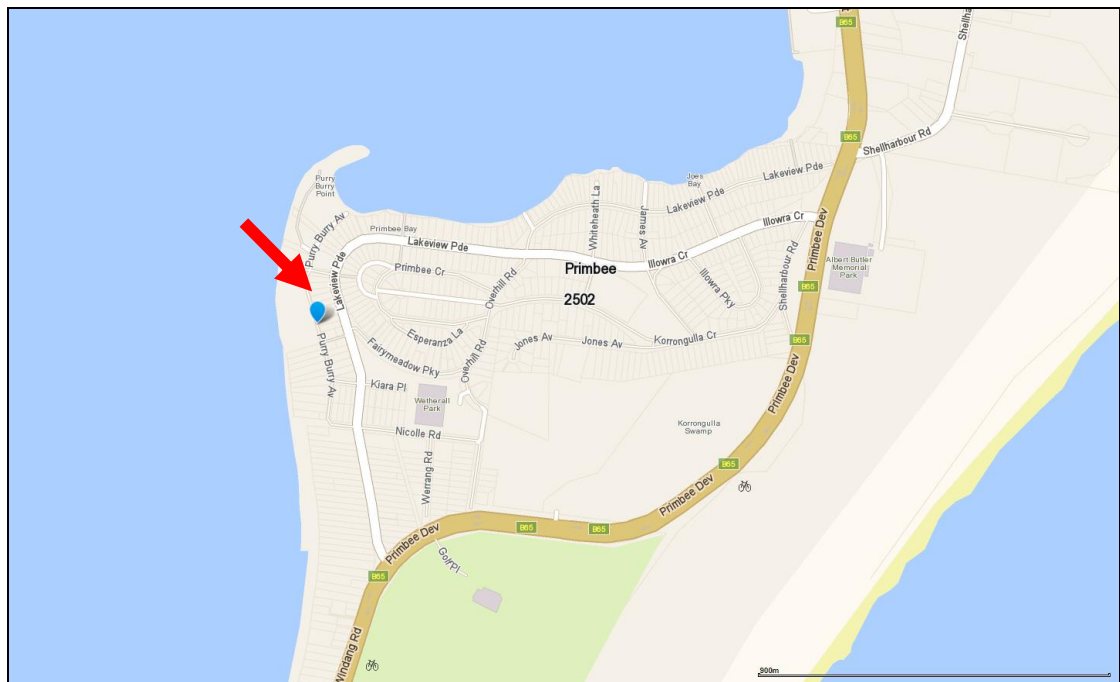


Diagram 1: Location of subject site, 192 and 194 Lakeview Parade, Primbee (Red arrow) (whereis.com.au, 2017)

2 METHODOLOGY

2.1 To record the health and condition of the trees, a Visual Tree Assessment (VTA) was undertaken on the subject trees on 17th October 2017. This method of tree evaluation is adapted from Matheny and Clark, 1994 and is recognised by The International Society of Arboriculture. Individual tree assessments are listed in Appendix 2 of this report. All inspections were undertaken from the ground. No diagnostic devices were used on these trees.

2.2 This report is only concerned with trees on the site that come under the Tree management permit policy that is part of the Wollongong City Council Development Control Plan, 2009 (Chapter E17 Preservation and management of Trees and vegetation). Also under clause 5.9 of the Wollongong Local Environmental Plan 2009, a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any prescribed tree or other vegetation, without development consent or a permit being granted by Council. Refer to Part 3 (Chapter E17) Definitions for the meaning of ‘prescribed tree’ and ‘prescribed other vegetation’. Two application processes have been established to deal with the assessment and approval for prescribed trees:

a) Tree Management Permit (generally for individual/small scale tree removal and pruning in urban areas) - refer to Council’s website for the Tree Management Permit Policy;

b) Development consent via either Complying Development or Development Application. This Chapter of the DCP should be read in conjunction with clauses 5.9 Preservation of trees or vegetation, 5.10 Heritage conservation, 5.11 Bush fire hazard reduction work and 7.2 Natural resource sensitivity – biodiversity of Wollongong Local Environmental Plan 2009.

This Report is required as per clause (b) via a Development Application for the site. This report takes no account of any tree or shrub under three (3) metres in height.

- 2.3 Height:** The heights and distances within this report have been measured with a Bosch DLE 50 laser measure.
- 2.4 Tree Protection Zones (TPZ):** The Tree Protection Zone (TPZ) is the principal means of protecting trees on development sites. The TPZ is a combination of the root area and crown area requiring protection. It is an area isolated from construction disturbance, so that the tree remains viable. TPZ's have been calculated for each tree to determine construction impacts. The TPZ calculation is based on the Australian Standard *Protection of trees on development sites*, AS 4970, 2009.
- 2.5 Structural Root Zone (SRZ):** The SRZ is a specified distance measured from the trunk that is set aside for the protection of tree roots, both structural and fibrous. The woody root growth and soil cohesion in this area are necessary to hold the tree upright. The TPZ and SRZ are measured as a radial measurement from the trunk. No roots should be severed within this area. A detailed methodology on the TPZ and SRZ calculations can be found in Appendix 4.
- 2.6 SULE:** The subject trees were assessed for a Safe Useful Life Expectancy (SULE). The SULE rating for each tree can be seen the Tree Assessment Schedule (Appendix 2). A detailed explanation of SULE can be found in Appendix 3.
- 2.7** A tree retention plan has been included in Appendix 1 that shows the trees as a colour coded rating of high, medium and low. These ratings are not definitive but give an overall general rating that may help guide building design for the site.
- 2.8 Impact Assessment:** An impact assessment was conducted on the site trees. This was conducted by assessing the site survey and plans provided by JMH Living Design. The plans provided were assessed for the following:
- Reduced Level (R.L.) at base of tree.
 - Incursions into the Tree Protection Zone (TPZ).
 - Assessment of the likely impact of the works.

3 RELEVANT BACKGROUND INFORMATION

- 3.1** The subject site is located on the corner of Lakeview Parade and Bundah Place, and fronts Purry Burry Avenue, Primbee NSW 2502. The site runs on an east-west axis. The site contains native and exotic tree species. The proposed works entail subdivision of the site and the construction of an additional dwelling.
- 3.2 Environmental Significance:** A Tree Management Control Plan (TMCP) applies to the whole of the Wollongong Local Government Area and is part of the Wollongong City Council Development Control Plan, 2009. This TMCP protects all trees above three (3) metres in height with a girth of twenty (20) centimetres or more, measured at a distance of one hundred (100) centimetres above the ground.
- 3.3 Illegal tree removal:** Damaging or removing trees can result in heavy fines. Local Government does have the authority to issue on the spot fines known as penalty infringement notices (PINS) starting from \$3,000 or can elect to have a potential tree damaging incident addressed in the Local Court. Recent cases, for example, include two (2) mature trees removed for development (Sutherland Shire Council (SSC) v Palamara, 2008) costing \$4,500 in fines and \$5,000 in court costs. SSC v El-Hage, 2010 concerning illegal tree removal of a single tree costing \$31,500 in fines and \$5,000 in costs. Poisoning trees can also incur substantial fines (SSC v Hill) resulted in a single tree fine that totalled \$14,000 plus a \$10,000 bond for a replacement tree. All of the above cases resulted in a criminal conviction for the guilty parties.

- 3.4 The Site Trees:** The site was inspected on 17 October 2017. Each tree has been given a unique number for this site and can be viewed on the Tree Protection Plan (Appendix 1). This plan is based on the Contour survey provided by Craven Elliston & Hayes (Dapto) Pty Limited marked A3-D217145 Rev A dated 26/5/17.
- 3.5** Trees 1-9 are located on the road verge of Bundah Place and Trees 10-36 are growing within the two (2) lots. Trees 1-9 are all in fair health and condition, with the exception of Tree 3 that is in heavy decline from borer attack. Of these trees growing on the road verge, Trees 2 and 3 are the least significant and a potential driveway could be located here (Plates 1 and 2).
- 3.6** The rest of the site trees are a mixture of native and exotic specimens. The most significant trees are some Cook Island Pine (*Araucaria columnaris*) and a Norfolk Island Pine (*Araucaria heterophylla*) and a Deodar Cedar (*Cedrus deodara*), three (3) Pecan trees and a large mature Jacaranda (*Jacaranda mimosifolia*). Palm species growing within the site are a mixture of native and exotic specimens. These consists of Bangalow Palm (*Archontophoenix cunninghamiana*), being the native palm and the exotic palms being Washington Palm (*Washingtonia robusta*) and Cocos Palm (*Syagrus romanzoffianum*).
- 3.7** There are mixture of smaller shrubs and domestic plantings across the site including Mulberry tree (*Morus sp.*), Japanese Maple (*Acer palmatum*), Giant Bird of Paradise (*Strelitzia Nicolai*) and Dwarf Date Palm (*Phoenix robellini*), Melaleuca (*Melaleuca bracteata*).

3.8 Exempt trees: Wollongong City Council lists several species of trees as being exempt from the provisions of the TMCP under Section 3 of the TMCP. Trees 11 and 30 are listed as an exempt species and do not require Council consent for removal.

3.9 Trees outside the site: There are no trees outside the site that will be affected by the proposed development. Several palm trees are growing along the adjoining boundary fence however as these are monocots they will tolerate a degree of disturbance (Plate 5).

3.10 Impacts: Final plans will be required to be prepared in accordance with the recommendations within this report. The assessment of the site trees was assessed against the proposed plans.

Tree 25 (Plate 3) is a large mature Pecan tree (*Carya illinoensis*) native to Mexico and the south-central and south-eastern regions of the United States. The Pecan tree is a large deciduous tree and the nuts can be eaten and the wood can be used for furniture. In order to retain this tree it would require a seven (7) metre TPZ set back. This would have a large impact on the building area for the site and as such this tree is required to be removed. The road verge trees that provide visual amenity to the street and privacy. These trees are numbered as 1, 6, 8 and 9. The other road verge trees that are in poor condition are Trees 2, 3 and 5.

Based on the proposed designs Trees 1, 4, 6-13, 32-35 are possible to retain. Trees numbered as 2, 3, 5, 14-31 are proposed to be removed for the development to occur.

4 RECOMMENDATIONS

- 4.1** Moore Trees is currently the nominated Project Arborist to oversee the arboricultural related works for the project. The Project Arborist should be used for arboricultural certification services and also used as a point of contact should any questions arise during the project. As specified in AS 4970, 2009, a Project Arborist is a person with a minimum Australian Qualification Framework (AQF) level 5 Diploma of Arboriculture or Horticulture qualification.
- 4.2** Based on the proposed designs Trees 1, 4, 6-13, 32-35 are possible to retain. Trees numbered as 2, 3, 5, 14-31 are proposed to be removed for the development to occur. The street trees to be retained will require minor tree protection measures to be installed prior to works occurring.
- 4.3** Service plans have been provided however the contractor undertaking the works should proceed with caution whilst working near TPZ areas for each tree to be retained. Should storm water lines need to be moved from their locations the new locations shall not encroach on any TPZ by more than 10%.
- 4.4** If there are any questions regarding how close a structure or path can be to any of the site trees, then Moore Trees shall be contacted.

5 TREE PROTECTION

- 5.1 Trees to be protected:** Trees 6, 8 and 9 will be required to be fenced for protection. All fencing shall be installed as specified in Section 5.2 (Tree Protection – Implementation of Tree Protection Zone). Indicative locations of the fencing are shown in the Tree Protection Plan (Appendix 1).
- 5.2 Implementation of Tree Protection Zone:** All tree protection works should be carried out before the start of demolition or building work. It is recommended that chain mesh fencing with a minimum height of 1.8 metres be erected as shown in the Tree Protection Plan (Appendix 1). Specifications for this fencing are shown in Tree Protection Fencing Specifications (Appendix 5). Indicative locations for the TPZ fencing can be seen in the Tree Protection Plan.
- 5.3 Individual trunk protection:** Trees 1 and 4 will require trunk protection. This is achieved by attaching lengths of timber (75mm x 50mm x 2000mm) fastened around the trunk. Geotextile fabric or carpet underlay shall be wrapped around the trunk prior to the timbers being attached. These timbers are to be fastened with hoop iron strapping and not attached directly into the bark of the tree. These timbers are only to be removed when all construction is complete.

5.4 Instructional videos: Alternatively, you can view the Moore Trees short instructional films on the links below. These films are a quick onsite reference for builders, project managers and architects.

Film #1, Trunk Protection

<https://www.youtube.com/watch?v=ehcFre6bp74>

Film #2, Tree Protection Fencing

<https://www.youtube.com/watch?v=ffMabxLN9nU>

5.5 The Tree Protection Zone (TPZ) and Structural Root Zone (SRZ): The TPZ is implemented to ensure the protection of the trunk and branches of the subject tree. The TPZ is based on the Diameter at Breast Height (DBH) of the tree. The SRZ is also a radial measurement from the trunk used to protect and restrict damage to the roots of the tree.

The Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) have been measured from the centre of the trunk. The following activities shall be avoided within the TPZ and SRZ of the trees to be retained;

- Erecting site sheds or portable toilets.
- Trenching, ripping or cultivation of soil (with the exception of approved foundations and underground services).
- Soil level changes or fill material (pier and beam or suspended slab construction are acceptable).
- Storage of building materials.
- Disposal of waste materials, solid or liquid.

- 5.6 Tree Damage:** If the retained trees are damaged a qualified Arborist should be contacted as soon as possible. The Arborist will recommend remedial action so as to reduce any long term adverse effect on the tree's health.
- 5.7 Signage:** Wollongong City Council requires that signage is attached to the tree protection fencing. A sample sign has been attached in Appendix 6. This sign may be copied and laminated then attached to any TPZ fencing.
- 5.8 Root Pruning:** If excavations are required within a TPZ this excavation shall be done by hand to expose any roots. Any roots under fifty (50) millimetres in diameter may be pruned cleanly with a sharp saw. Tree root systems are essential for the health and stability of the tree. A hand dig area can be seen in the Tree Protection Plan, Plan 2. Severed roots shall be treated with Steriprune®, available at most large Hardware Stores.
- 5.9 Arborist Certification:** Wollongong City Council requires the developer to supply Council or the Principal Certifying Authority with certification three (3) times during the construction phase of the development (as outlined in Council's Development Control Plan, 2009), in order to verify that retained trees have been correctly retained and protected as per the conditions of consent and Arborist's recommendations. The certification is to be conducted by a Qualified Consulting Arborist with AQF level 5 qualifications that has current membership with either Arboriculture Australia (AA) or Institute of Australian Consulting Arboriculturists (IACA).

Arborist certification is recommended:

- (1) Before the commencement of demolition or construction to confirm the application of mulch and fencing has been installed;
- (2) At mid point of the construction phase;
- (3) At completion of the construction phase.

If you have any questions in relation to this report please contact me.



Paul Vezgoff

Consulting Arborist

Dip Arb (Dist), Arb III, Hort cert, AA, ISA

4th December 2017

6 IMAGES



Plate 1: Council street trees growing along the road verge. P. Vezgoff.



Plate 2: Existing driveway entry between the street trees. P. Vezgoff.



Plate 3: Tree 25 a large mature Pecan, the largest tree on site. P. Vezgoff.



Plate 4: Tree 18 the Deodar cedar. P. Vezgoff.



Plate 5: Trees along the adjoining property to the south. P. Vezgoff.

Appendix 1

Plan 1

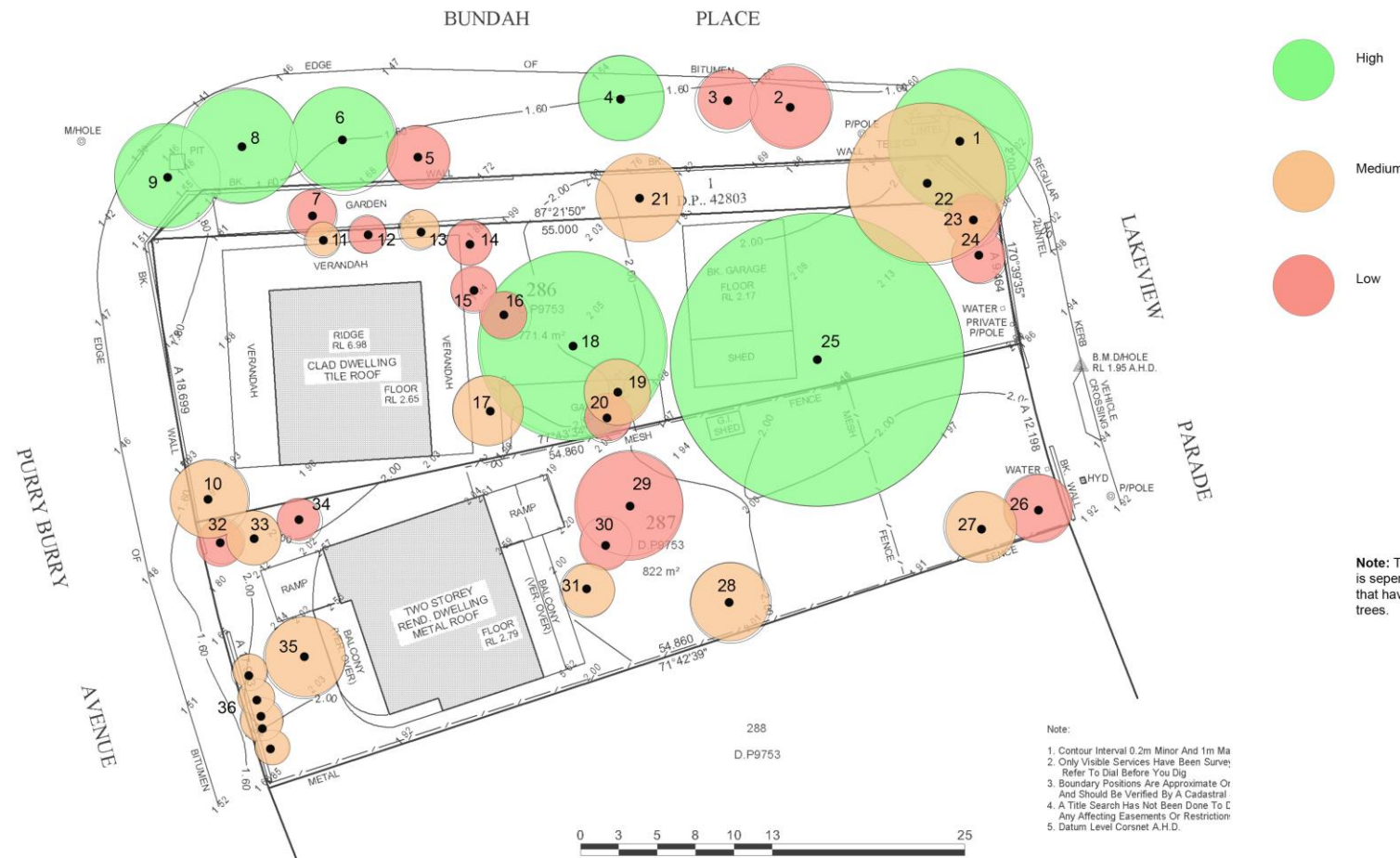
Tree Retention Value Plan

And

Tree Protection Plan



MOORE TREES



Note: The tree condition plan is separate to the SULE categories that have been allocated to the site trees.

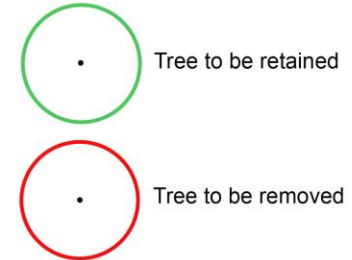
Note:

1. Contour Interval 0.2m Minor And 1m Major
2. Only Visible Services Have Been Surveyed
Refer To Dial Before You Dig
3. Boundary Positions Are Approximate Or
And Should Be Verified By A Cadastral Survey
4. A Title Search Has Not Been Done To Check
Any Affecting Easements Or Restrictions
5. Datum Level Corsnet A.H.D.

Date: 14.11.17
 Drawn: P.Vezgoff
 Site Address: Lakeview Parade
 Primbee NSW



Tree protection plan



Fence. Implementation of tree protection zone (TPZ). All tree protection works should be carried out before the start of demolition or building works. It is recommended that chain mesh fencing with a minimum height of 1.8 metres be erected

Trunk protection. Lengths of timber (75mm x 50mm x 2000) shall be fastened to the trunk or overhead branches that are greater than 80mm in diameter. These timbers are to be fastened with hoop iron strapping and not fixed directly onto the trunk of the tree.

Note:

1. Contour Interval 0.2m Minor And 1m Ma
2. Only Visible Services Have Been Surveyed Refer To Dial Before You Dig
3. Boundary Positions Are Approximate Or And Should Be Verified By A Cadastral
4. A Title Search Has Not Been Done To C Any Affecting Easements Or Restriction
5. Datum Level Corsnet A.H.D.



Date: 14.11.17
Drawn: P.Vezgoff
Site Address: Lakeview Parade
Primbee NSW

Appendix 2

Tree health & condition **assessment schedule**

TREE HEALTH AND CONDITION ASSESSMENT SCHEDULE – 192-194 Lakeview Parade, Primbee

Tree	Species	Height (m)	Spread (m)	DBH (m)	Live canopy %	Defects	SULE	Condition	Age	Comments	TPZ (m)	SRZ (m)
1	Broad leaved paperbark (Melaleuca quinquenervia)	16	5	0.6	90	No visual defects	2a May only live for 15-40 years	Good	Mature	Street tree	7.2	2.9
2	English oak (Quercus robur)	10	3.5	0.25	90	No visual defects	3b 5-15 but removed for safety or nuisance reasons.	Fair	Mature		3	1.9
3	Native daphne (Pittosporum undulatum)	7	3.2	0.15	30	No visual defects	4a Dead, dying or declining.	Poor	Mature		1.8	1.6
4	Broad leaved paperbark (Melaleuca quinquenervia)	16	5	0.6	70	No visual defects	2a May only live for 15-40 years	Good	Mature	Street tree	7.2	2.9
5	Native daphne (Pittosporum undulatum)	7	3.2	0.15	80	No visual defects	4a Dead, dying or declining.	Poor	Mature		1.8	1.6
6	Broad leaved paperbark (Melaleuca quinquenervia)	15	5	0.6	70	No visual defects	2a May only live for 15-40 years	Good	Mature	Street tree. Multi stemmed specimen	7.2	2.9
7	Native daphne (Pittosporum undulatum)	7	3.2	0.15	80	No visual defects	4a Dead, dying or declining.	Poor	Mature		1.8	1.6
8	Broad leaved paperbark (Melaleuca quinquenervia)	15	5	0.8	90	No visual defects	2a May only live for 15-40 years	Good	Mature	Street tree. Multi stemmed specimen	9.6	3.1
9	Broad leaved paperbark (Melaleuca quinquenervia)	7	3.5	0.5	90	No visual defects	2a May only live for 15-40 years	Good	Mature	Street tree.	6	2.8
10	Washingtonia robusta	17	3	0.3	95	No visual defects	2a May only live for 15-40 years	Good	Mature		3.6	1.9
11	Bangalow palm (Archontophoenix cunninghamiana)	9	2.5	0.2	95	No visual defects	1a >40 years	Good	Mature		2.4	1.6
12	Cocos palm (Syagrus romanzoffiana)	9	2.5	0.2	95	No visual defects	1a >40 years	Good	Mature		2.4	1.6
13	Bangalow palm (Archontophoenix cunninghamiana)	12	2.5	0.2	95	No visual defects	1a >40 years	Good	Mature		2.4	1.6

Tree	Species	Height (m)	Spread (m)	DBH (m)	Live canopy %	Defects	SULE	Condition	Age	Comments	TPZ (m)	SRZ (m)
14	Cocos palm (Syagrus romanzoffiana)	9	2.5	0.2	95	No visual defects	1a >40 years	Good	Mature		2.4	1.6
15	Washingtonia robusta	17	3	0.3	95	No visual defects	2a May only live for 15-40 years	Good	Mature		3.6	1.9
16	Cook Island Pine (Araucaria columnaris)	14	3.5	0.45	92	No visual defects	1a >40 years	Good	Mature		5.4	2.4
17	Cook Island Pine (Araucaria columnaris)	14	3.5	0.45	92	No visual defects	1a >40 years	Good	Mature		5.4	2.4
18	Deodar cedar (Cedrus deodara)	16	4.5	0.4	90	No visual defects	1a >40 years	Fair	Mature		4.8	2.4
19	Bangalow palm (Archontophoenix cunninghamiana)	11	2.5	0.2	95	No visual defects	1a >40 years	Good	Mature		2.4	1.6
20	Pecan (Carya illinoensis)	14	5	0.3	95	No visual defects	2c removed for more suitable planting	Good	Mature	Pecan	3.6	2.2
21	Jacaranda (Jacaranda mimosifolia)	13	5	0.6	90	No visual defects	2a May only live for 15-40 years	Fair	Mature		7.2	2.8
22	Pecan (Carya illinoensis)	14	5.5	0.45	92	No visual defects	1a >40 years	Good	Mature		5.4	2.6
23	Melaleuca styphelioides	3.5	2.5	0.3	95	No visual defects	3b 5-15 but removed for safety or nuisance reasons.	Fair	Mature		3.6	2.2
24	Melaleuca bracteata	4	2	0.2	80	No visual defects	3b 5-15 but removed for safety or nuisance reasons.	Fair	Mature		2.4	1.6
25	Pecan (Carya illinoensis)	17	7	0.6	90	No visual defects	1a >40 years	Good	Mature		7.2	2.8
26	Pecan (Carya illinoensis)	8	1.5	0.2	70	No visual defects	3b 5-15 but removed for safety or nuisance reasons.	Poor	Mature		2.4	1.6
27	English oak (Quercus robur)	9	4	0.3	95	No visual defects	1a >40 years	Good	Mature	Twin stems	3.6	2.2

Tree	Species	Height (m)	Spread (m)	DBH (m)	Live canopy %	Defects	SULE	Condition	Age	Comments	TPZ (m)	SRZ (m)
28	Bangalow palm (Archontophoenix cunninghamiana)	8	2.5	0.2	95	No visual defects	1a >40 years	Good	Mature		2.4	1.6
29	Norfolk Island Pine (Araucaria heterophylla)	10	4	0.45	95	No visual defects	2c removed for more suitable planting	Good	Mature		5.4	2.4
30	Chinese tallow tree (Triadica sebifera)	8	3	0.2	80	No visual defects	3c Removed for a better specimen.	Poor	Mature		2.4	1.6
31	Japanese maple (Acer palmatum)	4	2	0.5	92	No visual defects	5a Small tree <5 m in height.	Good	Mature		6	2.6
32	Crepe myrtle (Lagerstroemia indica)	3	2	0.1	80	No visual defects	5a Small tree <5 m in height.	Poor	Mature		1.2	1.2
33	Illawarra flame tree (Brachychiton acerifolius)	7	3	0.25	95	No visual defects	2a May only live for 15-40 years	Good	Mature		3	1.9
34	Native daphne (Pittosporum undulatum)	8	3.2	0.15	80	No visual defects	3c Removed for a better specimen.	Fair	Mature		1.8	1.6
35	White cedar (Melia azedarach)	7	3	0.2	95	No visual defects	2c removed for more suitable planting	Good	Mature		2.4	1.9
36	Cupresses sp.	5	2	0.2	95	No visual defects	2c removed for more suitable planting	Good	Mature	Row of six	2.4	1.9

KEY

Tree No: Relates to the number allocated to each tree for the Tree Protection Plan.

Height: Height of the tree to the nearest metre.

Spread: The average spread of the canopy measured from the trunk.

DBH: Diameter at breast height. An industry standard for measuring trees at 1.4 metres above ground level, this measurement is used to help calculate Tree Protection Zones.

Live Crown Ratio: Percentage of foliage cover for a particular species.

Age Class: Young:	Recently planted tree	Semi-mature:< 20% of life expectancy
Mature:	20-90% of life expectancy	Over-mature:>90% of life expectancy

SULE: See SULE methodology in the Appendix 3

Tree Protection Zone (TPZ): The minimum area set aside for the protection of the trees trunk, canopy and root system throughout the construction process. Breaches of the TPZ will be specified in the recommendations section of the report.

Structural Root Zone (SRZ): The SRZ is a specified distance measured from the trunk that is set aside for the protection of the trees roots both structural and fibrous.

Appendix 3

SULE categories (after Barrell, 2001)¹

SULE Category	Description
<i>Long</i>	<i>Trees that appeared to be retainable at the time of assessment for more than 40 years with an acceptable level of risk.</i>
1a	Structurally sound trees located in positions that can accommodate for future growth
1b	Trees that could be made suitable for retention in the long term by remedial tree care.
1c	Trees of special significance that would warrant extraordinary efforts to secure their long term retention.
<i>Medium</i>	<i>Trees that appeared to be retainable at the time of assessment for 15-40 years with an acceptable level of risk.</i>
2a	Trees that may only live for 15-40 years
2b	Trees that could live for more than 40 years but may be removed for safety or nuisance reasons
2c	Trees that could live for more than 40 years but may be removed to prevent interference with more suitable individuals or to provide for new planting.
2d	Trees that could be made suitable for retention in the medium term by remedial tree care.
<i>Short</i>	<i>Trees that appeared to be retainable at the time of assessment for 5-15 years with an acceptable level of risk.</i>
3a	Trees that may only live for another 5-15 years
3b	Trees that could live for more than 15 years but may be removed for safety or nuisance reasons.
3c	Trees that could live for more than 15 years but may be removed to prevent interference with more suitable individuals or to provide for a new planting.
3d	Trees that require substantial remedial tree care and are only suitable for retention in the short term.
<i>Remove</i>	<i>Trees that should be removed within the next five years.</i>
4a	Dead, dying, suppressed or declining trees because of disease or inhospitable conditions.
4b	Dangerous trees because of instability or loss of adjacent trees
4c	Dangerous trees because of structural defects including cavities, decay, included bark, wounds or poor form.
4d	Damaged trees that are clearly not safe to retain.
4e	Trees that could live for more than 5 years but may be removed to prevent interference with more suitable individuals or to provide for a new planting.
4f	Trees that are damaging or may cause damage to existing structures within 5 years.
4g	Trees that will become dangerous after removal of other trees for the reasons given in (a) to (f).
4h	Trees in categories (a) to (g) that have a high wildlife habitat value and, with appropriate treatment, could be retained subject to regular review.
<i>Small</i>	<i>Small or young trees that can be reliably moved or replaced.</i>
5a	Small trees less than 5m in height.
5b	Young trees less than 15 years old but over 5m in height.
5c	Formal hedges and trees intended for regular pruning to artificially control growth.

updated 01/04/01)

1 (Barrell, J. (2001) "SULE: Its use and status into the new millennium" in *Management of mature trees*, Proceedings of the 4th NAAA Tree Management Seminar, NAAA, Sydney.

Appendix 4

TPZ and SRZ methodology

Determining the Tree Protection Zone (TPZ)

The radius of the TPZ is calculated for each tree by multiplying its DBH x 12.

$$\text{TPZ} = \text{DBH} \times 12$$

Where

DBH = trunk diameter measured at 1.4 metres above ground

Radius is measured from the centre of the stem at ground level.

A TPZ should not be less than 2 metres no greater than 15 metres (except where crown protection is required.). Some instances may require variations to the TPZ.

The TPZ of palms, other monocots, cycads and tree ferns should not be less than 1 metre outside the crown projection.

Determining the Structural Root Zone (SRZ)

The SRZ is the area required for tree stability. A larger area is required to maintain a viable tree.

The SRZ only needs to be calculated when major encroachment into a TPZ is proposed.

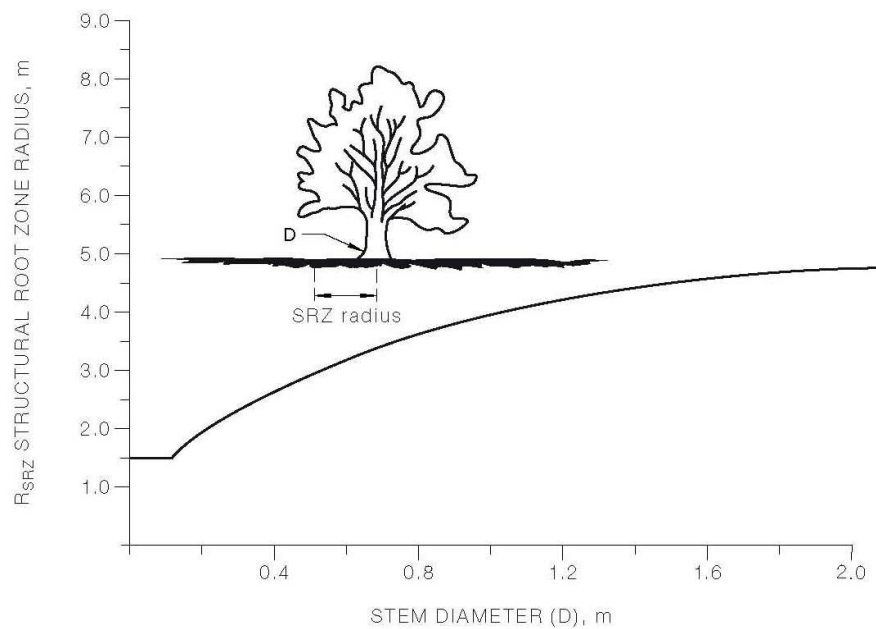
There are many factors that affect the size of the SRZ (e.g. tree height, crown area, soil type, soil moisture). The SRZ may also be influenced by natural or built structures, such as rocks and footings. An indicative SRZ radius can be determined from the trunk diameter measured immediately above the root buttress using the following formula or Figure 1. Root investigation may provide more information on the extent of these roots.

$$\text{SRZ radius} = (D \times 50)^{0.42} \times 0.64$$

Where

D = trunk diameter, in m, measured above the root buttress

NOTE: The SRZ for trees with trunk diameters less than 0.15m will be 1.5m (see Figure 1).



The curve can be expressed by the following formula:
 $R_{SRZ} = (D \times 50)^{0.42} \times 0.64$

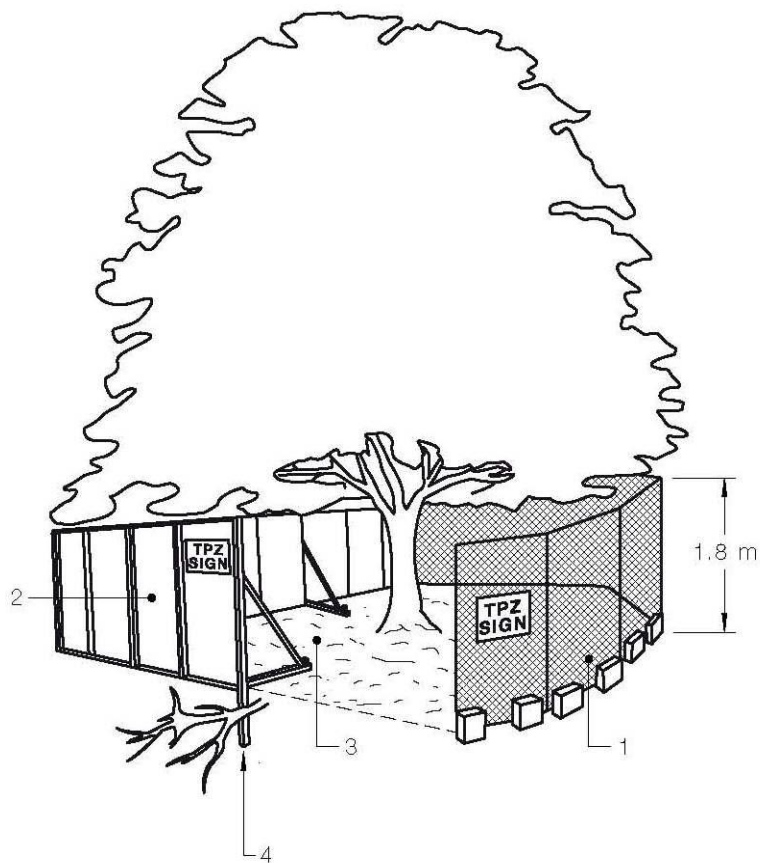
FIGURE 1 - STRUCTURAL ROOT ZONE

Notes:

- 1 R_{SRZ} is the structural root zone radius.
- 2 D is the stem diameter measured immediately above root buttress.
- 3 The SRZ for trees less than 0.15 metres diameter is 1.5 metres.
- 4 The SRZ formula and graph do not apply to palms, other monocots, cycads and tree ferns.
- 5 This does not apply to trees with an asymmetrical root plate.

Appendix 5

Tree protection fencing **specifications**



LEGEND:

- 1 Chain wire mesh panels with shade cloth (if required) attached, held in place with concrete feet.
- 2 Alternative plywood or wooden paling fence panels. This fencing material also prevents building materials or soil entering the TPZ.
- 3 Mulch installation across surface of TPZ (at the discretion of the project arborist). No excavation, construction activity, grade changes, surface treatment or storage of materials of any kind is permitted within the TPZ.
- 4 Bracing is permissible within the TPZ. Installation of supports should avoid damaging roots.

Figure 1: Protective fencing as specified in AS 4970, 2009.

Appendix 6

Tree protection sign **sign sample**

Tree Protection Zone

Fence not to be moved without approval from Arborist

Within this fence there is to be

NO

Storage of materials

Trenching or excavation

Washing of tools or equipment

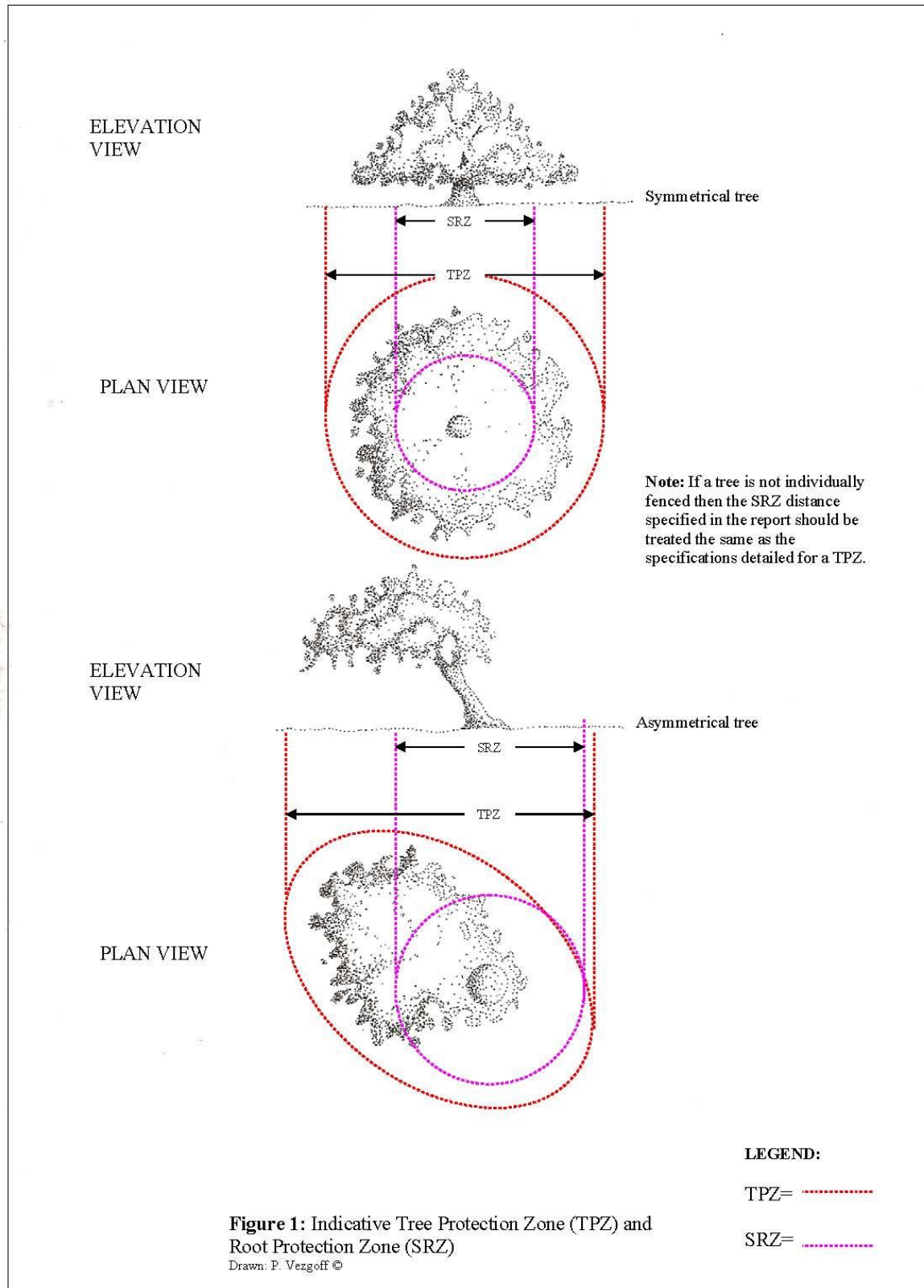
Tree Trunk Protection

Protection not to be removed until all construction works completed.

**Around the base of this tree there is to be
NO**

**Storage of materials
Trenching or excavation
Washing of tools or equipment**

Appendix 7



Appendix 8

Explanatory Notes

- **Mathematical abbreviations:** > = Greater than; < = Less than.
- **Measurements/estimates:** All dimensions are estimates unless otherwise indicated. Less reliable estimated dimensions are indicated with a '?'.
- **Species:** The species identification is based on visual observations and the common English name of what the tree appeared to be is listed first, with the botanical name after in brackets. In some instances, it may be difficult to quickly and accurately identify a particular tree without further detailed investigations. Where there is some doubt of the precise species of tree, it is indicated with a '?' after the name in order to avoid delay in the production of the report. The botanical name is followed by the abbreviation sp if only the genus is known. The species listed for groups and hedges represent the main component and there may be other minor species not listed.
- **Height:** Height is estimated to the nearest metre.
- **Spread:** The maximum crown spread is visually estimated to the nearest metre from the centre of the trunk to the tips of the live lateral branches.
- **Diameter:** These figures relate to 1.4m above ground level and are recorded in centimetres. If appropriate, diameter is measure with a diameter tape. 'M' indicates trees or shrubs with multiple stems.
- **Estimated Age:** Age is estimated from visual indicators and it should only be taken as a provisional guide. Age estimates often need to be modified based on further information such as historical records or local knowledge.
- **Distance to Structures:** This is estimated to the nearest metre and intended as an indication rather than a precise measurement.

Appendix 9

Bibliography

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Standards Australia Ltd

Sydney

Standards Australia, 2009. *Protection of trees on development sites*, AS 4970, 2009

Standards Australia Ltd

Sydney

Curriculum Vitae

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EDUCATION and QUALIFICATIONS

- 2007 – Diploma of Arboriculture (AQF Cert V) Ryde TAFE. (Distinction)
- 1997 – Completed Certificate in Crane and Plant Electrical Safety
- 1996 – Attained Tree Surgeon Certificate (AQF Cert II) at Ryde TAFE
- 1990 – Completed two month intensive course on garden design at the Inchbald School of Design, London, United Kingdom
- 1990 – Completed patio, window box and balcony garden design course at Brighton College of Technology, United Kingdom
- 1989 – Awarded the Big Brother Movement Award for Horticulture (a grant by Lady Peggy Pagan to enable horticulture training in the United Kingdom)
- 1989 – Attained Certificate of Horticulture (AQF Cert IV) at Wollongong TAFE

INDUSTRY EXPERIENCE

Moore Trees Arboricultural Services

January 2006 to date

Tree Consultancy and tree ultrasound. Tree hazard and risk assessment, Arborist development application reports
Tree management plans.

Woollahra Municipal Council

Oct 1995 to February 2008

ARBORICULTURE TECHNICAL OFFICER

August 2005 – February 2008

Tree asset management, programmed inspection, inventory and condition surveys of council trees, hazard and risk appraisal,
Tree root damage investigation and reporting, assessment of impacts of capital works projects on council trees.

ACTING COORDINATOR OF TREES MAINTENANCE

June – July 2005, 2006

Responsible for all duties concerning park and street trees. Prioritising work duties, delegation of work and staff supervision.

TEAM LEADER

January 2003 – June 2005

TEAM LEADER

September 2000 – January 2003

HORTICULTURALIST

October 1995 – September 2000

Northern Landscape Services

July to Oct 1995

Tradesman for Landscape Construction business

Paul Vezgoff Garden Maintenance (London, UK)

Sept 1991 to April 1995

CONFERENCES AND WORKSHOPS ATTENDED

- International Society of Arboriculture Conference (Canberra May 2017)
- QTRA Conference, Sydney Australia (November 2016)
- TRAQ Conference, Auckland NZ (October 2013)
- International Society of Arboriculture Conference (Brisbane 2008)
- Tree related hazards: recognition and assessment by Dr David Lonsdale (Brisbane 2008)
- Tree risk management: requirements for a defensible system by Dr David Lonsdale (Brisbane 2008)
- Tree dynamics and wind forces by Ken James (Brisbane 2008)
- Wood decay and fungal strategies by Dr F.W.M.R. Schwarze (Brisbane 2008)
- Tree Disputes in the Land & Environment Court – The Law Society (Sydney 2007)
- Barrell Tree Care Workshop- Trees on construction sites (Sydney 2005).
- Tree Logic Seminar- Urban tree risk management (Sydney 2005)
- Tree Pathology and Wood Decay Seminar presented by Dr F.W.M.R. Schwarze (Sydney 2004)
- Inaugural National Arborist Association of Australia (NAAA) tree management workshop- Assessing hazardous trees and their Safe Useful Life Expectancy (SULE) (Sydney 1997).

Attachment 6 – Draft conditions of consent

Approved Plans and Specifications

- 1) The development shall be implemented substantially in accordance with the details and specifications set out on the following plans
Building Footprint & Trees Plan 17_46 dated 19 February 2018 prepared by JMH Living Design
Proposed Torrens Title Subdivision 17_46 dated 19 February 2018 prepared by JMH Living Design
Existing Lots 17_46 dated 19 February 2018 prepared by JMH Living Design
and any details on the application form, and with any supporting information received, except as amended by the conditions specified and imposed hereunder.

General Matters

- 2) **Tree Retention / Removal**
Tree retention/protection
Tree numbered 1, 4, 6, 7-13 identified on Building Footprint & Trees Plan 17_46 dated 19 February 2018 prepared by JMH Living Design are to be retained.

All recommendations in the Arborist's Report by Moore Trees dated 23 January 2018 are to be implemented including and not restricted to: remedial tree pruning, dead-wooding, fencing and signage, sediment buffer, stem protection, establishing tree protection zones and watering and root hormone application if required.

Any branch pruning, which has been given approval, must be carried out by a qualified arborist in accordance with Australian Standard AS4373-2007.

All tree protection measures are to be installed in accordance with Australian standard AS4790-2009 Protection of Trees on development Sites.

Tree removal
Tree numbered 2, 3, 5, 14-18 and 25 identified on Building Footprint & Trees Plan 17_46 dated 19 February 2018 prepared by JMH Living Design are authorised to be removed.
- 3) **Property Addressing Policy Compliance**
Prior to the issue of any Subdivision Certificate, the developer must ensure that any site addressing complies with Council's **Property Addressing Policy** (as amended). Where appropriate, the developer must also lodge a written request to Council's **Infrastructure Systems & Support – Property Addressing** (propertyaddressing@wollongong.nsw.gov.au), for the site addressing prior to the issue of the construction certificate. Enquiries regarding property addressing may be made by calling 4227 8660.

Prior to the Commencement of Works

- 4) **Sign – Supervisor Contact Details**
Before commencement of any work, a sign must be erected in a prominent, visible position:
 - a) stating that unauthorised entry to the work site is not permitted;
 - b) showing the name, address and telephone number of the Principal Certifying Authority for the work; and
 - c) showing the name and address of the principal contractor in charge of the work site and a telephone number at which that person can be contacted at any time for business purposes.
This sign shall be maintained while the work is being carried out and removed upon the completion of the construction works.

5 **Enclosure of the Site**

The site must be enclosed with a suitable security fence to prohibit unauthorised access, to be approved by the Principal Certifying Authority. No building work is to commence until the fence is erected.

6) **Demolition Works**

Demolition shall be carried out in accordance with Australian Standard AS2601 (2001): The Demolition of Structures or any other subsequent relevant Australian Standard and the requirements of the SafeWork NSW.

No demolition materials shall be burnt or buried on-site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Any unforeseen hazardous and/or intractable wastes shall be disposed of to the satisfaction of the Principal Certifying Authority. In the event that the demolition works may involve the obstruction of any road reserve/footpath or other Council owned land, a separate application shall be made to Council to enclose the public place with a hoarding or fence over the footpath or other Council owned land.

7 **Demolition Notification to Surrounding Residents**

Demolition must not commence unless at least 2 days written notice has been given to adjoining residents of the date on which demolition works will commence.

8 **Contaminated Roof Dust**

Any existing accumulations of dust in ceiling voids and wall cavities must be removed prior to any demolition work commencing. Removal must take place by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter.

9 **Application for Occupation, Use, Disturbance or Work on Footpath/Roadway**

Any occupation, use, disturbance or work on the footpath or road reserve for construction purposes, which is likely to cause an interruption to existing pedestrian and / or vehicular traffic flows requires Council consent under Section 138 of the Roads Act 1993. An application must be submitted and approved by Council prior to the works commencing where it is proposed to carry out activities such as, but not limited to, the following:

- a Digging or disruption to footpath/road reserve surface;
- b Loading or unloading machinery/equipment/deliveries;
- c Installation of a fence or hoarding;
- d Stand mobile crane/plant/concrete pump/materials/waste storage containers;
- e Pumping stormwater from the site to Council's stormwater drains;
- f Installation of services, including water, sewer, gas, stormwater, telecommunications and power;
- g Construction of new vehicular crossings or footpaths;
- h Removal of street trees;
- i Carrying out demolition works.

During Demolition, Excavation or Construction

10 **Copy of Consent to be in Possession of Person carrying out Tree Removal**

The applicant/developer must ensure that any person carrying out tree removal/vegetation clearance is in possession of this development consent and/or the approved landscape plan, in respect to the trees/vegetation which have/has been given approval to be removed in accordance with this consent.

11 **Asbestos Waste Collection, Transportation and Disposal**

Asbestos waste must be prepared, contained, transported and disposed of in accordance with SafeWork NSW and NSW Environment Protection Authority requirements. Asbestos waste must only be disposed of at a landfill site that can lawfully receive this type of waste. A receipt must be retained and submitted to the Principal Certifying Authority, and a copy submitted to Council (in the event that Council is not the Principal Certifying Authority), prior to commencement of the construction works.

12 Provision of Waste Receptacle

The developer must provide an adequate receptacle to store all waste generated by the development, pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and re-usable materials.

13 Restricted Hours of Construction Work

The developer must not carry out any work, other than emergency procedures, to control dust or sediment laden runoff outside the normal working hours, namely, 7.00 am to 5.00 pm, Monday to Saturday, without the prior written consent of the Principal Certifying Authority and Council. No work is permitted on public holidays or Sundays.

Any request to vary these hours shall be submitted to the **Council** in writing detailing:

- a the variation in hours required (length of duration);
- b the reason for that variation (scope of works);
- c the type of work and machinery to be used;
- d method of neighbour notification;
- e supervisor contact number;
- f any proposed measures required to mitigate the impacts of the works.

Note: The developer is advised that other legislation may control the activities for which Council has granted consent, including but not limited to, the Protection of the Environment Operations Act 1997.

Prior to the Issue of the Subdivision Certificate

14 Existing Easements

All existing easements must be acknowledged on the final subdivision plan.

15 Existing Restriction as to Use

All existing restriction on the use of land must be acknowledged on the final subdivision plan.

16 Encroaching Pipes

A minimum one (1) metre wide easement to drain water shall be created over any encroaching drainage pipes.

For all drainage easements proposed over the subject lots, a works as executed/survey plan of all stormwater drainage within the site is to be submitted with the Subdivision Certificate Application to confirm this.

17 88B Instrument Easements/Restrictions

Any easements or restrictions required by this consent must nominate Wollongong City Council as the authority to vary, modify or release/extinguish the easements or restrictions. The form of the easement(s) or restriction(s) created as a result of this consent must be in accordance with the standard format for easements and restrictions as accepted by the Land and Property Information Office.

18 Final Documentation Required Prior to Issue of Subdivision Certificate

The submission of the following information/documentation to the Principal Certifying Authority, prior to the issue of a Subdivision Certificate:

- a Completed Subdivision Certificate application form and fees in accordance with Council's fees and charges;

- b Administration sheet prepared by a registered surveyor;
- c Section 88B Instrument covering all necessary easements and restrictions on the use of any lot within the subdivision;
- d Final plan of Subdivision prepared by a registered surveyor plus four (4) equivalent size paper copies of the plan;
- e Original Subdivider/Developer Compliance Certificate pursuant to Section 73 of the Water Board (Corporatisation) Act 1994 from Sydney Water;
- f Original Notification of Arrangement from an Endeavour Energy regarding the supply of underground electricity to the proposed allotments;
- g Original Compliance Certificate from Telstra or another Telecommunications Service Provider which confirms that the developer has consulted with the Provider with regard to the provision of telecommunication services for the development.
- h Payment of section 94 fees (Pro rata) (if applicable).

Attachment 7 – WDCP 2009 compliance table

CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

There are no concerns with regard to the principles of Ecologically Sustainable Development.

CHAPTER B2 – RESIDENTIAL SUBDIVISION

5 Subdivision design - topography, natural landform & significant vegetation

(a) To ensure the design of any proposed residential subdivision takes into account inherent site constraints and natural landform features.

(b) To ensure that the design of any proposed residential subdivision takes into account any significant trees or other vegetation upon the subject site, including any endangered ecological community or threatened species.

Satisfactory

The proposal does involve tree removal and an arborist report was submitted with the application. This has been reviewed by Council's Landscape Officer and found to be satisfactory as the trees to be removed are not significant specimens.

6 Subdivision lot layout – aspect & solar access orientation

(a) To ensure residential lots are well designed to take into account aspect, orientation, slope issues and optimal solar access.

(b) To provide residential lots which maximises solar access and energy efficiency opportunities for future dwellings and private open space areas.

Both lots will have northerly aspect.

7 Minimum allotment size requirements

See discussion at clause 4.6 of WLEP above.

8 Lot width & depth requirements

A minimum 12 metre lot width
minimum depth of 25m

Complies

Proposed lot 2 complies. See variation statement at Chapter A1 above in respect of a variation to this requirement for proposed lot 1.

9 Battle-axe allotments

N/A

10 Building envelopes

Council may require residential lots to provide a specific rectangular building envelope with minimum dimensions of 15 metres (depth) x 10 metres (width), where the subject site contains any inherent site constraint(s) (e.g. flooding, geotechnical constraints etc.) or contains significant remnant vegetation, any threatened flora species, endangered ecological community etc. Any such building envelope shall be exclusive of the required setback requirements for a dwelling house as per Chapter B1: Residential Development.

Proposed lot 1 contains an existing dwelling. Proposed lot 2 would be 450m² and is vacant. Constraints impacting on that proposed lot are trees and flooding. In respect of the existing trees, those located where they would impact on a potential future building footprint are to be removed. An arborist report has been provided in this regard which has been reviewed by Council's Landscape architect as satisfactory.

In respect of flooding, any future dwelling would be required to be constructed above the flood level. Whilst this would have implications for the future built form, it would not preclude a building footprint being

11 Staging of major residential subdivisions

N/A

12 Superlots in residential subdivisions for integrated housing or medium density housing

N/A

13 Cut and fill land re-shaping works

N/A

14 Public reserves

N/A

15 Pedestrian and cycle way networks

N/A

16 Acoustic fencing

N/A

17 Street tree planting

N/A

18 Entry statements

N/A

19 Road connectivity, permeability and legibility

N/A

20 Road network - road hierarchy

N/A

21 Road design requirements - road types and characteristics of roads in residential road networks

N/A

22 Requirements for new road, drainage works and infrastructure construction

N/A

23 Requirement for upgrading of poorly constructed or unformed public roads

N/A

24 Bus routes

N/A

achieved on that lot.

That lot would also be required to have a 6m setback from Lakeview Parade, a 3m secondary setback from Bundah Place, a minimum 900mm setback from the south and west boundary as well as being single storey within 8m from the rear (western boundary). These general built form requirements are considered to be achievable.

A 15m x 10m is not considered necessary under the circumstances.

25 Residential cul-de-sacs & turning heads

N/A

26 Roundabouts

N/A

27 Road junction spacing

N/A

28 Traffic calming devices

N/A

29 Traffic control devices & signs

N/A

30 Splay corners

N/A

31 Street lighting

N/A

32 Restricted access to arterial or sub arterial roads

N/A

33 NSW fire brigade access - fire hydrants

1. All allotments created must be within 60 metres to a fire hydrant in accordance with Australian Standard AS 2419.

34 Bush fire protection

N/A

35 Stormwater drainage (including water sensitive urban design infrastructure)

N/A

36 Riparian land management

N/A

37 Servicing arrangements

(a) To ensure the provision of infrastructure servicing / utilities is carried out in accordance with the requirements of Council and the relevant infrastructure servicing authority.

(b) To maximise the opportunities for shared (common) trenching and to reduce constraints on landscaping within road reserve verges.

38 Monetary contributions towards the provision of public services and amenities

N/A

39 Road Naming

N/A

40 Street numbering

1. Poor or inadequate house numbering (or even no numbering at all) can seriously hamper emergency services in the performance of their duties.

Both lots have direct frontage to the road and are accessible for fire fighting vehicles.

The new lot can be adequately serviced.

Conditions of consent are recommended in regard to street numbering.

2. Street / property numbering shall be clearly and permanently displayed on the kerb to identify the street number to essential / emergency services.
 3. Numbers should be a minimum 100 mm high x 50 mm wide and of a colour contrasting with the surface to which they are affixed. Numbers should be maintained in a clear condition at all times by property owners or occupiers.
-

CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT

The existing dwelling will be provided with two car parking spaces accessible via a driveway from Bundah Place.

Both lots have street frontage from which waste servicing can occur.

CHAPTER E13 FLOODPLAIN MANAGEMENT

The land is identified as being within a medium flood risk precinct which would not preclude future dwelling construction. Any dwelling on the newly created lot would be subject to a full assessment in respect of flooding and floor levels.

Council's Stormwater Officer has reviewed the proposal in respect of the requirements of this chapter and has provided a satisfactory referral subject to conditions of consent.

CHAPTER E14 STORMWATER MANAGEMENT

Stormwater from both lots can be connected to the street.