



**KU-RING-GAI LOCAL PLANNING PANEL MEETING
TO BE HELD ON MONDAY, 19 MAY 2025 AT 11.30 AM
BY ZOOM CONFERENCING**

Item GB.1 will be determined offline as this item does not fit the criteria for a public meeting (it is not contentious – does not have more than 10 objectors). This item will be determined and published on Council's website after 48 hours of the closing of the determination meeting.

AGENDA

** ** *

NOTE: For Full Details, See Council's Website –
www.krg.nsw.gov.au under the link to business papers

APOLOGIES

DECLARATIONS OF INTEREST

GENERAL BUSINESS

GB.1 **9 BUNDABAH AVENUE, ST IVES - Demolition of structures and Torrens title subdivision of one lot into two lots**

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File: EDA0563/24

Demolition of structures and Torrens title subdivision of one lot into two lots

RECOMMENDATION

THAT the Ku-ring-gai Local Planning Panel, exercising the functions of Ku-ring-gai Council, as the consent authority, pursuant to Section 4.16 of the Environment Planning and Assessment Act 1979, being satisfied that the proposed development would be in the public interest, grant development consent to eDA0563/24 for demolition of structures and Torrens title subdivision of one lot into two lots at 9 Bundabah Avenue, St Ives, subject to conditions as recommended in the Development Assessment Report (**Attachment A1**). Pursuant to Section 4.53 of the Environmental Planning and Assessment Act 1979, this consent lapses if the approved works are not physically commenced within five years of the date of the Notice of Determination.

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DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	9 BUNDABAH AVENUE, ST IVES - DEMOLITION OF STRUCTURES AND TORRENS TITLE SUBDIVISION OF ONE LOT INTO TWO LOTS
ITEM/AGENDA NO:	GB.1

APPLICATION NO:	eDA0563/24
ADDRESS:	9 Bundabah Avenue, St Ives
WARD:	St Ives
DESCRIPTION OF PROPOSAL:	Demolition of structures and Torrens title subdivision of one lot into two lots
APPLICANT:	Corona Projects Pty Ltd
OWNER:	Doctor PG Valanju
DATE LODGED:	23 December 2024
SUBMISSIONS:	Nil
ASSESSMENT OFFICER:	Bonnie Yue
RECOMMENDATION:	Approval

KLPP REFERRAL CRITERION:	Greater than 10% departure from development standards (Lot size and Lot width)
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PURPOSE OF REPORT

To determine Development Application No. eDA0563/24 for 9 Bundabah Avenue, St Ives.

This application is reported to the Ku-ring-gai Local Planning Panel for determination as it proposes a departure from development standards in excess of 10% in accordance with the Minister's S 9.1 Local Planning Panels Direction, dated 23 February 2018.

RECOMMENDATION

THAT the Ku-ring-gai Local Planning Panel, exercising the functions of Ku-ring-gai Council, as the consent authority, pursuant to Section 4.16 of the Environment Planning and Assessment Act 1979, being satisfied that the proposed development would be in the public interest, grant development consent to eDA0563/24 for demolition of structures and Torrens title subdivision of one lot into two lots at 9 Bundabah Avenue, St Ives, subject to conditions as recommended in the Development Assessment Report (**Attachment A1**). Pursuant to Section 4.53 of the Environmental Planning and Assessment Act 1979, this consent lapses if the approved works are not physically commenced within five years of the date of the Notice of Determination.

Bonnie Yue
Senior Development Assessment Officer

Brent Pearce
Executive Assessment Officer

Shaun Garland
Manager Development Assessment Services

Michael Miocic
Director Development & Regulation

Attachments:	A1	Development Assessment Report	2025/028567
	A2	Location Sketch	2025/126174
	A3	Zoning Sketch	2025/126200
	A4	Demolition plan and subdivision plans	2025/108505
	A5	Stormwater management plan	2025/108506
	A6	Arborist report	2025/108507
	A7	Clause 4.6 Variation Request- Minimum Lot Size	2025/077140
	A8	Clause 4.6 Variation Request- Minimum Lot width	2025/077141
	A9	Survey Plan	2024/402767



DEVELOPMENT APPLICATION

ASSESSMENT REPORT

REPORT TITLE	9 Bundabah Avenue, St Ives - Demolition of existing structures and Torrens title subdivision of one lot into two lots.
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APPLICATION NO	eDA0563/24
PROPERTY DETAILS	9 Bundabah Avenue, St Ives Lot 1 DP 218828 1429.00m ² R2 Low Density Residential
WARD	St Ives
PROPOSAL/PURPOSE	Demolition of existing structures and Torrens title subdivision of one lot into two lots.
TYPE OF DEVELOPMENT	Local
APPLICANT	Corona Projects Pty Ltd
OWNER	Dr PG Valanju
DATE LODGED	23 December 2024
RECOMMENDATION	Approval

PURPOSE OF REPORT

To determine Development Application No eDA0563/24, which seeks consent for demolition of existing structures and Torrens title subdivision of one lot into two lots.

This application is reported to the Ku-ring-gai Local Planning Panel for determination in accordance with the Minister's Section 9.1 Local Planning Panels Direction, as it proposes departures from numerical development standards (minimum lot size and minimum lot width) in excess of 10%.

INTEGRATED PLANNING AND REPORTING

Places, Spaces & Infrastructure

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
P2.1 A robust planning framework is in place to deliver quality design outcomes and maintain the identity and character of Ku-ring-gai	Applications are assessed in accordance with state and local plans.	Assessments are of a high quality, accurate and consider all relevant legislative requirements.

EXECUTIVE SUMMARY

Issues	Lot size Lot width
Submissions	No submissions
Land and Environment Court	Not applicable
Recommendation	Approval

HISTORY

Site history

The site has a history of residential use.

Previous applications history

A Pre-DA consultation was not undertaken with Council prior to the lodgement of this Development Application.

Current Development Application History

Date	Action
23 December 2024	Application lodged.
10 December 2024	The application was notified to neighbouring property owners for a period of 14 days. No submissions were received.

11 February 2025	<p>Council sent a preliminary assessment letter to the applicant seeking additional information as follows:</p> <p>Water management The drainage system for Lot 1 will connect into the drainage system for Lot 2, prior to discharging to kerb and gutter. This is not supported as an easement will need to be created. The plan should be amended such that Lot 1 can discharge independently to the kerb and gutter directly without an easement created.</p> <p>Vehicular access The crossing is measured to be 3.9 metres wide at property boundary, which does not satisfy the maximum 3.5 metres width under Part 4B.1 of the KDCP. The width of the crossing should be amended accordingly.</p> <p>Services Utility services for both lots, particularly the sewer main/ line to service the allotments, are to be depicted in the architectural plans. It is recommended that the applicant consult with Sydney Water regarding the extent of works required as part of any Compliance Certificate.</p>
13 February 2025	<p>The applicant responded to Council's preliminary assessment letter and submitted amended plans. The amended plans contained the following:</p> <ul style="list-style-type: none"> • Revised stormwater management plan showing each lot will drain independently to the street without the need for an easement; and • Revised architectural plans demonstrating proposed services on Lot 1 and 2. • The applicant clarified that no new driveway is proposed for Lot 2 and the existing driveway and crossing were to be retained.
4 March 2025	<p>Council issued a request for additional information via the Planning Portal for revised separate Clause 4.6 requests for the two variations (minimum lot size and minimum lot width).</p>
13 March 2025	<p>The applicant provided two separate revised Clause 4.6 variation requests for minimum lot width and minimum lot size, along with a revised statement of environmental effects.</p>

THE PROPOSAL

The application proposes demolition of existing structures on the site and Torrens title subdivision of one lot into two lots.

Torrens title subdivision of 1 lot into 2 lots proposes –

- i. Lot 1 - site area – 695.5m²

ii. Lot 2 - site area – 737m²

The proposal also includes:

- Construction of a new driveway on Lot 1 to provide vehicular access to the site from Bundabah Avenue;
- Removal of one street tree and two trees on site.

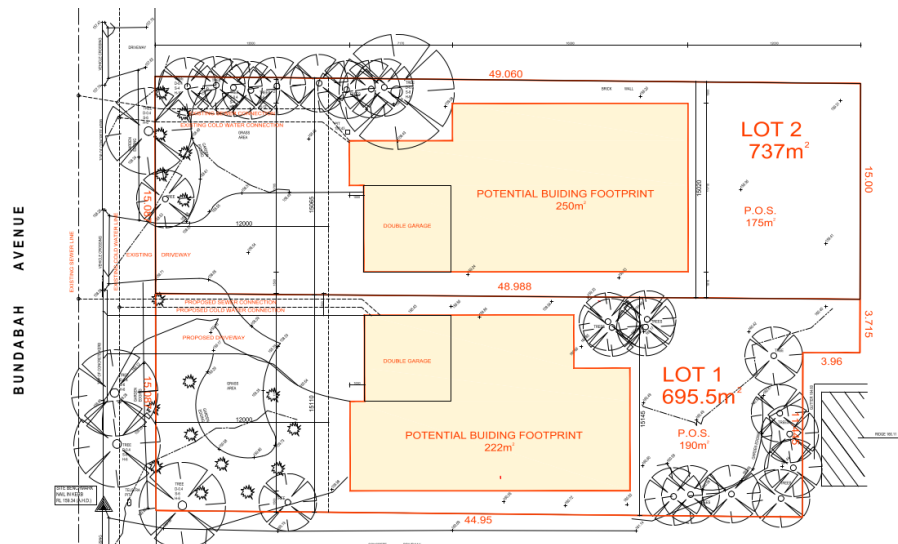


Figure 1: Proposed subdivision

THE SITE

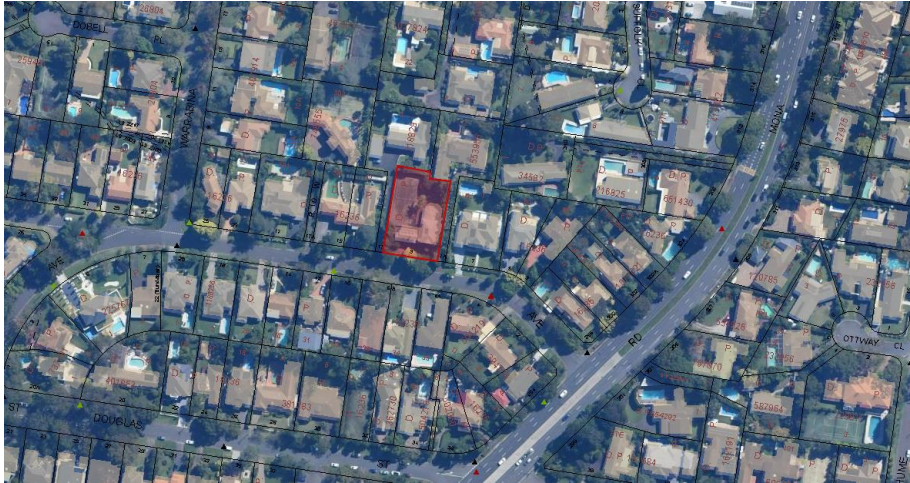


Figure 2: Aerial view of subject site, as outlined and shaded in red and surrounding properties

Site description

The subject site is described as Lot 1 in DP 218828 and is known as 9 Bundabah Avenue, St Ives. The site is irregular in shape, with a frontage of approximately 30.175 metres to Bundabah Avenue. Having an average depth of 47.005 metres and a total area of 1433m² (by survey), the site falls from the rear south-eastern corner to the front south-western corner of the site. Located on the northern side of Bundabah Avenue, the site is positioned on the high side of the street.

The site currently accommodates what predominantly presents as a two storeys dwelling of brick construction with a pitched tiled roof (**Figure 3**). The site is also occupied by a tennis court within the rear setback (**Figure 4**).

Constraint:	Application:
Visual character study category	1945-1968
Easements/rights of way	No
Heritage Item - Local	No
Heritage Item - State	No
Heritage conservation area	No
Within 100m of a heritage item	No
Bush fire prone land	No
Natural Resources Biodiversity	No
Natural Resources Greenweb	No
Natural Resources Riparian	No
Within 25m of Urban Bushland	No
Contaminated land	No



Figure 3: The subject site when viewed from Bundabah Avenue



Figure 4: The rear of the subject site

Surrounding development

The site is surrounded by low density residential development. The subdivision pattern in the immediate locality consists predominantly of rectilinear allotments, though some battle-axe and irregularly shaped allotments are also evident.

The adjoining properties to the west and east side are known as No. 11 Bundabah Avenue and 7A Bundabah Avenue and are both battle-axe lots. Development on these properties consists of dwelling houses.

Properties located further to the west and east at Nos 3, 5, 7, 15, 17A, 17, 23, and 25 have lot sizes ranging from 787.5m² to 1,429m². Properties to the south, across Bundabah Avenue from Nos 4a to 16, are each approximately 746m² in area.

CONSULTATION

Community

In accordance with Appendix 1 of the Ku-ring-gai Community Participation Plan, owners of surrounding properties were given notice of the application. No submissions were received.

Internal Referrals

Landscaping

Council's Team Leader Landscape, Tree and Ecological Assessment commented on the proposal as follows:

Landscape Referral

Part 3A.4 Trees and Vegetation

Control 1 indicates that any subdivision or consolidation development is to maximise the retention of, and minimise the impacts on existing significant trees and vegetation on or adjacent to the site.

The proposal includes the removal of two trees, Tree 3 Backhousia citriodora street tree, and Tree 6 indicated as Thuja occidentalis located within the site frontage of proposed Lot 2

The removal of the above trees is acceptable because neither are large specimens of wide landscape significance nor are significant trees, as defined within KDCP.

The location of the crossing and driveway for proposed Lot 1, will impact Tree 1 and Tree 6. The location is reasonable because it avoids two more significant street trees.

No other vegetation on this site is impacted or is required to be removed.

The above landscape referral comments have been considered and it is agreed that the proposed development is satisfactory in relation to the relevant provisions under the DCP. The proposed tree removal and landscaping is acceptable, subject to conditions. The proposal therefore satisfies the relevant objectives and controls under Parts 3A.4, 4A.2, 4A.4 and 13 of the KDCP.

Recommendation

The proposal is acceptable, subject to conditions.

Engineering

Council's Development Engineer commented on the proposal as follows:

Water management

According to Ku-ring-gai DCP Part 24 'Water Management', the proposal is identified as being a Type 8 'Subdivision' (boundary adjustment) development within a Location 'A' (drains to the street). The site is outside of the flood extents. A flood report is not required.

The subject property has a moderate fall from the eastern side to the western side. The site currently consists of a single lot with an area of 1433m². The proposed subdivision will result in lot size areas of 737m² and 695.5m².

Amended Drainage Concept Plan, prepared by KD Stormwater Pty Ltd, has been submitted. Indicative building footprints have been shown that shows each allotment being able to drain independently to the kerb and gutter. Stormwater management including onsite detention and retention for the sites will be provided as part of the future development of each lot.

The site falls within a regulated catchment. The proposal includes appropriate stormwater measures to minimise any adverse impacts on the regulated catchment. The proposal is satisfactory regarding Chapter 6 'Water Catchments' of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.

The proposed development has been assessed against Clause 6.5 (Stormwater and Water Sensitive Urban Design) of KLEP 2015. As the requirements of Part 24 (Water Management) of KDCP have been met, the proposed development satisfactorily meets the relevant provisions of Clause 6.5 of KLEP 2015.

As part of the subdivision works, the 600 x 600 millimetres stormwater boundary pits and outlet to the kerb (except the OSD/OSR) are to be constructed. A roads opening permit will be required.

Vehicular site access

The existing driveway crossing for Lot 2 is to be retained. The proposed driveway crossing for proposed Lot 1 is measured to be 2.7 metres at property boundary, which is satisfactory. No garage levels or civil longitudinal sections are provided as part of the submission package. The driveway grade and transition cannot be assessed at this stage but will be unlikely to cause concerns given the moderate site grading.

The driveway crossover for proposed Lot 1 is to be constructed with the subdivision works.

Plan of subdivision

A preliminary plan of subdivision has been submitted which is acceptable for DA purposes.

A Section 73 (Sydney Water) Compliance Certificate for subdivision would be required as part of DA condition.

Connection to services

Utility services for both lots particularly the sewer main/line to service the allotments have now been depicted in the architectural plans

Recommendation

*The proposal is acceptable, subject to conditions (**Conditions 14, 19, 20, 33, 44, 55, 56, 58, 59, 60, 62, 63 and 64**).*

The above engineering referral comments have been considered and it is agreed that the proposed development is satisfactory in relation to the relevant provisions under the DCP. The development also provides water sensitive urban design measures and services and is therefore consistent with Clause 6.5 of KLEP 2015. There are discrepancies in the lot sizes and dimensions shown on the stormwater plan. The approved stormwater plan must be amended to ensure consistency with the approved subdivision plan. This requirement can be addressed via a condition (**Condition 14**).

STATUTORY PROVISIONS**State Environmental Planning Policy (Resilience and Hazards) 2021 - Chapter 4
Remediation of land**

The provisions of Chapter 4 require Council to consider the potential for a site to be contaminated. The subject site has a history of residential use and as such, it is unlikely to contain any contamination consequently further investigation is not warranted in this case.

Draft State Environmental Planning Policy (Remediation of Land)

The draft SEPP is a relevant matter for consideration as it is an Environmental Planning Instrument that has been placed on exhibition. New provisions will be added in the SEPP to:

- *require all remediation work that is to be carried out without development consent, to be reviewed and certified by a certified contaminated land consultant*
- *categorise remediation work based on the scale, risk and complexity of the work*
- *require environmental management plans relating to post-remediation management of sites or ongoing operation, maintenance and management of on-site remediation measures (such as a containment cell) to be provided to Council*

The site is unlikely to contain contamination given its historical residential use, consequently further investigation is not warranted in this case.

**State Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 6
Water catchments**

The provisions of Clause 6.6 'Water quality and quantity' have been considered in the assessment of the proposal. The proposal includes measures to capture and minimise

stormwater run-off from the site that would adversely impact upon any natural waterbody or the regulated catchment. The proposal is consistent with the provisions of Clause 6.6 and Chapter 6 of the SEPP.

Local Content

Ku-ring-gai Local Environmental Plan 2015

Clause 1.2 Aims of the Plan

The proposal has been assessed against the relevant Aims of the Plan. The proposal is consistent with the Aims for the reasons given within this assessment report.

Zoning and permissibility:

The site is zoned R2 Low Density Residential under KLEP 2015.

The proposed development seeks the Torrens title subdivision of one lot into two lots. Torrens title subdivision is permissible with development consent pursuant to Clause 2.6 of the KLEP 2015.

The remaining proposed works in addition to the subdivision, including demolition of the existing dwelling, associated structures and tree removal are permissible.

Zone objectives:

The objectives of this zone are:

- *To provide for the housing needs of the community within a low-density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for housing that is compatible with the existing environmental and built character of Ku-ring-gai.*

The proposed development is consistent with the objectives of the zone because it facilitates additional housing in a low-density residential area and is capable of supporting housing that could be compatible with the built and natural character. Alternatively, the newly created lots could also facilitate other land uses that could provide for facilities or services to meet the day to day needs of residents. Consequently, the proposed development is consistent with the relevant zone objectives.

Development standards:

Ku-ring-gai Local Environmental Plan 2015

Development standard	Proposed	Complies
CI 4.1(3) - Minimum subdivision lot size: Minimum Lot Size – 930m ²	Lot 1: 695.5m ² (234.5m ² or 25.22% variation to the control)	NO
	Lot 2: 737m ²	NO

Development standard	Proposed	Complies
	(193m ² or 20.75% variation to the control)	
CI 4.1(3A) – Street frontage: 18 metres, other than a battle-axe allotment	Lot 1: 15.11m (2.9 metres or 16.06% variation to the control)	NO
	Lot 2: 15.065m (2.935 metres or 16.31% variation to the control)	NO

Note: The calculations above are based on the land area of 1433m² in accordance with the submitted survey plan, prepared by Corona Projects and dated October 2024.

Clause 4.6 Exceptions to development standards

The proposed development breaches the minimum subdivision lot size and minimum lot width development standards contained within KLEP 2015. The applicant has made a submission pursuant to Clause 4.6 seeking to vary these development standards. Clause 4.6 provides flexibility in applying certain development standards and an assessment of the request to vary the development standard is provided below:

- (1) *The objectives of this clause are as follows—*
 - a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
 - a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

Development standards Clause 4.1(3) subdivision - Minimum Lot Size and Clause - (3A) Minimum Lot Width

The proposed development does not comply with the minimum 930m² lot size standard. There are shortfalls of 234.5m² or 25.22% and 193m² or 20.75% for proposed Lot 1 and Lot 2, respectively.

The proposed lots have a width of 15.11 metres (Lot 1) and 15.065 metres (Lot 2) and do not meet the minimum 18 metres Lot width development standard. This results in a non-

compliance of 2.9 metres or 16.06% for proposed Lot 1 and 2.9356 metres or 16.31% for proposed Lot 2.

An assessment of the applicant's Clause 4.6 variation request in respect of these standards is provided below:

Whether compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The applicant states that compliance with the development standard is unreasonable or unnecessary for the following reasons:

"In Wehbe V Pittwater [2007] NSW LEC 827 (Wehbe) a five-part test was established in which a variation to a development standard is considered to be unreasonable or unnecessary as per Clause 4.6(3A). The five tests established in Wehbe are (emphasis added):

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- 5. The zoning of the land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Satisfaction of any one of these tests is sufficient to demonstrate that compliance with the standard is unreasonable or unnecessary. This variation is based on the first test, which is addressed below.

Consistency with the objectives of the standard

The first test of Wehbe requires demonstration that the objectives of a development standard can be achieved notwithstanding non-compliance with that standard. The objectives of Clause 4.1 are reproduced below:

- 1) The objectives of this clause are as follows-*
 - a) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls and minimise risk to life and property from environmental hazards, including bush fires,*
 - b) to ensure that lot sizes and dimensions allow development to be sited to protect natural or cultural features including heritage items, remnant vegetation, habitat and waterways, and provide for generous landscaping to support the amenity of adjoining properties and the desired character of the area,*
 - c) to ensure that subdivision of low density residential sites reflects and reinforces the predominant subdivision pattern of the area.*

Objective (a) is concerned with providing lot sizes and widths which are capable of accommodating development which complies with relevant development controls and minimises environmental hazards. The proposed subdivision provides for logical lot sizes and adequate lot widths which can appropriately support the development of dwelling house on each subdivided lot evidenced by compliance with Council's controls. This can be observed through the compliant indicative building footprints provided for Lot 1 and Lot 2. The site is not burdened by any environmental hazards.

Objective (b) is concerned with ensuring lot sizes and dimensions as well as lot widths allow development to be sited to protect natural or cultural features, remnant vegetation, habitat to support the amenity of adjoining properties and desired character of the area. The proposed subdivision allows for development which will enable sufficient landscaped area on both lots, and this is demonstrated through compliance with the maximum BUA as per the KDCP. The subject site is not in close proximity to any areas of significant biodiversity or waterways or heritage items.

Objective (c) is concerned with ensuring that subdivision reflects the subdivision pattern in Ku-ring-gai locality.

Minimum lot size

The subject site is located within the area that contains other lot sizes are less than 930m², and the subdivision of the two (2) lots is in alignment with the land pattern with the local character, as shown in Figure 2 below. Specifically, the adjacent sites in close proximity to the subject site have a site area ranging from 699m² to 894m², according to data extrapolated Real Estate.com, and are demonstrated in Table 1 below:

Property Address	Site Area (approximately as listed on Real Estate.com)
296 Mona Vale Road	699m ²
12 Bundabah Avenue	711m ²
300 Mona Vale Road	721m ²
8 Bundabah Avenue	723m ²
14 Bundabah Avenue	732m ²
1/302 Mona Vale Road	737m ²
2/302 Mona Vale Road	737m ²
6 Bundabah Avenue	740m ²
10 Bundabah Avenue	745m ²
16 Bundabah Avenue	746m ²
23 Bundabah Avenue	758m ²
4 Bundabah Avenue	778m ²
4A Bundabah Avenue	740m ²
25 Bundabah Avenue	787m ²
5 Bundabah Avenue	806m ²
3 Bundabah Avenue	894m ²

Table 1: Adjacent sites in proximity to the subject site that have less than 930 square metres of lot sizes.



Figure 2: Allotments that are less than the required minimum lot sizes in proximity to subject site (Six Maps 2024).

The proposed subdivision is consistent with other variation request approvals, approved on sites within Ku-ring-gai Council, including 23 Finlay Road Warrawee, 253 Kissing Point Road South Turramurra, 39 Holmes Street Turramurra, 33 Highfield Road Lindfield and 23 Murdoch Street Turramurra. These sites have been approved with in non-compliant lot sizes for subdivision which range between approximately 644.8m² - 881m².

It is agreed that the compliance with the development standard is unreasonable and unnecessary in this instance as the objectives of the standard are achieved for the reasons given above by the applicant, except the reference to variations beyond the surrounding area for example Lindfield, as they are irrelevant to the material circumstances of the local subdivision pattern of the area. Nevertheless, the proposed subdivision creates new lots that can accommodate development capable of being consistent with relevant objectives of the KDCP, including setbacks and associated built form controls.

The proposal retains trees worthy of retention and the proposed lots will provide adequate area for future landscaping to support the amenity of the subject site and adjoining properties and the desired character of the area. The proposal reflects and reinforces the predominant subdivision pattern of the area due to the proposed lot sizes and shapes which reflect existing local variations to the development standard, see **Figure 5**.

Minimum lot width

The subject site is located within an area that contains other lots of a width less than 18 metres, as measured 12 metres from the street frontage. Therefore, the proposed Torrens title subdivision of the two (2) lots provides reasonable lot widths that reflect the predominant subdivision pattern of the local area. Specifically, the subdivision patterns in adjacent land in close proximity to the subject site have a lot width ranging from approximately 12m to 15m, as measured 12 metres from the street frontage on

Six Maps. See Table 1 below that notes lot widths that are similar with the proposal:

Property Address	Lot Width (approximately as measured on Six Maps)
296 Mona Vale Road	15m
300 Mona Vale Road	15m
1/302 Mona Vale Road	15m
2/302 Mona Vale Road	15m
5 Bundabah Avenue	13m
3 Bundabah Avenue	12m

Table 2: Adjacent sites in proximity to the subject site that have a width of less than 18 metres, as measured 12 metres from the street frontage.

According to the Ku-ring-gai Council's website, the sites at 253 Kissing Point Road South Turramurra and 33 Highfield Road Lindfield in the Ku-ring-gai locality have the approved lot widths that are than the minimum requirement. The proposal has a similar with or greater lot widths than the listed non-compliant widths in the Ku-ring-gai locality, as presented in Table 3 below.

Application Number	Address	Lot widths
DA0103/17	253 Kissing Point Road South Turramurra	16.385m (Lot 1); 14m (Lot 2)
DA0280/20	33 Highfield Road Lindfield NSW 2070	12.19m (Lot A); 15.24m (Lot B)
DA0125/23	23 Murdoch Street Turramurra NSW 2074	15.545m (Lot 1)

Table 3: Sites in the Ku-ring-gai locality that have a Torrens Title subdivision with approved non-compliant widths

For the above reasons, I am of the view that the variation requested and the resultant development is consistent with the objectives of the development standard and an appropriate degree of flexibility is warranted.

Consequently, I conclude that strict compliance with the development standard is unreasonable or unnecessary in this particular case."

It is agreed that the compliance with the development standard is unreasonable as the objectives of the standard and the R2 Low Density Residential zone are achieved. The proposed lot widths would not result in any significant adverse impacts upon the amenity of adjoining properties or public domain areas.

The proposed lot widths have the capability to accommodate a residential dwelling that is consistent with KDCP including side setbacks and associated built form controls. The development will maintain the narrow street frontage and the pattern of built form within the streetscape. Moreover, the proposed development will maintain a site area and lot width that is in keeping with the subdivision pattern of the locality.



The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].

The term 'environmental planning grounds' is not defined and may be interpreted with wide scope as has been the practice of the Land and Environment Court. The environmental planning grounds supporting variation are on the basis of:

Lot sizes

- Consistency with subdivision pattern in the locality.

Reiterating the discussion above in relation to the zone objectives, the subject site is located within the area that contains other lot sizes are less than 930m², and the subdivision of the two (2) lots is in alignment with the land pattern with the local character, as shown in Figure 2 above. Specifically, the adjacent sites in close proximity to the subject site have a site area ranging from 699m² to 894m², according to data extrapolated Real Estate.com.

The proposed lot sizes are consistent with other similar proposals which have been recently approved previously by Ku-ring-gai Council on lots which have comparable characteristics to the subject site, see Table 2 below. Thus, demonstrating that the proposed lot sizes are consistent with lot sizes within the wider locality.

Application Number	Address	Extent of Variation (%)
DA0125/23	23 Murdoch Street Turramurra NSW 2074	Lot sizes: 30% (Lot 1); 26% (Lot 2)
DA0160/16	27 Finlay Road Warrawee NSW 2074	6.5% (Lot 1); 10.8% (Lot 2)
DA0280/20	33 Highfield Road Lindfield NSW 2070	15.3% (Lot A); 15.3% (Lot B)
DA679/11	39 Holmes Street Turramurra NSW 2074	8.83% (Lot 1)
DA0103/17	253 Kissing Point Road South Turramurra NSW 2074	5.4% (Lot 1)

Table 4: Extent of variation of lot sizes in Ku-ring-gai Council

- Compliant development potential, supporting an increase in housing stock

The proposed subdivision allows for the future potential development of one dwelling house on each lot to have the potential to provide high levels of residential amenity. The variation to the lot width control as discussed above, does not decrease the residential amenity afforded to residents, nor does it adversely affect the design or configuration of the future dwellings. The proposed subdivision plan demonstrates that the newly proposed lots are capable of providing dwelling houses which are compliant with the relevant Council controls including setbacks, BUA, GFA, POS and vehicular access.

Lot widths

- Reasonable lot widths and consistency with the Ku-ring-gai locality

The proposed lot widths are consistent with other similar Torrens Title subdivision proposals which have been recently approved previously by Ku-ring-gai Council, as demonstrated in Table 2 and Table 3 above. As demonstrated in the accompanying subdivision plan, each lot is capable of providing for a compliant building footprint, achieving the desired qualitative and quantitative compliance. The proposed development provides for adequate lot widths that offer a beneficial outcome for the community through the additional housing opportunity in the Ku-ring-gai locality.

Approval of the subdivision will allow for reasonable and appropriate allotments that are capable of providing for two future residential dwellings.

- *Compliant development potential allowing for the increase of housing stock.*

The proposed subdivision allows for the future potential development of one dwelling house on each lot to have the potential to provide high levels of residential amenity. The variation to the lot width control as discussed above, does not decrease the residential amenity afforded to residents, nor does it adversely affect the design or configuration of the future dwellings. The proposed subdivision plan demonstrates that the newly proposed lots are capable of providing dwelling houses which are compliant with the relevant Council controls including setbacks, BUA, GFA, POS and vehicular access.

As set out in 'Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118', the aforementioned environmental planning grounds do not rely on the benefits of the development as a whole, but rather they directly relate to the proposed Floor Space Ratio aspect that contravenes the development standard.

For the reasons detailed in this request, I am of the opinion that there are sufficient environmental planning grounds for Council to be satisfied that the request is adequate and to allow appropriate flexibility."

As per the relevant case law, 'environmental planning grounds', are those that relate to the subject matter, scope and purpose of the EPA Act, including the Objects in Section 1.3 of the Environmental Planning and Assessment Act. The environmental planning grounds advanced in the applicant's variation request must justify the proposed variations to the lot size and width development standards, not simply promote the benefits of carrying out the development as a whole. Therefore, for the environmental planning grounds to be sufficient they must focus on the aspect or element of the development that contravenes the development standard.

The grounds put forward by the applicant are sufficient to justify the proposed variation except for the argument using previously approved variations. That is irrelevant to the circumstances of the case.

The proposed lots are consistent with the surrounding subdivision pattern, allotment sizes and lot widths, which is varied and contains several similar sized allotments to those proposed including neighbouring properties at numbers 15, 23, 25, 6-8, 10, 12, 14, and 16 Bundabah Avenue and Nos 296, 300, 302 and 302A Mona Vale Road (**Figure 5**). The lot sizes, lot widths and configurations will allow for the retention of the existing trees and provide sufficient area for future landscaping to both lots. The site has a north to south orientation. The indicative building footprints demonstrate that proposed Lot 1 and Lot 2 can accommodate buildings that meet solar access, visual privacy, landscape, private open space and other design and amenity provisions in the KDCP. The future low density residential development will also be compatible in size and scale with the local area. The application demonstrates that the proposed development will not result in any significant adverse impacts to adjoining properties.

In this regard, it is considered that sufficient environmental planning grounds have been demonstrated to justify the proposed departure from the development standard.

Concurrence of the Planning Secretary

Planning Circular PS 20-002 issued on 5 May 2020 informed Council that it may assume concurrence for exceptions to development standards. However, any variation to a numerical standard that exceeds 10% or relates to a non-numerical standard must be considered by the Ku-ring-gai Local Planning Panel. As the variation to the numerical standard is greater than 10% the application is required to be referred to the Ku-ring-gai Local Planning Panel for determination.

Development standards that cannot be varied.

The variation to the development standard is not contrary to the requirements in subclauses (6) or (8) of Clause 4.6.

Part 5 Miscellaneous provisions

Clause 5.10 – Heritage conservation

The subject site does not contain a heritage item, is located within 100m of an Item (Uniting Church at 276 Mona Vale Road St Ives), and is not within a heritage conservation area. The proposed works do not affect any known archaeological or Aboriginal objects or Aboriginal places of heritage significance.

The proposal will not adversely affect the heritage significance of the heritage item within the vicinity of the site because of its separation and consistency with the local subdivision pattern. The development is consistent with the provisions of the clause to conserve heritage significance.

Part 6 Additional local provisions

Clause 6.2 - Earthworks

The proposed development will not restrict the existing or future use of the site and will not adversely impact neighbouring amenity or the quality of the water table or disturb any known relics.

Clause 6.5- Stormwater and water sensitive urban design

The objectives of this clause seek to avoid or minimise the adverse impacts of urban stormwater on the land on which development is to be carried out, adjoining properties, native bushland, waterways and groundwater systems.

The proposal has been considered against the objectives of this clause. The stormwater design adequately manages stormwater runoff, with no anticipated adverse impacts of stormwater runoff to adjoining properties. The proposal is consistent with the objectives of this clause.

Policy Provisions (DCPs, Council policies, strategies and management plans)

Ku-ring-gai Development Control Plan

Part 1A.5 General aims of the DCP

The proposed development has been assessed against the general aims of this DCP and is found to be acceptable in all relevant respects for the reasons given throughout this report.

Part 2: Site analysis

A site analysis which identifies the existing characteristics of the site, and the surrounding area has been provided as part of the development application. The site analysis is considered to satisfy the objectives of this part of the DCP.

Part 3: Land consolidation and subdivision

COMPLIANCE TABLE		
Development control	Proposed	Complies
Part 3 land Consolidation and Subdivision		
3A – General Controls for Consolidation and Subdivision		
3A.1 Lot Shape, Orientation and Design		
1. The lot shape, orientation and design of consolidated and subdivided lots is to demonstrate the following:		
i. Ability for the lot to support the land use permitted under the zoning.	The proposed lots can support development in accordance with the R2 Low Density Residential zone.	YES
ii. Protection of habitat and distinctive environmental features including: - Cliffs and rock outcrops - Remnant bushland and trees - Tree hollows - Natural watercourses	The proposed lot configuration can cater for satisfactory amenity to adjoining lots.	YES
iii. Sharing of views.	The proposal does not impact views.	YES
iv. Avoiding the location of development on steep lands.	The site is not identified as having a steep slope.	YES
v. Protection and enhancement of the amenity, solar access, privacy, open space and views of the neighbouring lots.	The proposed lot shapes and indicative building envelopes demonstrate that acceptable amenity to neighbouring lots is capable of being provided.	YES
vi. Minimisation of impacts of the development (including any asset protection zones required) on riparian or Greenweb lands. Note: SEPP (Biodiversity & Conservation) 2021 - Chapter 6 Bushland in urban areas may also apply.	The site is not mapped as riparian or greenweb lands.	YES
vii. Incorporation of the principles of water sensitive urban design.	The development provides water sensitive urban design measures to achieve the objectives of Clause 6.5 'Stormwater and water sensitive urban design.	YES

COMPLIANCE TABLE		
Development control	Proposed	Complies
viii. Easements and servicing requirements.	<p>Lot 1: 18m² OSD, grated drain and discharge to pit.</p> <p>Lot 2: 20m² OSB, grated drain and discharge to pit.</p> <p>Each allotment can drain independently to the kerb and gutter.</p>	YES
ix. Vehicular, pedestrian and bicycle access.	Lots 1 & 2: Proposed driveways to indicative garage, and pedestrian access to the proposed lots are demonstrated in the application.	YES
<p>x. Respect for and conservation of cultural heritage including any Aboriginal place or site of heritage significance.</p> <p>Note: Refer to Part 20 for Subdivision and Consolidation for new development on a Heritage Item or a HCA.</p>	There are no heritage items or known places of Aboriginal significance in the immediate vicinity of the subject site. The proposed subdivision will not adversely impact on the heritage item located within 100 metres of the subject site.	YES
The block width, dimension, orientation and layout are to consider the existing subdivision pattern of the locality.	<p>The existing subdivision character in the immediate vicinity of the site is varied in rhythm, shape and size.</p> <p>The block width in the surrounding sites range from 15 metres to 30.82 metres.</p> <p>The proposed subdivision is not considered to affect the street rhythm and built form spacing.</p>	YES
New lot/s created are to be such that each lot with street frontage allows for the siting of a development which will address the street.	Lot 1 and Lot 2 have front boundary to address the street.	YES
3A.3 Building Footprint		

COMPLIANCE TABLE		
Development control	Proposed	Complies
Potential building footprints are to be identified on the site plan of all consolidations and subdivisions.	The proposal demonstrates potential building footprints for the proposed two lots.	YES
Building footprints are to be located outside areas of ecological or heritage significance and to avoid the loss of trees.	The subject site is not mapped as having ecological significance. The proposed subdivision does not adversely impact the nearby heritage items. The proposed development avoids the loss of trees that are worthy of retention.	YES
The footprint is to be located in an accessible and practical location, preferably with relatively flat terrain, stable soil and geology. Note: A geotechnical report may be required for steeper sites.	The "potential building footprint" is appropriately located.	YES
The building footprint must be located and designed so as to allow useable open space that satisfies the open space requirements of the particular development type.	Each lot can accommodate usable private open space of a minimum dimension of 5 metres and 50m ² in area.	YES
The footprint is to be applied in accordance with the minimum building setbacks.	The indicative building footprints comply with the setback requirements.	YES
Practical and suitable access is to be provided from a public road to the building footprint.	Practical access to proposed Lots 1 and 2 will be provided from Bundabah Avenue.	YES
The building footprint must be located in accordance with the requirements in Part 24 of the KDCP.	The footprint is appropriately located to satisfy these requirements.	YES
3A.4 Trees and Vegetation		
Any subdivision or consolidation proposal must demonstrate that the location and design of: <ul style="list-style-type: none"> i. building footprints; ii. access ways; iii. roadways, including perimeter roads or trails; iv. services; v. inter-allotment drainage easements; and	The design and location of the driveway, services and water management will minimise tree impacts on site and on adjoining properties. The site is not mapped as bushfire prone land.	YES

COMPLIANCE TABLE		
Development control	Proposed	Complies
vi. asset protection zones maximises the retention of, and minimises impacts on existing significant trees and vegetation on or adjacent to the site.		
For the purposes of Control 1 above, significant trees and vegetation includes but is not limited to cultural plantings, large and visually prominent trees, bushland and endangered ecological communities.	The proposal includes the removal of two trees, Tree 3 Backhousia citriodora, which is a street tree and Tree 6 Thuja occidentalis located within the site frontage of proposed Lot 2. The proposed removal of these trees is acceptable.	YES
Species are to be selected to minimise leaf drop and to avoid blockage of drainage systems.	Satisfactory	YES
3A.5 Access		
Each lot must provide access from a constructed or dedicated public road. Where access is proposed to a section of unconstructed public road, the newly created lot will need to provide lawful, constructed access to Council's satisfaction.	Each lot offers clear vehicular and pedestrian access from a constructed public road.	YES
The maximum number of lots to be served by a single access handle connected to a public road is 3 lots.	Each proposed lot is serviced by its own driveway.	YES
Access for service vehicles, emergency vehicles and waste collection vehicles must be available. Note: If access is to be provided from a main road it must be in compliance with Transport for NSW requirements.	Service vehicles and emergency vehicles can access each lot. Under Part 24 of KDCP 2015, waste collection for the residential dwellings would be via an on-street collection.	YES
Movement areas are to incorporate convenient, obvious and safe pedestrian and bike links from the lot to public transport services and local facilities.	A pedestrian footpath is located along Bundabah Avenue which links the site to public transport services and local facilities.	YES
The design and location of footpaths and driveways are to provide opportunities for surveillance and allow safe movement of residents and visitors.	The driveway is of an adequate width to allow safe sight lines and safe pedestrian access.	YES
3A.6 Infrastructure		

COMPLIANCE TABLE		
Development control	Proposed	Complies
<p>All lots shall be provided services such as electricity, gas, town water supply, sewerage and communications. Such services must be located underground where new road construction occurs, and in bush fire prone lands. Services are to be located in accordance with Figures 3A.6-1 & 3A.6-2 of the DCP.</p> <p>Note: In Bush fire Prone Lands, services are to be provided in accordance with the requirements of Planning for Bush Fire Protection (PBP).</p>	<p>Utility services for both lots, particularly the sewer main/line to service the allotments, are to be depicted in the architectural plans and consequently can be provided.</p>	YES
<p>Water management facilities, such as:</p> <ul style="list-style-type: none"> • Inter-allotment drainage for low level lots; • on site detention for new roads and driveways; • rain gardens or bio retention basins; are to be provided as required by Part 24 of the DCP. 	<p>A Drainage Concept Plan indicates that each allotment can drain independently to the kerb and gutter. Stormwater management including onsite detention and retention for the site will be provided as part of the future development of each lot; and a controlled drainage system in accordance with Part 24 of the KDCP.</p>	YES

Part 4: Dwelling Houses

The relevant controls of Part 4 are addressed below, noting that many controls do not apply given that no dwelling houses are proposed, consequently the assessment is based on the indicative building footprints.

DCP COMPLIANCE TABLE SECTION A - Part 4 Dwelling houses		
Development control	Proposed	Complies
4A.2 Building Setbacks		
Building Line (Front Setback)		
<p>The location of development on the site is to demonstrate its consideration of:</p> <p>i) The existing setback of adjoining properties;</p> <p>ii) The setback patterns of its street block; and</p> <p>iii) Council's minimum and average setback requirements.</p>	<p>The indicative building footprints demonstrate that the front building line would be consistent with the existing setback of the adjoining properties and the front setback patterns on the northern side of Bundabah Avenue.</p>	YES
<p><u>Two storey</u> High side – 12 metres (14 metres average)</p>	<p>Lot 1: 13.4m to 14.5m Lot 2: 13.4m to 20.6m</p>	YES YES
4A.3 Built-Up Area		

DCP COMPLIANCE TABLE SECTION A - Part 4 Dwelling houses		
Development control	Proposed	Complies
Lot 1: Max BUA 58% (403.39m ²)	39% (274.19m ²)	YES
Lot 2: Max BUA 56% (427.46m ²)	46% (341.28m ²)	YES
4B – Access and Parking		
4B.2 Car Parking Provision		
Single occupancy dwellings are to provide 2 spaces on-site as determined by Part 4B.3(5) of the DCP.	2 spaces per lots	YES
4C.4 Private Open Space		
At least one area of useable private open space which has a minimum depth of 5m and a minimum area of 50m ² is to be provided on each site. On steep sites Council may consider a reduction in the minimum depth requirement.	Each dwelling has a depth >5metres and area > 50m ² .	YES

Ku-ring-gai Development Control Plan

Section B

Part 15 – Land Contamination

The site is not mapped as being contaminated and has a history of residential use and, as such, it is unlikely to contain contamination, consequently no further investigation is necessary in this case.

Ku-ring-gai Development Control Plan

Section C

Part 24 – Water management

Council's Development Engineer is satisfied that the proposed development has been designed to manage urban stormwater as per the requirements of the DCP, subject to conditions.

An assessment of the proposal against the controls in Part 24 has been undertaken, it is agreed with Council's Development Engineer that the proposed stormwater management is satisfactory.

Ku-ring-gai Contributions Plan 2010

The application proposes the Torrens title subdivision of one lot into two lots, which results in an increased demand for community infrastructure. In accordance with the Ku-ring-gai Contributions Plan 2010, the proposal requires a Section 7.11 contribution of **\$33,639.49** for the 1 additional residential lot created (**Condition 26**).

As per Part 5.3 of the Ku-ring-gai Council Section 7.12 Local Levy Contributions Plan 2023, a contribution for the construction work is not payable as a consent cannot be subject to more than one contribution plan and in the event of a conflict, the Ku-ring-gai Contributions Plan 2010 prevails.

Housing Productivity Contribution

A Housing and Productivity Contribution (HPC) applies to the proposed development as it is for the subdivision of land on which development for the purposes of residential accommodation, which exists and is permitted. The contribution will assist in delivering essential state infrastructure such as schools, hospitals, major road and public transport infrastructure.

The application was lodged after 1 July 2024, therefore the new Ministerial Order applies. The proposed development generates a contribution rate of **\$14,994.91** which is required to be paid prior to issue of a Subdivision Works Certificate (**Condition 27**).

Infrastructure Contributions Summary Table

Plan name	Amount
Greater Sydney - Base HPC	\$14,994.91
Timing of payment	Subdivision work certificate
Total :	\$14,994.91

REGULATION

Section 61(1) of the Environmental Planning & Assessment Regulation 2021 requires the consent authority to consider the provisions of *Australian Standard AS 2601-2001: The demolition of structures*. The demolition of the existing structures will be carried out in accordance with a work plan and statement of compliance that will be required to be submitted to the Principal Certifier prior to the commencement of any works. A condition to this effect is recommended (**Condition 15**).

LIKELY IMPACTS

The likely impacts of the development have been considered within this report and are deemed to be acceptable, subject to conditions.

SUITABILITY OF THE SITE

The site is suitable for the proposed development.

PUBLIC INTEREST

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by the Panel ensuring that any adverse effects on the surrounding area and the environment are minimised. The proposal has been assessed against the relevant environmental planning instruments and is deemed to be acceptable. On this basis, the proposal is not considered to raise any issues that are contrary to the public interest.

CONCLUSION

Having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979, the proposed development is satisfactory, subject to conditions.

RECOMMENDATION

PURSUANT TO SECTION 4.16(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

- A. THAT the Ku-ring-gai Local Planning Panel, exercising the functions of Ku-ring-gai Council, as the consent authority, pursuant to Section 4.16 of the Environment Planning and Assessment Act 1979, is satisfied that the request submitted under Clause 4.6 to vary the minimum subdivision lot size and lot width development standards has met the requirements of Clause 4.6(3). The Panel is also of the opinion that strict compliance with the development standards is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the variations to the development standards.
- B. THAT the Ku-ring-gai Local Planning Panel, exercising the functions of Ku-ring-gai Council, as the consent authority, pursuant to Section 4.16 of the Environment Planning and Assessment Act 1979, being satisfied that the proposed development would be in the public interest, grant development consent to eDA0563/24 for demolition of existing structures and Torrens title subdivision of one lot into two lots at 9 Bundabah Avenue, St Ives, subject to conditions. Pursuant to Section 4.53 of the Environmental Planning and Assessment Act 1979, this consent lapses if the approved works are not physically commenced within five years of the date of the Notice of Determination.

The conditions of the consent are set out as follows:

CONDITIONS THAT IDENTIFY APPROVED PLANS:

1. Approved architectural plans and documentation (new development)

The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except as amended by other conditions of this Development Consent:

Plan no.	Drawn by	Dated
<i>Architectural Plans</i>		
Sheet no. 01 Revision A (Proposed subdivision plan)	Corona Projects	13/02/2025
Sheet no. 01 Revision A (Proposed subdivision plan)	Corona Projects	13/02/2025
<i>Stormwater Management Plans</i>		
Job No. DG 2872 – S1/1 issue 'B'	KD Stormwater Pty Ltd	11/02/2025
Document(s)		Dated
Arboricultural Impact Assessment Report prepared by Luke Smart from Smart Arbor Professional Consulting		13 November 2024

Reason: To ensure that the development is in accordance with the Development

Consent.

2. Inconsistency between documents

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this Development Consent prevail.

Reason: To ensure that the development is in accordance with the Development Consent.

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:

3. Construction waste management plan

Prior to the commencement of any works, the Principal Certifier shall be satisfied that a waste management plan, prepared by a suitably qualified person, has been prepared in accordance with the waste management controls in the Ku-ring-gai Development Control Plan.

The plan shall address all issues identified in the DCP, including but not limited to: the estimated volume of waste and method for disposal for the construction and operation phases of the development.

Reason: To ensure appropriate management of construction waste.

4. Asbestos works

All work involving asbestos products and materials, including asbestos-cement-sheeting (ie. fibro), must be carried out in accordance with the guidelines for asbestos work published by Safework NSW.

Reason: To ensure public safety.

5. Notice of commencement

At least 48 hours prior to the commencement of any demolition, excavation or building works, a notice of commencement of building works or subdivision lodgement form and appointment of the Principal Certifier form shall be submitted to Council.

Reason: Statutory requirement.

6. Notification of builder's details

Prior to the commencement of any works, the Principal Certifier shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

Reason: Statutory requirement.

7. Sediment controls

Prior to any works commencing, sediment and erosion control measures shall be installed along the contour immediately downslope of any future disturbed areas.

The form of the sediment controls to be installed on the site shall be determined by reference to the Landcom manual '*Managing Urban Stormwater: Soils and Construction*'. The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site is fully stabilised. Sediment shall be removed from the sediment and erosion control measures following each heavy or prolonged rainfall period.

Reason: To protect and enhance the natural environment.

8. Tree protective fencing type galvanised mesh

Tree protection fencing shall be constructed of galvanised pipe at 2.4 metres spacing and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres.

Reason: To protect existing trees.

9. Tree protection signage

Prior to the commencement of any works, tree protection signage is to be attached to the tree protection fencing, displayed in a prominent position and repeated at 10 metres intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form, the following information:

The words:

- Tree protection zone/No access.
- This fence has been installed to prevent damage to the tree/s and their growing environment both above and below ground.

and the following information:

- The name, address, and telephone number of the developer/builder and project arborist

Reason: To protect existing trees.

10. Tree protection mulching

Prior to the commencement of any works, the tree protection zone is to be mulched to a depth of 100mm with composted organic material.

The mulch is to be replenished so as to be consistent with the above requirement throughout the duration of construction works.

Reason: To protect existing trees.

11. Inspection of tree protection measures

Upon installation of the required tree protection measures, an inspection is to be conducted by the project arborist or the Principal Certifier to verify that tree protection measures comply with all relevant conditions of this Development Consent.

Reason: To protect existing trees.

12. Project arborist

Prior to the commencement of any works, a project arborist shall be engaged to ensure all tree protection measures and works are carried out in accordance with the conditions of this Development Consent.

The project arborist shall have a minimum AQF Level 5 qualification with a minimum of 5 years' experience. Details of the arborist including name, business name and contact details shall be provided to the Principal Certifier and a copy shall be provided to Council.

Reason: To protect of existing trees.

13. Tree protection plan

Prior to the commencement of any works, tree protection works shall be carried out in accordance with the following approved tree protection plan(s), listed below and endorsed with Council's stamp, except where amended by other conditions of this Development Consent:

Plan no.	Drawn by	Dated
TLP-S1 A in Arboricultural Impact Assessment p.20	Smart Arbor Professional Consulting	12/11/24

Reason: To protect existing trees.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE:

14. Amendments to approved engineering plans

Prior to the issue of a Subdivision Works Certificate, the Principal Certifier shall be satisfied that the approved engineering plan(s), listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this Development Consent:

Plan no.	Drawn by	Dated
Job No. DG 2872 - S1/1 issue 'B'	KD Stormwater	11/02/2025

The above engineering plan(s) shall be amended as follows:

- Lot sizes and dimensions on the stormwater plans are to be consistent with the approved subdivision plan.

An amended engineering plan, prepared by a qualified engineer shall be submitted to the Principal Certifier.

Reason: To ensure that the development is in accordance with the Development Consent.

15. Statement of compliance with Australian Standards

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 The Demolition of Structures. The applicant must provide work plans required by AS2601: 2001 and a written statement from a suitably qualified person that the proposal contained in the work plan comply with the safety requirements of the Standard. The work plan and the statement of compliance shall be submitted to and approved by the Certifier prior to the

commencement of any demolition works.

Reason: To ensure compliance with the Australian Standards.

16. Long service levy

A Subdivision Works Certificate shall not be issued until any long service levy payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* (or where such levy is payable by instalments, the first instalment of the levy) has been paid. In order to pay your levy, you will need to register an account with The Long Service Corporation on the online portal at www.longservice.nsw.gov.au.

Reason: Statutory requirement.

17. Builder's indemnity insurance

The applicant, builder, developer or person who does the work on this development, must arrange builder's indemnity insurance and submit the certificate of insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Certifier for endorsement of the plans accompanying the Subdivision Works Certificate.

It is the responsibility of the Applicant, builder or developer to arrange the builder's indemnity insurance for residential building work over the value of \$20,000. The builder's indemnity insurance does not apply to commercial or industrial building work or to residential work valued at less than \$20,000, nor to work undertaken by persons holding an owner/builder's permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

Reason: Statutory requirement.

18. Excavation for services

Prior to the issue of a Subdivision Works Certificate, the Principal Certifier shall be satisfied that no proposed underground services (ie: water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under the Ku-ring-gai Development Control Plan, located on the subject allotment and adjoining allotments.

Reason: To protect existing trees.

19. Drainage works

Prior to issue of the Subdivision Work Certificate, Council is to be satisfied that the 600x600mm stormwater drainage pits at the property boundary for each allotment and discharge outlet to the kerb have been constructed as per the drainage plan listed in Condition 1 of this Development Consent.

Reason: To ensure appropriate stormwater management.

20. Driveway crossing levels

Prior to issue of a Subdivision Works Certificate, driveway and associated footpath levels for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the Roads Act 1993. All footpath crossings, laybacks and driveways

are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings".

Specifications are issued with alignment levels after completing the necessary application form at Council's Customer Services counter and payment of the assessment fee. When completing the request for driveway levels application from Council, the Applicant must attach a copy of the relevant development application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment.

This development consent is for works wholly within the property. Development consent does not imply approval of footpath or driveway levels, materials or location within the road reserve, regardless of whether this information is shown on the development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the Applicant and the required alignment levels fixed by Council may impact upon these levels.

The construction of footpaths and driveways outside the property in materials other than those approved by Council is not permitted.

Reason: To provide suitable vehicular access without disruption to pedestrians and vehicular traffic.

21. Ausgrid requirements

Prior to issue of a Subdivision Works Certificate, Ausgrid must be contacted regarding the power supply for the subject development. A written response, detailing the full requirements of Ausgrid (including any need for underground cabling, substations or similar within or in the vicinity of the development) shall be submitted and approved by the Principal Certifier prior to issue of a Subdivision Works Certificate.

Any structures or other requirements of Ausgrid shall be indicated on the plans issued with the Subdivision Works Certificate, to the satisfaction of the Principal Certifier and Ausgrid. The requirements of Ausgrid must be met in full prior to the issue of a Subdivision Certificate.

Reason: To ensure compliance with the requirements of Ausgrid.

22. Utility provider requirements

Prior to issue of a Subdivision Works Certificate, the applicant must make contact with all relevant utility providers whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Principal Certifier, must be obtained. All utility services or appropriate conduits for the same must be provided in accordance with the specifications of the utility providers.

Reason: To ensure compliance with the requirements of relevant utility providers

23. Telecommunications infrastructure

Prior to the issue of a Subdivision Works Certificate, satisfactory documentary evidence shall be provided to the Principal Certifier that arrangements have been made for the installation of fibre-ready facilities to all individual lots and/or premises so as to enable fibre to be readily connected to any dwelling that may be constructed.

Prior to the issue of the Subdivision Works Certificate, the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots, shall be demonstrated to the Principal Certifier through a written agreement between the developer/owner and a carrier. The agreement will also confirm that the carrier is satisfied the fibre ready facilities are fit for purpose.

Reason: To ensure that telecommunications infrastructure is provided in accordance with the Commonwealth Telecommunications Act 1997.

24. Underground services

All electrical services (existing and proposed) shall be undergrounded from the proposed building on the site to the appropriate power pole(s) or other connection point. Undergrounding of services must not disturb the root system of existing trees and shall be undertaken in accordance with the requirements of the relevant service provided. Documentary evidence that the relevant service provider has been consulted and that their requirements have been met is to be provided to the Principal Certifier prior to the issue of a Subdivision Works Certificate. All electrical and telephone services to the subject property must be placed underground and any redundant poles are to be removed.

Reason: To provide infrastructure that facilitates the future improvement of the streetscape by location of service lines below ground.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF SUBDIVISION WORKS CERTIFICATE OR PRIOR TO DEMOLITION, EXCAVATION OR BUILDING WORKS (WHICHEVER COMES FIRST):

25. Infrastructure damage security bond and inspection fee

To ensure that any damage to Council property as a result of construction activity is rectified in a timely manner:

- (a) All work or activity undertaken pursuant to this development consent must be undertaken in a manner to avoid damage to Council property and must not jeopardise the safety of any person using or occupying the adjacent public areas.
- (b) The applicant, builder, developer or any person acting in reliance on this consent shall be responsible for making good any damage to Council property and for the removal from Council property of any waste bin, building materials, sediment, silt, or any other material or article.
- (c) The Infrastructure damage security bond and infrastructure inspection fee must be paid to Council by the applicant prior to both the issue of any Construction Certificate and the commencement of any earthworks or construction.
- (d) In consideration of payment of the infrastructure damage security bond and infrastructure inspection fee, Council will undertake such inspections of Council Property as Council considers necessary and will also undertake, on behalf of the

applicant, such restoration work to Council property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure damage security bond payable pursuant to this condition.

- (e) **Release of the bond** – Upon receipt by Council of a Subdivision Work Certificate, Council will undertake an inspection of Council's Infrastructure and release the bond if no damage is found.

For development relating to more than 2 dwellings, there will be a six months holding period after the receipt by Council of the final occupation certificate, after which you may request Council to return any bond monies.

If there is damage found to Council property the bond will not be released until the damage has been rectified to Council's satisfaction.

- (f) In this condition:

"Council property" includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

"Infrastructure damage security bond and infrastructure inspection fee" means the Infrastructure damage security bond and infrastructure inspection fee as calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council property associated with this condition.

Reason: To maintain public infrastructure.

26. Section 7.11 Local infrastructure contributions

This development is subject to a development contribution calculated in accordance with Ku-ring-gai Contributions Plan 2010, being a Contributions Plan in effect under the Environmental Planning and Assessment Act, as follows:

Key Community Infrastructure	Amount
Local recreation and cultural facilities; Local social facilities	\$3488.76
Local parks and local sporting facilities	\$30,150.73
Total:	\$33,639.49

The contribution specified above is subject to indexation and will continue to be indexed to reflect changes in the Consumer Price Index (All Groups Sydney) and Established House Price Index (Sydney) until paid in accordance with Ku-ring-gai Contributions Plan 2010. Prior to payment, please contact Council directly to verify the current contribution payable.

In accordance with Ku-ring-gai Contributions Plan 2010, the development contribution is due and payable to Council prior to the issue of any Construction Certificate, Linen Plan, Subdivision Certificate or Occupation Certificate, whichever comes first.

Note: Copies of Council's Contributions Plan can be viewed at Council Chambers at

818 Pacific Hwy Gordon or on Council's website at www.krg.nsw.gov.au

Reason: To ensure the provision, extension or augmentation of the Key Community Infrastructure identified in Ku-ring-gai Contributions Plan 2010 that will, or is likely to be, required as a consequence of the development.

27. Housing and productivity contribution

Prior to the issue of a Subdivision Work Certificate, the Housing and Productivity Contribution (HPC) set out in the table below is required to be made.

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	\$14,994.91
Total Housing and productivity contribution	\$14,994.91

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 (HPC Order)*.

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the *Environmental Planning and Assessment Act 1979* agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.

Reason: To require contributions towards the provision of regional infrastructure.

CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES:

28. Road opening permit

The opening of any footway, roadway, road shoulder or any part of the road reserve (excluding where a Driveway Application and Roads Act Approval is required) shall not be carried out without a road opening permit being applied for and obtained from Council (and upon payment of any required fees) beforehand.

Reason: Statutory requirement (Roads Act 1993 Section 138) and to maintain the integrity of Council's infrastructure.

29. Prescribed conditions

The work shall comply with any relevant prescribed conditions of development consent under Sections 69, 70, 71, 72, 73, 74 and 75 of the Environmental Planning and Assessment Regulation 2021. For the purposes of section 4.17 (11) of the Environmental Planning and

Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

30. Compliance with Building Code of Australia and insurance requirements under [Home Building Act 1989](#)

- 1) It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the *Building Code of Australia*.
- 2) It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the [Home Building Act 1989](#), Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.
- 3) It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the *Building Code of Australia*.
- 4) In subsection (1), a reference to the *Building Code of Australia* is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.
- 5) In subsection (3), a reference to the *Building Code of Australia* is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.
- 6) This section does not apply -
 - (a) to the extent to which an exemption from a provision of the *Building Code of Australia* or a fire safety standard is in force under the [Environmental Planning and Assessment \(Development Certification and Fire Safety\) Regulation 2021](#), or
 - (b) to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.
- 7) **relevant date** has the same meaning as in the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 19.

Erection of signs

- 1) This section applies to a development consent for development involving building work, subdivision work or demolition work.
- 2) It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out -
 - (a) showing the name, address and telephone number of the principal certifier for the work, and
 - (b) showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.
- 3) The sign must be -

- (a) maintained while the building work, subdivision work or demolition work is being carried out, and
 - (b) removed when the work has been completed.
- 4) This section does not apply in relation to -
 - (a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
 - (b) Crown building work certified to comply with the *Building Code of Australia* under the Act, Part 6.

Notification of [Home Building Act 1989](#) requirements

- 1) This section applies to a development consent for development involving residential building work if the principal certifier is not the council.
- 2) It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following -
 - (a) for work that requires a principal contractor to be appointed -
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer of the work under the [Home Building Act 1989](#), Part 6,
 - (b) for work to be carried out by an owner-builder -
 - i. the name of the owner-builder, and
 - ii. if the owner-builder is required to hold an owner-builder permit under the [Home Building Act 1989](#) - the number of the owner-builder permit.
- 3) If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.
- 4) This section does not apply in relation to Crown building work certified to comply with the *Building Code of Australia* under the Act, Part 6.

Shoring and adequacy of adjoining property

- 1) This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.
- 2) It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense -
 - (a) protect and support the building, structure or work on adjoining land from possible damage from the excavation, and
 - (b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.
- 3) This section does not apply if -
 - (a) the person having the benefit of the development consent owns the adjoining land, or

- (b) the owner of the adjoining land gives written consent to the condition not applying.

31. Hours of work

Demolition, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12 noon Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Demolition and/or excavation using machinery of any kind must be limited to between 7.00am and 5.00pm Monday to Friday, with a respite break of 45 minutes between 12 noon and 1.00pm. No demolition and/or excavation using machinery of any kind is to occur on Saturdays, Sundays or public holidays.

Where it is necessary for works to occur outside of these hours (ie placement of concrete for large floor areas on large residential/commercial developments or where building processes require the use of oversized trucks and/or cranes that are restricted by Transport for NSW (TfNSW) from travelling during daylight hours to deliver, erect or remove machinery, tower cranes, pre-cast panels, beams, tanks or service equipment to or from the site), approval for such activities will be subject to the issue of an "outside of hours works permit" from Council as well as notification of the surrounding properties likely to be affected by the proposed works.

Failure to obtain a permit to work outside of the approved hours will result in regulatory action.

Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties.

32. Approved plans to be on site

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Subdivision Works Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifier.

Reason: To ensure that the development is in accordance with the determination.

33. Engineering fees

For the purpose of any development related inspections by Ku-ring-gai Council engineers, the corresponding fees set out in Council's adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any approval being granted under the Roads Act 1993.

Reason: To protect public infrastructure.

34. Site notice

A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period.

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifier and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- be mounted at height of 1.6 metres above natural ground on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

Reason: To ensure public safety and public information.

35. Dust control

During excavation, demolition and construction, adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood. The following measures must be adopted:

- physical barriers shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed
- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs
- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust
- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out at least daily
- no advertising or signage is permitted to be attached to dust cloth material.

Reason: To protect the environment and the amenity of surrounding properties.

36. Use of road or footpath

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from Council beforehand. The footpath shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost of rectification against the applicant/owner/builder or any other responsible person, as the case may be.

Reason: To ensure safety and amenity of the area.

37. Toilet facilities

Toilet facilities must be available or provided at the work site before works begin and must

be maintained until the works are completed. One toilet, plus one additional toilet for every 20 persons working at the site are to be provided. Each toilet must:

- a) be a standard flushing toilet connected to a public sewer, or
- b) have an on-site effluent disposal system approved under the Local Government Act 1993 [<https://www.legislation.nsw.gov.au/>](https://www.legislation.nsw.gov.au/), or
- c) be a temporary chemical closet approved under the Local Government Act 1993 [<https://www.legislation.nsw.gov.au/>](https://www.legislation.nsw.gov.au/).

Reason: Statutory requirement.

38. Recycling of building material (general)

During demolition and construction, the Principal Certifier shall be satisfied that building materials suitable for recycling have been forwarded to an appropriate registered business dealing in recycling of materials. Materials to be recycled must be kept in good order.

Reason: To facilitate recycling of materials.

39. Garbage receptacle

1. A garbage receptacle must be provided at the work site before works begin and must be maintained until all works are completed.
2. The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
3. The receptacle lid must be kept closed at all times, other than when garbage is being deposited.

Reason: To ensure appropriate construction site waste management and to avoid injury to wildlife.

40. Construction signage

All construction signs must comply with the following requirements:

- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken
- refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- are restricted to one such sign per property
- do not exceed 2.5m²
- are removed within 14 days of the completion of all construction works

Reason: To ensure compliance with Council's controls regarding signage.

41. Road reserve safety

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged,

repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (2009) "Manual for Uniform Traffic Control Devices for Work on Roads". If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may take actions to stop work, which may include the bringing of proceedings.

Reason: To ensure safe public footways and roadways during construction.

42. Services

Where required, the adjustment or inclusion of any new utility service facilities must be carried out in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the applicant's responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services (including water, phone, gas and the like). Council accepts no responsibility for any matter arising from its approval to this application involving any influence upon utility services provided by another authority.

Reason: Provision of utility services.

43. Erosion control

Temporary sediment and erosion control and measures are to be installed prior to the commencement of any works on the site. These measures must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm and/or as directed by the Principal Certifier and Council.

Reason: To protect the environment from erosion and sedimentation.

44. Sydney Water Section 73 Compliance Certificate

An application for a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994* shall be made through an authorised Water Servicing Co-ordinator. The applicant should refer to Sydney Water's web site at www.sydneywater.com.au or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Reason: Statutory requirement.

45. Arborist's inspection and reporting

The tree/s to be retained shall be inspected and monitored by an AQF Level 5 arborist in accordance with the current version of **Australian Standard AS 4970 - Protection of trees on development sites** during and after completion of development works to ensure their long term survival.

The Principal Certifier must be provided with reports by the project arborist within 7 days of the inspection detailing the date of inspection, identifying the trees by their number, the location and species, tree health, compliance with conditions of the Development Consent,

description of the works inspected, description of any impacts to trees and any rectification and/or mitigation works prescribed and/or undertaken.

Regular inspections and documentation shall be given by the arborist to the Principal Certifier. These are required, at the following times or phases of work, but may be given more regularly:

Tree/location	Time of inspection
Tree 2 Sapium sebiferum/nature strip	During excavation for vehicle crossing and stormwater pipes within 3m of the trunk of this tree.

All works as recommended by the project arborist are to be undertaken by an experienced arborist with a minimum AQF Level 3 qualification.

Reason: To ensure protection of existing trees.

46. Trees on nature strip

Removal or pruning of the following tree/s on Council's nature strip shall be undertaken at no cost to Council by one of Council's approved tree contractors. A list of contractors is available from Council's Supervisor Streetscapes, who are in Council's Operation's Department.

Council's Supervisor Streetscape must be advised via email, within a minimum of 48 hours prior to commencement of the works, with the following detail:

- selected contractor,
- the item code
- associated rate provided.

You and/or the contractor will be responsible for the reporting and/or repair of any services damaged because of works undertaken.

Tree/location	Tree works
Tree 3 Backhousia citriodora/Bundabah Avenue nature strip	Removal

Reason: To protect existing trees.

47. Retention of tree roots

No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following tree/s shall be severed or injured in the process of any works during the construction period. All pruning of roots less than 50mm in diameter shall be undertaken by an experienced arborist/horticulturalist, with a minimum AQF Level 3 qualification.

Tree/location	Radius in metres
Tree 2 Sapium sebiferum/nature strip	3m

Reason: To protect existing trees.

48. Approved tree works

Prior to the commencement of any works, the following is to be undertaken to the specified trees:

Tree/location	Approved tree works
Tree 6 Thuja occidentalis	removal

1. All trees are to be clearly tagged and identified in accordance with the specifications in the arborist report prior to the removal or pruning of any tree/s .
2. Canopy and/or root pruning shall be undertaken by an experienced arborist/horticulturist, with a minimum AQF Level 3 qualification.
3. All root or canopy pruning works shall be undertaken as specified in current version of **Australian Standard AS 4373 - Pruning of amenity trees**.

Removal or pruning of any other tree on the site is not approved, excluding species and works exempt under Council's Development Control Plan.

Reason: To ensure that the development is in accordance with the Development Consent.

49. Hand excavation

All excavation within the specified radius of the trunk/s of the following tree/s shall be carried out by hand digging and/or by an air knife and shall be supervised by an experienced arborist/horticulturist, with a minimum AQF Level 3 qualification. The arborist /horticulturist shall provide a report to the Principal Certifier confirming compliance with this condition:

Tree/Location	Radius in metres
Tree 2 Sapium sebiferum/Bundabah Avenue nature strip	3m

Reason: To protect existing trees.

50. No storage of materials beneath trees

No activities, soil compaction, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Development Control Plan at any time unless specified in other conditions of this Development Consent.

Reason: To protect existing trees.

51. Removal of refuse

All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

Reason: To protect the environment.

52. On site retention of waste dockets

All demolition, excavation and construction waste dockets are to be retained on site, or at suitable location, in order to confirm which facility received materials generated from the site for recycling or disposal.

- each docket is to be an official receipt from a facility authorised to accept the material type, for disposal or processing
- this information is to be made available at the request of an authorised Council officer.

Reason: To protect the environment.

53. Maintenance of site

All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.

Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.

Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.

During construction:

- all vehicles entering or leaving the site must have their loads covered, and
- all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

At the completion of the works, the work site must be left clear of waste and debris.

Reason: To ensure the site is appropriately maintained.

54. Site fencing

The site must be secured and fenced prior to works commencing. All excavation, demolition and construction works shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.

If the work involved in the excavation, demolition or construction of the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, a hoarding is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place (note that separate approval is required prior to the commencement of works to erect a hoarding or temporary fence on public property).

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.

The site shall be secured/locked to prevent access at the end of each day.

Any hoarding, fence or awning is to be removed when the construction work has been completed.

Reason: To ensure public safety.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A COMPLIANCE CERTIFICATE FOR SUBDIVISION WORKS:**55. Certification of as-constructed driveway crossover**

Prior to issue of issue of a Compliance Certificate for subdivision work, the Principal Certifier is to be satisfied that:

1. The completed vehicular access complies with Australian. Standard 2890.1 - 2004 "Off-Street car parking"
2. Finished driveway gradients and transitions will not result in the scraping of the underside of cars.

Evidence from a suitably qualified and experienced traffic/civil engineer demonstrating compliance with the above is to be provided to and approved by the Principal Certifier prior to the issue of a Compliance Certificate.

Reason: To ensure that vehicular access is compliant with Australian Standards and the Development Consent.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE:**56. Submission of plans of subdivision (Torrens title)**

For endorsement of a Subdivision Certificate, an original plan of subdivision, suitable for endorsement by Council shall be submitted to Council through the NSW Planning Portal. The following details must be submitted with the plan of subdivision and its copies:

1. The endorsement fee current at the time of lodgement.
2. The 88B instrument.
3. A copy of the Compliance Certificate for the subdivision works approved under eDA0563/24
4. All surveyor's and/or consulting engineers' certification(s) required under this subdivision consent.
5. The Section 73 (Sydney Water) Compliance Certificate for the subdivision.
6. Proof of payment of any required S.711 contribution.

Council will check the conditions on the Development Consent for subdivision. Failure to submit the required information will delay endorsement of the linen plan and may require payment of rechecking fees. **Plans and copies of subdivision must not be folded.**

Reason: Statutory requirement.

57. Issue of subdivision certificate

The Subdivision Certificate must not be issued until all conditions of this Development Consent have been satisfied and a Final Compliance Certificate has been issued by the Principal Certifier.

Reason: To ensure that the development is completed prior to transfer of responsibility for the site and development to another person.

58. Certification of drainage works

Prior to issue of the Subdivision Certificate, Council is to be satisfied that:

1. The 600x600mm stormwater drainage pits at the property boundary for each allotment and discharge outlet to the kerb have been satisfactorily completed in accordance with the approved Construction Certificate drainage plans
2. The drainage system has been installed by a licensed contractor in accordance with the Plumbing and Drainage Code AS3500.3 (2018) and the Building Code of Australia.

Evidence from a qualified and experienced consulting civil/hydraulic engineer documenting compliance with the above is to be provided to Council prior to the issue of the Subdivision Certificate.

Reason: To ensure appropriate stormwater management.

59. Sydney Water Section 73 compliance certificate

Prior to the issue of a Subdivision Certificate, the Section 73 Sydney Water compliance certificate **which refers to the subdivision application** must be obtained and submitted to Council.

Reason: Statutory requirement.

60. Requirements of public authorities for connection to services

Prior to the issue of a Subdivision Certificate, the Principal Certifier shall be satisfied that the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection, relocation and/or adjustment of the services affected by the proposed subdivision have been complied with. All costs related to the relocation, adjustment or support of services are the responsibility of the Applicant.

Details of compliance with the requirements of any relevant public authorities are to be submitted to the Principal Certifier.

Reason: To ensure that services are available to the allotments of land.

61. Infrastructure repair - subdivision works

Prior to issue of a Subdivision Certificate, any infrastructure within the road reserve along the frontage of the subject site or within close proximity, which has been damaged as a result of subdivision works, must be fully repaired to the satisfaction of Council's Development Engineer and at no cost to Council.

Reason: To protect and maintain public infrastructure.

62. Provision of services

Prior to issue of a Subdivision Certificate, separate underground electricity, gas and phone or appropriate conduits for the same, must be provided to each allotment to the satisfaction of the utility provider. A suitably qualified and experienced engineer or surveyor is to provide certification that all new lots have ready underground access to the services of electricity, gas and phone. Alternatively, a letter from the relevant utility provider stating the same may be submitted to satisfy this condition.

Reason: Access to public utilities

63. Driveway construction (subdivision)

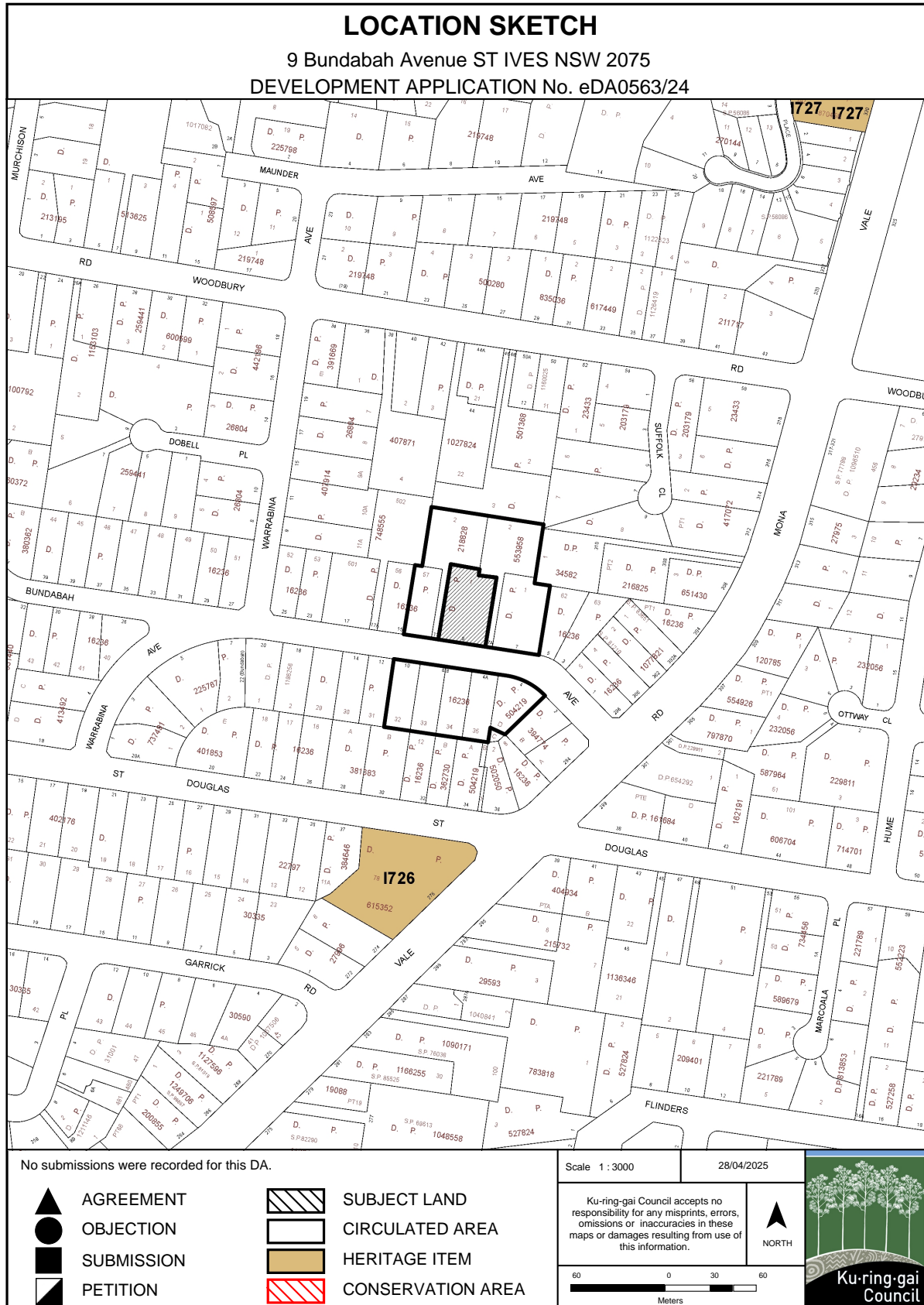
Prior to the issue of the Subdivision Certificate, Council is to be satisfied that the proposed driveway crossing has been constructed to Lot 1.

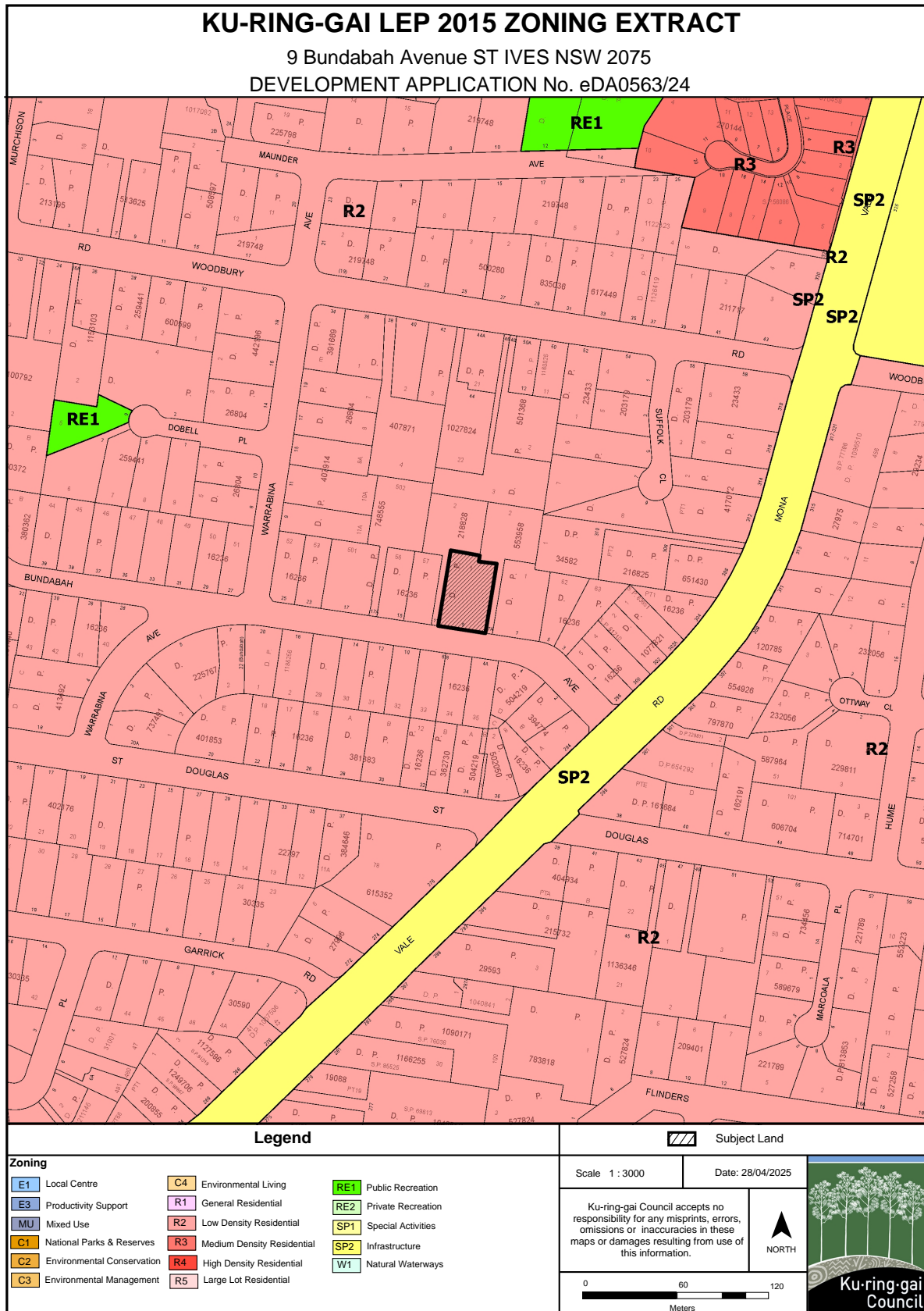
Reason: To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

64. Submission of 88b instrument

Prior to the issue of a Subdivision Certificate, an original instrument under Section 88B of the Conveyancing Act with the plan of subdivision, shall be submitted electronically to Council. Ku-ring-gai Council must be named as the authority whose consent is required to release, vary or modify the burdens.

Reason: To create all required easements, rights-of-carriageway, positive covenants, restrictions-on-use or other burdens/benefits as may be required.

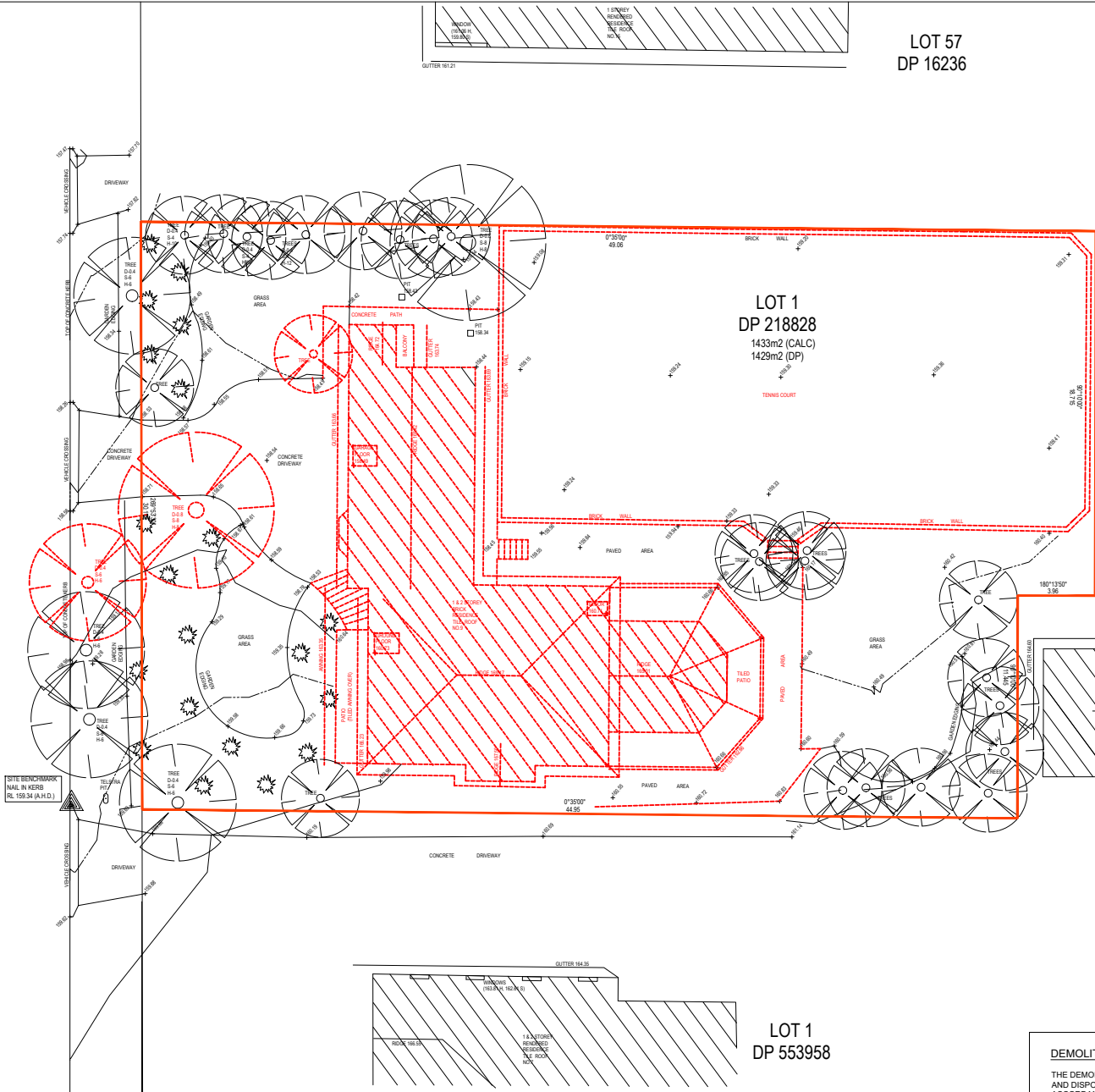






POWER
POLE

BUNDABAH
AVENUE



LOT 57
DP 16236



LOT 2
DP 218828



LOT 2
DP 553958



REVISION A ADDITIONAL INFORMATION 13.02.25



DRAWING:
PROPOSED DEMOLITION PLAN

SCALE:
1:200 (S.A.)

PROJECT:
PROPOSED SUBDIVISION

ADDRESS:
9 BUNDABAH AVENUE
ST IVES

SHEET No:
01

DATE:
FEB 2025

DEMOLITION WORK PLAN

THE DEMOLITION OF BUILDINGS AND THE REMOVAL, STORAGE, HANDLING AND DISPOSAL OF BUILDING MATERIALS MUST BE CARRIED OUT IN ACCORDANCE WITH THE RELEVANT REQUIREMENTS OF WORKCOVER NSW, THE NSW DEPARTMENT OF ENVIRONMENT, CLIMATE CHANGE & WATER INCLUDING:

- WORK HEALTH & SAFETY ACT 2011 AND REGULATIONS
- WORKCOVER NSW CODE OF PRACTICE FOR THE SAFE REMOVAL OF ASBESTOS
- WORKCOVER NSW GUIDELINES AND CODES OF PRACTICE
- AUSTRALIAN STANDARD 2601 (2001) - DEMOLITION OF STRUCTURES
- THE PROTECTION OF ENVIRONMENT OPERATIONS ACT 1997 AND REGULATIONS
- RELEVANT EPA GUIDELINES

REMOVAL OF ASBESTOS MATERIALS

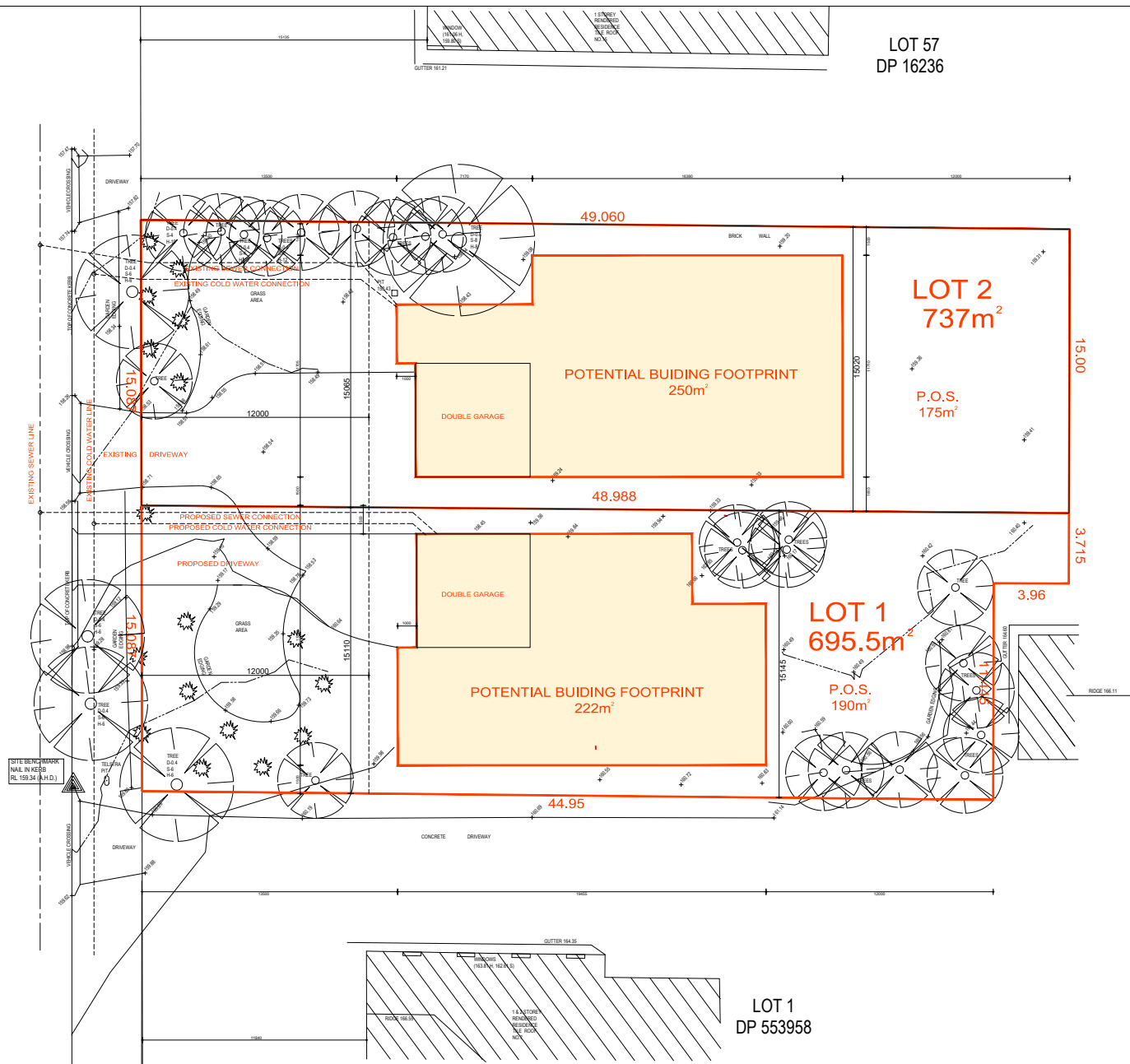
WORK INVOLVING THE DEMOLITION, STORAGE OR DISPOSAL OF ASBESTOS PRODUCTS AND MATERIALS MUST BE CARRIED OUT IN ACCORDANCE WITH THE FOLLOWING REQUIREMENTS:

- RELEVANT OCCUPATIONAL HEALTH & SAFETY LEGISLATION AND WORKCOVER NSW REQUIREMENTS
- A WORKCOVER LICENSED DEMOLITION OF ASBESTOS REMOVAL CONTRACTOR MUST UNDERTAKE REMOVAL OF MORE THAN 10m OF BONDED ASBESTOS (OR AS OTHERWISE SPECIFIED BY WORKCOVER OR RELEVANT LEGISLATION). REMOVAL OF FRIABLE ASBESTOS MATERIAL MUST ONLY BE UNDERTAKEN BY CONTRACTOR THAT HOLDS A CURRENT FRIABLE ASBESTOS REMOVAL LICENCE. A COPY OF THE RELEVANT LICENCE MUST BE PROVIDED TO THE PRINCIPAL CERTIFYING AUTHORITY.



POWER
POLE

BUNDABAH
AVENUE




LOT 2
DP 218828

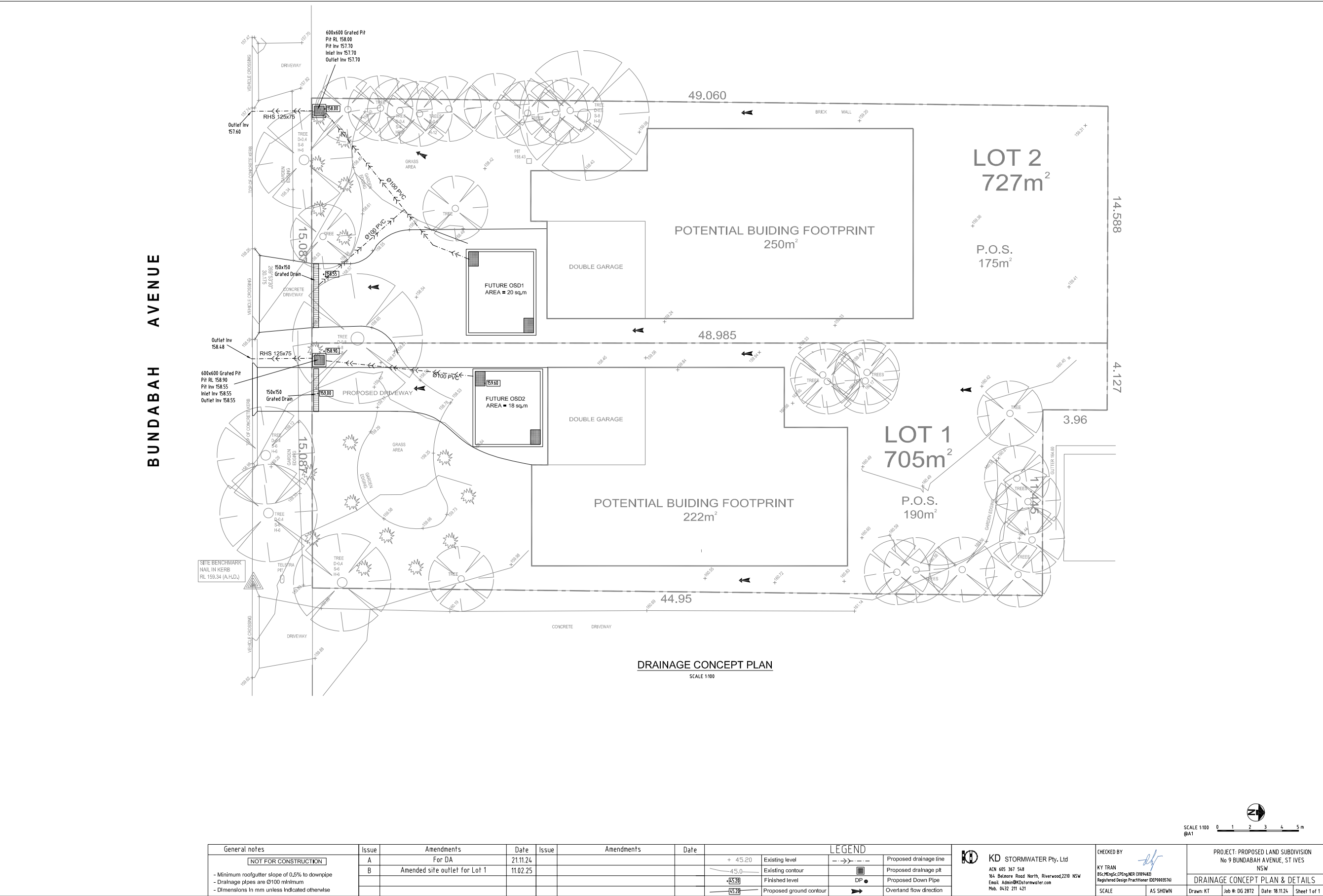


LOT 2
DP 553958

1 & 2 STOREY
BRICK
RESIDENCE
TILE ROOF
NO.15

REVISION A ADDITIONAL INFORMATION 13.02.25

 Corona Projects PO BOX 1740 BONDI JUNCTION NSW 1585 PHONE: 0419 838 356 EMAIL: info@coronaprojects.com.au	DRAWING: PROPOSED SUBDIVISION PLAN SCALE: 1:200 @ A2	PROJECT: PROPOSED SUBDIVISION ADDRESS: 9 BUNDABAH AVENUE ST IVES	SHEET No.: 01 DATE: FEB.2025
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13 November 2024



9 Bundabah Avenue,
St Ives

Arbor Impact Assessment
Version 1.0

Client: Mr Ajay Valanju
c/- Corona Projects Pty Ltd

Prepared By

Luke Smart
AQF V Consulting Arborist (AHC50510)



Smart Arbor Professional Consulting

ABN: 81214180513

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1. DISCLAIMER

The information provided within this report from Smart Arbor Professional Consulting is independently gathered by the author as an unbiased party and represents only the opinions and summations of the consulting arborist; compiled using the data gathered from the site inspection/s and any relevant information provided to the author.

All recommendations and information provided in this report relates to the time and date of the initial, and any following, site assessment/s. In the absence of historical records or information provided to the author, assumptions and findings of the consulting arborist are made based off observations at the time of inspection.

Measurements and locations noted in this report are an approximation and may be based on information found in surveys and further documentation not necessarily completed by the author. Exact locations and measurements of landscape require the assessment of a qualified surveyor.

This report is subject to copyright and no part of it may be used, reproduced, advertised, or used for any media services or separate party consultation without the written consent of the author. No responsibility is accepted for the unauthorized use of this report. The author and/or consulting arborist will not to be held liable for any damage or loss for actions taken regarding findings, conclusions, specifications or recommendations provided in this report.

No guarantees are implied for any findings or recommendations made within this report. Deficiencies, defects, climatic impacts, environmental changes, vandalism, mechanical impacts, or any other variable that may change the current state of the tree/s assessed are not covered in this report and may change the relevance to the opinions and findings provided.

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2. EXECUTIVE SUMMARY

This report has been commissioned by Mr Ajay Valanju, c/- Corona Projects Pty Ltd to provide a qualified assessment of multiple tree specimens on and adjacent to a proposed development site located at 9 Bundabah Avenue, St Ives; a residential property located in the Ku-ring-gai Council LGA and subject to Local Government Tree Management policies.

The general vegetation on the site is noted to be a combination made up of native and exotic purpose planted tree specimens. The vegetation assessed were 21 x trees on the property and 4 x trees on the Council verge in front of the property.

The proposed development that bears any impact to vegetation on site includes the subdivision of the property into two lots with independent driveways, and indicative footprints for potential buildings on each lot. This will involve activities including demolition of existing structures and regrading site levels by excavation, cut/fill processes and possible trenching. No hydraulic or underground services plans have been submitted prior to report completion.

A summary of the recommendations in reference to the vegetation assessed and information on the proposed development provided within this report is as follows:

- Tree No.'s 1, 4, 5, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, 24 & 25 are suitable for retention as no measurable impact is posed to the Tree Protection Zone (TPZ). Tree protection measures must be implemented as prescribed below and in the **DISCUSSION** section of this report (pages 13-15).
- Tree No.'s 2, 7, 21 & 22 have a low impact and sustainable encroachment posed to the Tree Protection Zone by the proposed development and are suitable for retention. Tree sensitive construction techniques must be utilised, and protection measures must be implemented as prescribed in the **DISCUSSION** section of this report (page 15).
- Tree No.'s 3 & 6 are unsuitable for retention if the proposed development is to proceed due to being located within the footprint of the proposed excavation works associated with the new driveway and vehicle crossover. These trees should be removed prior to site establishment.
- Tree 9 is unsuitable for retention if the proposed development is to proceed due to being located directly adjacent to a large residential structure proposed for demolition and may impede building dismantling and construction works. This tree should be removed prior to site establishment.
- Tree removal works should be completed by an experienced Arborist who holds Public Liability and Workers Compensation insurance.
- A Project Arborist with a minimum AQF V qualification must be engaged for the duration of the project to manage the implemented TPZs, supervise excavation works within a measured Tree Protection Zone of retained trees, monitor retained tree health with intermittent site visits over the course of the development, and certify Tree Protection Measures.

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- A fenced exclusion zone is to be implemented that extends around Tree No.'s 1 & 2 in order to protect as much of the TPZ as feasible, while providing a minimum 0.5m offset from the vehicle crossover to allow clear access for construction activities; and a minimum 0.9m offset from the existing garden edging on the verge to allow clear pedestrian access (as indicated on the **TREE LOCATION & IMPACT PLAN**, page 20).
- A second fenced exclusion zone is to be implemented that extends around Tree No.'s 4 & 5 in order to protect as much of the TPZ as feasible, while providing a reasonable offset to allow clear access for demolition and construction activities (as indicated on the **TREE LOCATION & IMPACT PLAN**, page 20).
- A third fenced exclusion zone is to be implemented that extends around Tree No.'s 7, 8 and the entire hedge row that is made up of Tree No.'s 10-22 in order to protect as much of the TPZ as feasible, while providing a minimum 0.5m offset from the new driveway to allow clear access for construction activities; a reasonable offset from demolition activities while providing at least 2.5m of exclusion measured from the boundary fenceline; and should not impede pedestrian access (as indicated on the **TREE LOCATION & IMPACT PLAN**, page 20).
- A fourth fenced exclusion zone is to be implemented that extends around Tree No.'s 23, 24 & 25 in order to protect as much of the TPZ as feasible, while not interfering with demolition and construction activities (as indicated on the **TREE LOCATION & IMPACT PLAN**, page 20).
- All of the above proposed exclusion zones must be installed as per **10.2- TREE PROTECTION FENCING**, page 21 of this report.

Schedule of Tree Management Processes

Stage	Task	Responsible Parties	Process Timing
1	Engagement of Project Arborist to oversee tree health and management	Principal Contractor	Prior to site establishment
2	Undertake removal of Trees 3, 6 & 9	Principal Contractor	Prior to site establishment
3	Install 4 x fenced exclusion zones around Trees 1, 2, 4, 5, 7, 8, 10-22 & 23-25	Principal Contractor	Prior to site establishment.
4	Certification of Tree Protection Measures	Project Arborist	Prior to site establishment.
5	Supervise all excavation works proposed within the TPZ and complete intermittent visits to assess retained tree health.	Principal Contractor Project Arborist	As required prior to the works proceeding adjacent to tree
6	Final Inspection and certification of retained tree health	Project Arborist	Following the removal of tree protection measures from Stage 3

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3. PURPOSE

3.1 - PROPOSAL

This report has been commissioned by Mr Ajay Valanju, c/- Corona Projects Pty Ltd to provide a qualified assessment of multiple tree specimens on and adjacent to a proposed development site located at 9 Bundabah Avenue, St Ives; a residential property located in the Ku-ring-gai Council LGA and subject to Local Government Tree Management policies.

The objective of this report is to complete a Visual Tree Assessment (Mattheck and Breloer 1994 standard)^(c) and take data to assess and provide advice on the impacts posed to vegetation protected by Local Government policies and provide recommendations to assist and guide management of tree species with the view of retaining and protecting suitable specimens.

Determinations and conclusions are drawn in this report by identifying key factors such as:

- Significant tree specimens
- Trees protected under the Ku-ring-gai Development Control Plan 2023^(h) and the Ku-ring-gai Local Environmental Plan 2015^(l)
- Trees protected under the NSW Biodiversity Conservation Act 2016 and the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
- Trees suitable/unsuitable for retention
- The impacts by proposed structures to currently existing tree specimens

The data collected can be read in summarized table form in **TREE DATA COLLECTION FORM** (pages 11 & 12).

3.2 - LOCAL GOVERNMENT TREE PROTECTION

The site is located within the Ku-ring-gai Council LGA and is thus governed by their Development Control Plan and Tree Management Policy. The Ku-ring-gai Development Control Plan^(h) classifies a tree governed under the policy as:

- any perennial plant with at least one self-supporting woody, fibrous stem, whether native or exotic, of 5 metres or more in height; and
- any plant that has a trunk diameter of 150mm or more measured at ground level.

The policy applies to all trees addressed in this report.

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4. METHOD

4.1 – METHODOLOGY

A visual assessment of the trees (VTA⁸ - Mattheck and Breloer 1994 standard)^(d) was performed on 24th October, 2024. VTA⁸ is an industry recognised and standard assessment of an individual tree from ground level to identify tree health and structural symptoms. VTA⁸ is limited to view at ground level, and does not observe symptoms below ground level, or up in the canopy not viewable from ground.

In order to view tree conditions below ground level, excavation around the root base would be required. For viewing areas of the canopy not viewable from ground, an aerial inspection would be required. Neither of these methods were completed at the time of assessment.

4.2 - INSPECTION DATA

- Genus and species
- Height (Estimation),
- Canopy Spread (Estimation)
- DBH (Diameter at Breast Height) and DRB (Diameter at Root Base) with Diameter Tape
- Age
(Juvenile, Semi-Mature, Mature, Late-Maturity, Senescent)
- Vigor
(Good, AVerage, Fair, Poor, Dead, DOrmant)
- Growth Habit
(Upright, Spreading, Leaning, Over-Extended, Dominant, Co-Dominant leaders, Multi-Stemmed)
- Crown¹ Form
(Symmetrical, ASymmetrical, DEense, SParse)
- IACA STARS[®] Significance value
(High, Medium, Low)
- Defects
- General Comments

Data collected is then subject to the SULE (© Jeremy Barrell 2001)^(d) methodology of assessment, which influences any conclusions drawn and recommendations made.

4.3 - TREE DATA DEFINITIONS

- **Age:** The definitions for tree age refer to the stage of life and maturity the tree is currently in that is relevant to tree species. Juvenile (J) is where the tree is in a small or sapling form and

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- has not yet reached a stage where it is producing fruit. This category can often refer to a tree specimen that is under Local Government minimum requirements for classification of a tree but is not necessarily defined by this parameter. A juvenile specimen can grow at an accelerated rate in comparison to the other categories depending on competing species. Semi-Mature (**SM**) is an age of the tree where it may have reached fruiting ability, however the size and habit does not reflect what would be classified as a fully mature example of its species. This category is governed by tree species and their growth habits. Mature (**M**) is the category where the tree has reached fruiting ability and the size and habit reflect what is expected from a fully mature specimen. A mature tree will continue to have steady annual growth. Late Maturity (**LM**) is a mature tree that has considerably slowed its growth rate and has neared its useful life expectancy. Senescent (**S**) is a stage where the tree is still alive, but no longer capable of putting on new growth. This is the final live stage of a tree.
- **Vigor:** The definitions for vigor correlate with how well the tree is performing in its environment and inclusive of canopy growth, branch growth and habit, and expression of general shape from the species in question. Good (**G**) is signs of new growth both in leaf/canopy and branches. 'Flushing'⁴ is a general good indicator. Average (**AV**) is little to no signs of 'Flushing'⁴, however growth is stabilizing and there is no significant loss of canopy growth, nor is there excessive presence of deadwood. Fair (**F**) has an increased presence of deadwood, or moderate signs of decline and dieback to branch extremities. The tree's significance value is usually decreased when in this state, however it is generally reversible with appropriate management. Poor (**P**) is when the tree shows heavier signs of decline, usually with excessive amounts of deadwood or epicormic³ growth, along with less canopy leaf presence and little to no progress in branch and trunk growth. Dead (**D**) means no signs of growth, and the tree is irreversible of its condition. Dormant (**DO**) describes the canopy as being non-existent, i.e. no leaves, however this is not necessarily a sign of death or poor vigor as the tree may be deciduous and in its dormancy stage.
 - **Growth Habit:** The definitions for growth habit apply to condition and habit of the tree and the form features that impact its shape and other factors. Upright (**U**) means the tree is generally growing straight up and reaching skyward with little deviation of direction from the point of the root base. Leaning (**L**) means the tree has deviated from the point of the root base and is favoring a direction that is leaning away. Over-extended (**OE**) means the tree has an excessive lean that could over-balance the tree, and extreme weather conditions may pose a threat of uprooting the tree. Co-Dominant (**CD**) means the main leader of the tree has split into two or more main leaders that have started growing their own primary and secondary laterals. Multi-Stemmed (**MS**) means the tree has begun growth of multiple leaders from the root base that have started their own scaffold of primary and secondary branches.
 - **Crown Form:** The definitions for crown form describe the shape and habit of the canopy, or crown, and touch upon the vigor or leaf growth habit of the crown also. Symmetrical (**S**) describes the canopy as being generally even and balanced in all directions, without favoring a direction. Asymmetrical (**AS**) could refer to a lean or unbalanced canopy, generally seen in species inhibited by other species or unevenly pruned. Dense (**DE**)


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describes the canopy as generally full for its species, with decent or 'Flushing'⁴ growth.
Sparse (SP) describes the canopy as having less decent growth, or open gaps in the canopy.

- **Significance Value:** The definitions for significance value are determined using the IACA Significance of a Tree, Assessment Rating System (STARS)^{®(e)}. This rating system assists with tree management in the planning processes for a proposed development that impacts trees protected under Local Government Tree Management Policies. The system defines three categories of significance as **High**, **Medium** and **Low** within the landscape. Once assessment criteria define the significance of the tree in the landscape, a retention value can then be determined utilising the below Priority Matrix:

		Significance				
		1. High	2. Medium	3. Low		
		Significance in Landscape	Significance in Landscape	Significance in Landscape	Environmental Pest / Noxious Weed Species	Hazardous / Irreversible Decline
Estimated Life Expectancy	1. Long >40 years					
	2. Medium 15-40 Years					
	3. Short <1-15 Years					
	Dead					

Legend for Matrix Assessment



	Priority for Retention (High) - These trees are considered important for retention and should be retained and protected. Design modification or re-location of building/s should be considered to accommodate the setbacks as prescribed by the Australian Standard AS4970 <i>Protection of trees on development sites</i> . Tree sensitive construction measures must be implemented e.g. pier and beam etc if works are to proceed within the Tree Protection Zone.
	Consider for Retention (Medium) - These trees may be retained and protected. These are considered less critical, however their retention should remain priority with removal considered only if adversely affecting the proposed building/works and all other alternatives have been considered and exhausted.
	Consider for Removal (Low) - These trees are not considered important for retention, nor require special works or design modification to be implemented for their retention.
	Priority for Removal - These trees are considered hazardous, or in irreversible decline, or weeds and should be removed irrespective of development.

Other variations on values defined and attributed to the significance value of a tree is at the discretion of the author utilizing experience and professional opinion. All such results are discussed in a report's recommendations.

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5. SITE OBSERVATIONS

5.1 - SITE DESCRIPTION

The trees are located on a residential block with a stepped and levelled aspect that gently tends to the south-west which composes of a two-storey brick residence with an internal triple garage and associated driveway, a tennis court in the rear yard, and landscaped tiered gardens supporting the varied levels of the block. The approximate location of each tree specimen can be identified on the **TREE LOCATION & IMPACT PLAN** (page 20).

The proposed development that bears any impact to vegetation on site includes the subdivision of the property into two lots with independent driveways, and indicative footprints for potential buildings on each lot. This will involve activities including demolition of existing structures and regrading site levels by excavation, cut/fill processes and possible trenching. No hydraulic or underground services plans have been submitted prior to report completion.

5.2 - VEGETATION COMMUNITY

The native vegetation of this area is associated with the Sydney Turpentine Ironbark Forest (STIF) endangered ecological community^[9]. This community is listed as critically endangered under the Biodiversity Conservation Act 2016.

The Sydney Turpentine Ironbark Forest is dominated by *Syncarpia glomulifera* with *Eucalyptus paniculata* and *Eucalyptus eugenioides* occurring less frequently. In areas of higher rainfall (1050 – 1080 mm per annum), *Eucalyptus saligna* is dominant. *Eucalyptus punctata* occurs occasionally in areas where the shale soils are relatively shallow.^[9] This vegetation community has been almost entirely cleared.

There are no representative species of this community on site and all trees on the property appear to be purpose planted specimens.

5.3 - REFERENCE MATERIAL

- Plan Showing Detail & Levels Survey Over Lot 1 in DP 218828 by **Altitude Surveys**; 16/09/2024
- Proposed Subdivision Plan by **Corona Projects**; October 2024
- NSW Government; **Trees Near Me NSW**; ©2024^[9]

ATTACHMENT NO: 6 - ARBORIST REPORT

ITEM NO: GB.1



ADDRESS: 9 Bundabah Avenue, St Ives

INSPECTION: 24/10/24

NO#	Genus	Species	Common Name	Age	Vigor	Growth Habit	Crown Form	Height (m)	Canopy Spread (m)	DBH 1 (mm)	DBH 2 (mm)	DBH 3 (mm)	DBH 4 (mm)	Avg DBH (mm)	DRB (mm)	SRZ (mm)	TPZ (mm)	STARS® Rating	Defects & Attributes	General Comments	Encroachment
1	<i>Backhousia</i>	<i>citriodora</i>	Lemon-scented Myrtle	M	G	CD, U	S	12	6	180	190	160		307	540	2555	3684	M	Codominant leader junction @ 0.7m. Asymmetrical root flare favouring E-W. Crown commences from 1.2m.	Tree located on Council verge in front of property.	No measurable encroachment
2	<i>Sapium</i>	<i>sebiliferum</i>	Chinese Tallow	M	G	U	S, Emergent	12	7	330				330	480	2431	3960	M	Lower crown suppression to E & W from T1 and T3.	Tree located on Council verge in front of property.	Located 2.5m from proposed vehicle crossover posing an 8% cut encroachment within the TPZ
3	<i>Backhousia</i>	<i>citriodora</i>	Lemon-scented Myrtle	M	G	CD, U	S, B	10	5.5	240	200			313	390	2228	3756	M	Codominant leader junction @ 1.2m with bulging inclusion and occluding hollows. Open decay columns occluding on both leaders @ 2.5-3m.	Tree located on Council verge in front of property.	Located within proposed vehicle crossover footprint
4	<i>Hesperocyparis</i>	<i>macrocarpa</i>	Monterey Cypress	M	G	Pole	As	12.5	5	300				300	370	2180	3600	L-M	Tree crown pruned completely on SE side for power pole clearance.		No measurable encroachment
5	<i>Hesperocyparis</i>	<i>macrocarpa</i>	Monterey Cypress	SM	G	CD, U	S	6	3.5	190				190	210	1718	2280	L	Codominant leader junction @ 1.6m.		No measurable encroachment
6	<i>Thuja</i>	<i>occidentalis</i>	Northern White-cedar	M	G	CD, U	S	11	8.5	290	300	360		552	590	2652	6624	M	Codominant leader junction @ 0.6m with 3 x leaders each making up 1/3 of crown.		Located within proposed area for N.G.L. modification associated with new driveways
7	<i>Magnolia</i>	<i>liliflora</i>	Lily Magnolia	M	Av	CD	As, S	5	4	80	80	90	80	166	200	1683	1992	L	Separate leaders from base. Crown from 1.8m has been foraged significantly, small amount of new foliage coming through.		Located 1.6m from proposed new driveway posing a 4% cut encroachment within the TPZ
8	<i>Celtis</i>	<i>sinensis</i>	Chinese Celtis	M	Av-G	CD Vase	As, S	8	8	130	180	170	130	309	460	2388	3708	L	Codominant leaders from base. Spreading growth habit. Upper crown foraged.	Tree located on Council verge in front of property.	No measurable encroachment
9	<i>Rhododendron</i>	<i>sp.</i>	Rhododendron	M	G	L, Skew	As	4.5	4	90	80	80	90	171	200	1683	2052	L	Crown skew to SW.		Located 1.2m from proposed new driveway posing a 13% cut encroachment within the TPZ and SRZ
10	<i>Cupressus</i>	<i>sempervirens</i>	Mediterranean Cypress	M	G	Pole	As, Hedge	12	4	250				250	320	2051	3000	L-M		Part of a hedge row on W boundary line.	No measurable encroachment
11	<i>Cupressus</i>	<i>sempervirens</i>	Mediterranean Cypress	M	Av	Pole	As, Hedge	13	4	190				190	240	1817	2280	L-M		Part of a hedge row on W boundary line.	No measurable encroachment
12	<i>Cupressus</i>	<i>sempervirens</i>	Mediterranean Cypress	M	G	Pole	As, Hedge	17	4	290				290	350	2129	3480	L-M		Part of a hedge row on W boundary line.	No measurable encroachment
13	<i>Cupressus</i>	<i>sempervirens</i>	Mediterranean Cypress	M	G	CD, U	As, Hedge	17	5	230	320			395	620	2707	4740	L-M		Part of a hedge row on W boundary line.	No measurable encroachment
14	<i>Cupressus</i>	<i>sempervirens</i>	Mediterranean Cypress	M	P	CD, U	As, Hedge	16	3	270				270	380	2204	3240	L	Tree is in a state of irreversible dieback	Part of a hedge row on W boundary line.	No measurable encroachment
15	<i>Cupressus</i>	<i>sempervirens</i>	Mediterranean Cypress	M	G	Pole	As, Hedge	14	3.5	170				170	190	1647	2040	L-M		Part of a hedge row on W boundary line.	No measurable encroachment
16	<i>Cupressus</i>	<i>sempervirens</i>	Mediterranean Cypress	M	G	CD, U	As, Hedge	14	4	220				220	240	1817	2640	L-M		Part of a hedge row on W boundary line.	No measurable encroachment
17	<i>Cupressus</i>	<i>sempervirens</i>	Mediterranean Cypress	M	G	Pole	As, Hedge	15	4	310				310	350	2129	3720	L-M		Part of a hedge row on W boundary line.	No measurable encroachment
18	<i>Cupressus</i>	<i>sempervirens</i>	Mediterranean Cypress	M	F-Av	Pole	As, Hedge	15	2.5	170				170	190	1647	2040	L	Suppressed crown up to 10m.	Part of a hedge row on W boundary line.	No measurable encroachment
19	<i>Cupressus</i>	<i>sempervirens</i>	Mediterranean Cypress	M	G	CD, U	As, Hedge	14	5	300				300	340	2104	3600	L-M		Part of a hedge row on W boundary line.	No measurable encroachment
20	<i>Cupressus</i>	<i>sempervirens</i>	Mediterranean Cypress	M	G	Pole	As, Hedge	13	3	210				210	260	1879	2520	L-M		Part of a hedge row on W boundary line.	No measurable encroachment

21	<i>Cupressus sempervirens</i>	Mediterranean Cypress	M	G	CD, L	As, Hedge	11	4.5 [E]	170	270		320	340	2104	3840	L-M	Part of a hedge row on W boundary line	Located 3.2m from potential building footprint posing a 2% cut encroachment within the TPZ	
22	<i>Cupressus sempervirens</i>	Mediterranean Cypress	M	G	U	As, Hedge	10	4	290			290	320	2051	3480	L-M	Part of a hedge row on W boundary line	Located 2.8m from potential building footprint posing a negligible cut encroachment within the TPZ	
23	<i>Camellia sasanqua</i>	Sasanqua Camellia	M	G	CD, B	As	5	4.5	200	200		283	370	2180	3396	L	Dense bushy crown	No measurable encroachment	
24	<i>Camellia japonica</i>	Japanese Camellia	SM	G	CD, U	As	4.5	3	80	100		129	180	1611	1548	L	Asymmetrical crown tending W. Multiple leaders from base, buttress covered in thick layer of mulch.	No measurable encroachment	
25	<i>Camellia sasanqua</i>	Sasanqua Camellia	M	Av	MS	As, S	5	4.5	70	80	80	60	146	300	1996	1752	L		No measurable encroachment

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7. DISCUSSION

The proposed subdivision and potential building footprints appears to be utilising mostly developed space, with only the expansion of the existing driveway footprint to accommodate two separate vehicle access points being the only significant impact to vegetation on site.

However, demolition activities may impact a broader area than indicated on the **TREE LOCATION & IMPACT PLAN** (page 20), and protection measures recommended will exclude these activities from impacting potentially retained vegetation.

The extent of impacts to trees on development sites can be broadly rated using the following scale of impact to the tree's health and structure (as utilised by Guy Paroissien – Landscape Matrix Pty Ltd):

0% of encroachment into the Tree Protection Zone –	No Impact
0 to 10% of encroachment into the Tree Protection Zone –	Low Impact
10 to 15% of encroachment into the Tree Protection Zone –	Low to Moderate Impact
15 to 20% of encroachment into the Tree Protection Zone –	Moderate Impact
20 to 25% of encroachment into the Tree Protection Zone –	Moderate to High impact
25 to 35% of encroachment into the Tree Protection Zone –	High Impact
>35% of encroachment into the Tree Protection Zone –	Significant Impact

7.1 – Trees with No Measurable Impact (0%)

- Tree 1 is a Lemon-scented Myrtle (*Backhousia citriodora*) located on the Council verge in front of the property, and outside the development area. This tree is considered as having a Medium STARS© Significance rating and must be retained and protected as a Council street tree asset.

While, there is no measurable impact to the tree from demolition or construction, care should be taken when transporting equipment, machinery and goods onto site. A fenced exclusion zone should be implemented in order to protect as much of the measured TPZ as feasible, while not impeding clear access for construction activities or pedestrian access along the verge (as indicated in the **TREE LOCATION & IMPACT PLAN**, page 20).

- Tree No.'s 4 & 5 are two Monterey Cypress (*Hesperocyparis macrocarpa*) located in the south-east corner of the property, and outside the development area. These trees are considered as having a Low and Low-Medium STARS© Significance rating and should not be viewed as a constraint on development.

If the trees are intended for retention, care should be taken when transporting equipment, machinery and goods onto site. A fenced exclusion zone should be implemented in order to protect as much of the measured TPZ as feasible, while not impeding clear access for

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demolition or construction activities (as indicated in the **TREE LOCATION & IMPACT PLAN**, page 20).

- Tree 8 is a Chinese Celtis (*Celtis sinensis*) located on the Council verge in front of the property, and outside the development area. While this tree is considered as having a Low STARS© Significance rating, it must be retained and protected as a Council asset unless advised otherwise.

If the tree is intended for retention care should be taken when transporting equipment, machinery and goods onto site. A fenced exclusion zone should be implemented in order to protect as much of the measured TPZ as feasible, while not impeding clear access for construction activities or pedestrian access along the verge (as indicated in the **TREE LOCATION & IMPACT PLAN**, page 20).

- Tree No.'s 10-20 are eleven Mediterranean Cypresses (*Cupressus sempervirens*) located along the south-west boundary of the property planted as a hedge row, and outside the development area. These trees are considered as having a Low and Low-Medium STARS© Significance rating; and while they should not be independently viewed as a constraint on development, the hedge row as a whole provides a reasonably significant contribution of privacy to the property and visual amenity to the streetscape.

If the trees are intended for retention, care should be taken when transporting equipment, machinery and goods onto site. A fenced exclusion zone should be implemented in order to protect as much of the measured TPZ as feasible, while not impeding clear access for demolition or construction activities (as indicated in the **TREE LOCATION & IMPACT PLAN**, page 20).

- Tree No.'s 23, 24 & 25 are two Sasanqua Camellias (*Camellia sasanqua*) and one Japanese Camellia (*Camellia japonica*) located on the north-east corner of the property within a raised garden, and outside the development area. These trees are considered as having a Low STARS© Significance rating and should not be viewed as a constraint on development.

If the trees are intended for retention, care should be taken when transporting equipment, machinery and goods onto site. A fenced exclusion zone should be implemented in order to protect as much of the measured TPZ as feasible, while not impeding clear access for demolition or construction activities (as indicated in the **TREE LOCATION & IMPACT PLAN**, page 20).

7.2 – Trees with a Low Impact (<10%)

- Tree 2 is a Chinese Tallow (*Sapium sebiferum*) located on the Council verge in front of the property and is 2.5m from a proposed new vehicle crossover section, providing an 8% cut encroachment within the Tree Protection Zone. This tree is considered as having a Medium STARS© Significance rating and must be retained and protected as a Council street tree asset.

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The excavation required for construction of the new vehicle crossover poses an impact to the tree's root system that would be deemed as sustainable by the tree if undertaken under the supervision of a Project Arborist with a minimum AQF5 level qualification. If roots greater than 30mm diameter are identified, the Project Arborist at their discretion should advise whether the root must be retained, or they should be clean cut with a pruning saw or chainsaw under their direction. The tree is displaying good signs of vigor and recovery from the impact is highly likely.

The fenced exclusion zone proposed for Tree 1 should be extended in order to also protect as much of the measured TPZ of Tree 2 as feasible, while providing a minimum 0.5m offset from the vehicle crossover to allow clear access for construction activities; and a minimum 0.9m offset from the existing garden edging on the verge to allow clear pedestrian access (as indicated in the **TREE LOCATION & IMPACT PLAN**, page 20).

- Tree 7 is a Lily Magnolia (*Magnolia lilliflora*) located on the property frontage and is 1.6m from the proposed new driveway providing a 4% cut encroachment within the Tree Protection Zone. This tree is considered as having a Low STARS© Significance rating and should not be viewed as a constraint on development.

The excavation required for construction of the new driveway poses an impact to the tree's root system that would be deemed as sustainable by the tree if undertaken under the supervision of a Project Arborist with a minimum AQF5 level qualification. If roots greater than 30mm diameter are identified, the Project Arborist at their discretion should advise whether the root must be retained, or they should be clean cut with a pruning saw or chainsaw under their direction.

The fenced exclusion zone proposed for Tree 8 should be extended in order to also protect as much of the measured TPZ of Tree 7 as feasible, while providing a minimum 0.5m offset from the new driveway to allow clear access for construction activities (as indicated in the **TREE LOCATION & IMPACT PLAN**, page 20).

- Tree No.'s 21 & 22 are two additional Mediterranean Cypresses (*Cupressus sempervirens*) that are part of the hedge row along the south-west boundary of the property. These trees are 3.2m and 2.8m respectively from the potential building footprint, providing a negligible cut encroachment within the Tree Protection Zone. These two trees are considered as having a Low-Medium STARS© Significance rating and should not be viewed as a constraint on development.

Demolition activities may impact these trees during the dismantling process. If these trees are intended for retention, the fenced exclusion zone proposed for Tree No.'s 7 & 8 should be extended to incorporate protection for the entire hedge row of Mediterranean Cypress by providing a 2.5m offset from the property boundary while not impeding access for demolition and construction activities (as indicated in the **TREE LOCATION & IMPACT PLAN**, page 20).

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7.3 - Moderately Impacted Trees (>10%; <20%)

- Tree 9 is a *Rhododendron* sp. located in the front yard of the property and is 1.2m from the proposed new driveway, providing a 13% cut encroachment within the Tree Protection Zone which also encroaches into the Structural Root Zone. It is also located within approximately 1m of the existing residence proposed for demolition. The tree is considered as having a Low STARS© Significance rating and should not be viewed as a constraint on the development.

Demolition activities will be impeded by any adequate tree protection measures proposed if the tree is to be retained. This tree is recommended for removal to eliminate impediment to the demolition of the existing residence and construction of a new driveway.

7.4 - Trees within the development footprint

- Tree 3 is a Lemon-scented Myrtle (*Backhousia citriodora*) located on the Council verge in front of the property and is within the proposed vehicle crossover footprint. This tree is considered as having a Medium STARS© Significance rating and would be suitable for retention in its existing and undisturbed environment.

While the tree is a Council street tree asset, the three trees planted on the verge (Tree No.'s 1, 2 & 3) prevent any reasonable position for a new vehicle crossover without detrimentally impacting at least one of these trees. The current proposed location of the vehicle crossover will have the least amount of impact on overall vegetation on and adjacent to the site and is the most suitable position for this structure from an Arboricultural perspective. Tree 3 cannot be retained if the development is approved in its current form.

- Tree 6 is a Northern White Cedar (*Thuja occidentalis*) located on the property frontage in an edged garden bed beside the existing driveway and will be within an area proposed for modification and excavation of natural ground levels to accommodate two driveways for two separate residences. This tree is considered as having a Medium STARS© Significance rating and would be suitable for retention in its existing and undisturbed environment.

Even if the natural ground level where the tree's buttress level is located is maintained, the level of impact to the overall TPZ from driveway construction was estimated at 75% and would not be sustainable for tree health and structure. Tree 6 cannot be retained if the development is approved in its current form.

7.5 - Other Vegetation and General Notes

- Underground service plans including hydraulic engineering and installation of gas, electric or telecommunications have not been supplied at the time of report completion. In order to mitigate impact to trees proposed for retention, service planning should take into consideration

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a design that avoids unnecessary trenching or excavation within the measured Tree Protection Zone of these trees.

If this cannot be achieved, assessment of proposed excavation within these zones should be reevaluated by a qualified Consulting Arborist or Council Tree Management Officer including the level of impact this may pose to retained trees on site.

- Multiple larger canopies included on the survey completed by Altitude Surveys at the rear of the property indicate multiple Cocos Palms (*Syagrus romanzoffianum*), and an Evergreen Alder (*Alnus jorullensis*). These species on the Exempt tree species list in the Ku-ring-gai Development Control Plan and were not included in this report. If any of these trees are intended for retention, further advice should be given by a Project Arborist with a minimum AQF V qualification on requirements for retention and protection.
- Shrubs located in the front yard of the property did not match minimum prescribed tree criteria as per the Ku-ring-gai Development Control Plan and are not included in this report. However, if any of these shrubs are intended for retention care should be taken when transporting equipment from the front of the property to the demolition/construction zone to avoid unnecessary damage to retained shrub crowns or compaction to soil adjacent to their respective root systems.

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8. RECOMMENDATIONS

8.1 - TREES SUITABLE FOR RETENTION

- Tree No.'s 1, 4, 5, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, 24 & 25 are suitable for retention as no measurable impact is posed to the Tree Protection Zone (TPZ). Tree protection measures must be implemented as prescribed below and in the **DISCUSSION** section of this report (pages 13-15).
- Tree No.'s 2, 7, 21 & 22 have a low impact and sustainable encroachment posed to the Tree Protection Zone by the proposed development and are suitable for retention. Tree sensitive construction techniques must be utilised, and protection measures must be implemented as prescribed in the **DISCUSSION** section of this report (page 15).

8.2 - TREES UNSUITABLE FOR RETENTION

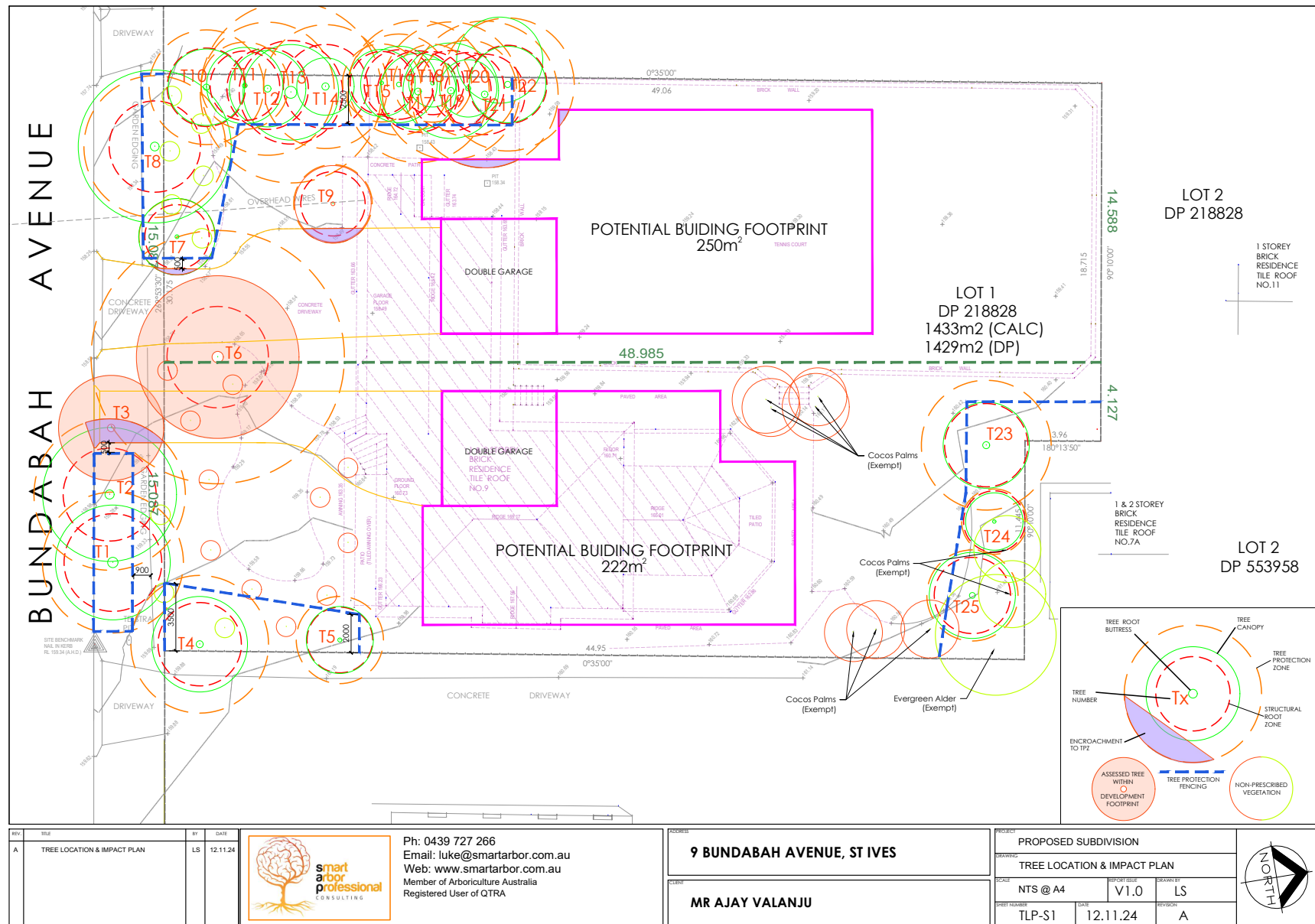
- Tree No.'s 3 & 6 are unsuitable for retention if the proposed development is to proceed due to being located within the footprint of the proposed excavation works associated with the new driveway and vehicle crossover. These trees should be removed prior to site establishment.
- Tree 9 is unsuitable for retention if the proposed development is to proceed due to being located directly adjacent to a large residential structure proposed for demolition and may impede building dismantling and construction works. This tree should be removed prior to site establishment.
- Tree removal works should be completed by an experienced Arborist who holds Public Liability and Workers Compensation insurance.

8.3 – SITE SPECIFIC TREE PROTECTION MEASURES

- A Project Arborist with a minimum AQF V qualification must be engaged for the duration of the project to manage the implemented TPZs, supervise excavation works within a measured Tree Protection Zone of retained trees, monitor retained tree health with intermittent site visits over the course of the development, and certify Tree Protection Measures.
- A fenced exclusion zone is to be implemented that extends around Tree No.'s 1 & 2 in order to protect as much of the TPZ as feasible, while providing a minimum 0.5m offset from the vehicle crossover to allow clear access for construction activities; and a minimum 0.9m offset from the existing garden edging on the verge to allow clear pedestrian access (as indicated on the **TREE LOCATION & IMPACT PLAN**, page 20).

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- A second fenced exclusion zone is to be implemented that extends around Tree No.'s 4 & 5 in order to protect as much of the TPZ as feasible, while providing a reasonable offset to allow clear access for demolition and construction activities (as indicated on the **TREE LOCATION & IMPACT PLAN**, page 20).
- A third fenced exclusion zone is to be implemented that extends around Tree No.'s 7, 8 and the entire hedge row that is made up of Tree No.'s 10-22 in order to protect as much of the TPZ as feasible, while providing a minimum 0.5m offset from the new driveway to allow clear access for construction activities; a reasonable offset from demolition activities while providing at least 2.5m of exclusion measured from the boundary fenceline; and should not impede pedestrian access (as indicated on the **TREE LOCATION & IMPACT PLAN**, page 20).
- A fourth fenced exclusion zone is to be implemented that extends around Tree No.'s 23, 24 & 25 in order to protect as much of the TPZ as feasible, while not interfering with demolition and construction activities (as indicated on the **TREE LOCATION & IMPACT PLAN**, page 20).
- All of the above proposed exclusion zones must be installed as per **10.2- TREE PROTECTION FENCING**, page 21 of this report.



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10. TREE PROTECTION PLANNING

10.1 – Engagement of A Project Arborist

The engagement of a Project Arborist is required to oversee and certify tree protection measures implemented prior to any site establishment works and maintained for the duration of the construction process. The Project Arborist is to perform additional site inspections as required at each stage of the development that may impact tree health including supervision of construction works with a tree's measure TPZ, pruning of trees away from construction activities, etc. The Project Arborist should also be notified in the event the protected trees are damaged or are showing signs of decline which may require further management recommendations.

10.2 - Tree Protection Fencing

When required as part of an approved Development Application, tree protection fencing shall be installed prior to site establishment to establish the TPZ for trees to be retained. Tree protection fencing shall be maintained for the duration of the development schedule. The Tree Protection Fencing should enclose as much of the TPZ as can reasonably be fenced off, allowing for pedestrian access and a reasonable offset around the construction footprint and scaffolding. The fencing should be made up of steel with a chain mesh or fence palings with plywood panels that is lockable and a minimum 1.8m in height. All Tree Protection Fencing should be sign posted with a 'no access' instruction and contact details for the Project Manager and Project Arborist. This should all be certified by the Project Arborist.

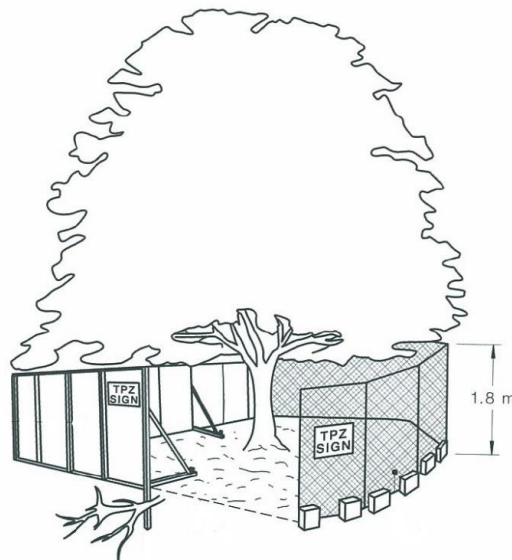


Image from AS 4970 'Protection of Trees on Development Sites', Standards Australia, 2009

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10.3 - Other Tree Protection Measures

Other measures that can assist with the protection of the canopy, trunk, branches, or roots from the risk of damage can include:

- A 100mm layer of approved mulch to be installed to the TPZ.
- A temporary drip irrigation system to be installed to the TPZ.
- Ground protection matting for staff, equipment and machinery access over tree roots.
- Trunk and branch batten and/or wrapping.

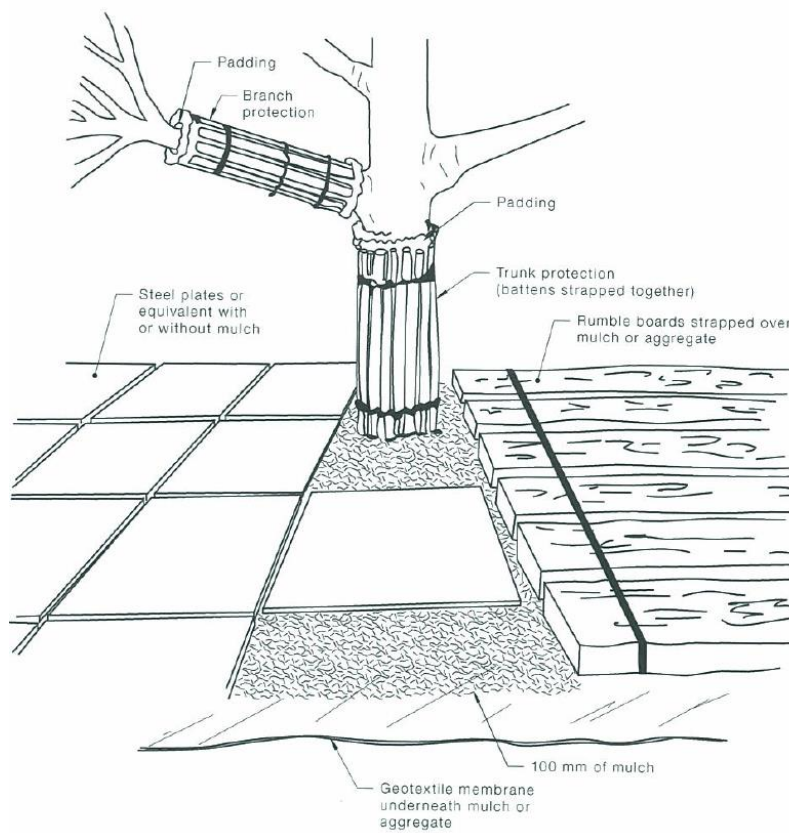


Image from AS 4970 'Protection of Trees on Development Sites'; Standards Australia, 2009

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10.4 - Excavation within the TPZ

Excavation within the TPZ should be avoided, however this is not always realistically the case during a development. All efforts to preserve tree root systems should be taken including:

- Supervision from the Project Arborist during excavation.
- Excavation to be completed by hand when reasonable to avoid damage to roots.
- Root mapping may be required prior to excavation and should be completed with the use of either ground penetrating radar, air spade, water laser or by hand excavation; and should be certified by the Project Arborist.
- Where roots >50mm diameter are encountered, alternative construction methods should be considered to ensure roots are not damaged. Allowance should also be made for future root growth.
- Under-boring for services proposed below the root ball of the tree should be considered and certified by the Project Arborist.

10.5 - Fill

All fill material to be placed within the TPZ should be approved prior by the Project Arborist and be interfaced with a large diameter gravel or pebble to provide aeration and percolation to the root zone.

10.6 - Paving

Proposed paved areas within the TPZ That are to be installed on or above grade should ensure to minimise excavation and avoid surface root severance and/or damage. If proposed pavement materials are not permeable or porous, consideration should be given to forms of irrigation to the soil area below where tree roots have been retained.

10.7 - Pruning

All recommended pruning works (including root pruning) should be in accordance with Australian Standard for Pruning of amenity trees (AS4373 - 2007)^(a). If required, roots should be severed with clean sharp implement flush with the face of the excavation and maintained in a moist condition. Root pruning shall be performed under the supervision of the Project Arborist.

10.8 - Tree Removal

Tree removal work shall be carried out by an experienced Arborist in accordance with the NSW Work Cover Code of Practice for the Amenity Tree Industry (1998) and holds Public Liability and Workers Compensation insurance. Care shall be taken to avoid damage to trees during the felling operation. Stumps shall be grinded using a mechanical stump grinder to a minimum depth of 300mm without damage to other retained root systems.

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10.9 - Tree Damage

In the event of damage to a tree or the TPZ of a tree to be retained, the Project Arborist should be advised in order to provide advice on remedial action. This should be implemented as soon as practicable and certified by the Project Arborist.

10.10 - Post Construction Tree Management

Tree protection fencing with additional trunk and root protection shall be removed following completion of the development schedule. Any mulch layer installed for root protection should be reduced to a 75mm layer and retained on site. In the event of any tree deteriorating in health after the development schedule is complete, the Project Arborist should be engaged to provide advice on any remedial action.

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11. GLOSSARY OF INDUSTRY TERMS

1. **Crown:** The canopy of the tree from the starting point of the tree's first primary lateral.
2. **Deadwood:** Leaves and branches that have died back and are of an irreversible condition.
3. **Epicormic:** The growth that occurs at the point of the epicormic bud that become active shoots when reacting to damage or stress in the tree.
4. **Flushing:** Fast green leaf growth occurring in reaction to ideal or high nutrient conditions for the tree.
5. **Tree Protection Zone (TPZ):** The area calculated ($DBH \times 12$) as a protective buffer to isolate a tree from construction and excavation disturbance so the tree may remain viable.
6. **Structural Root Zone (SRZ):** The area calculated ($((DRB \times 50)^{0.42} \times 0.64)$) that estimates root growth requiring to be retained for stability of the tree.
7. **Encroachment:** An activity or disturbance that takes place within proximity to the tree and inside the Tree Protection Zone that has potential for impact to tree health and structure.
8. **Visual Tree Assessment (VTA):** a non-invasive biomechanically based system of Tree Assessment developed by Claus Mattheck and Helge Breloer, examining the health and structural condition of individual trees.
9. **Canker:** A symptom of an infectious fungal pathogen that has entered between the bark cambium and heartwood that can display as a discolouration, a depression in the bark, or a wound that continues to attempt to heal but is continuously expanding.
10. **Stem taper:** The rate of decrease in stem diameter with increasing height from ground level to the highest point of a singular stem canopy point. Symptoms of good stem taper is an obvious, but not disproportionate decrease in stem diameter from root buttress to a height of 1.4m that continues evenly up the stem. Symptoms outside these proportions can be considered as poor taper.

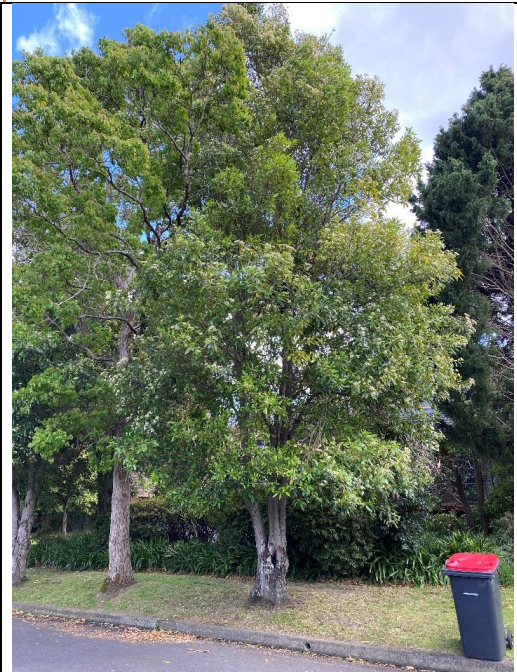
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12. REFERENCES

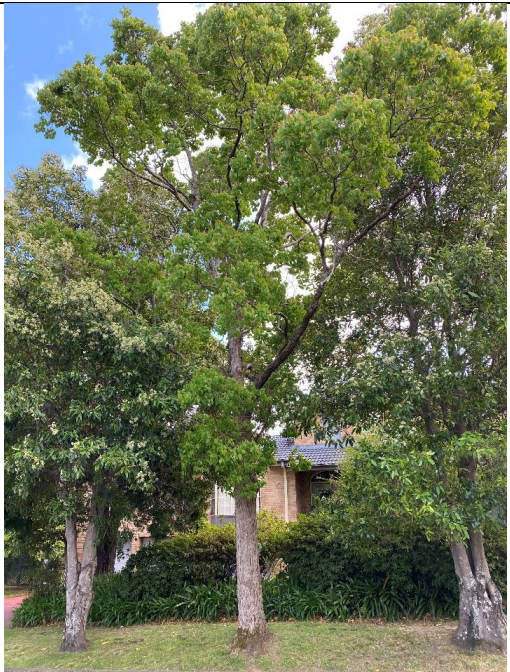
- a) Standards Australia; **AS 4373 Pruning of amenity trees**; 2007
- b) Standards Australia; **AS 4970 Protection of trees on development sites**; 2009
- c) Claus Mattheck; Helge Breloer; **The body language of trees: a handbook for failure analysis**; 1994
- d) Jeremy Barrell; **SULE: Its use and status into the New Millennium**; modified paper, 2001
- e) Institute of Australian Consulting Arboriculturalists; **IACA Significance of a Tree, Assessment Rating System (STARS)®**; 2010
- f) Richard W. Harris; James R. Clark; Nelda P. Matheny; **Arboriculture: Integrated Management of Landscape Trees, Shrubs, and Vines**; 4th Edition 2004
- g) NSW Government; **Trees Near Me NSW**; ©2024
- h) Ku-ring-gai Council; **Ku-ring-gai Development Control Plan**; 2023
- i) Ku-ring-gai Council; **Ku-ring-gai Local Environmental Plan**; 2015

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13. PHOTO REFERENCE



Tree 1



Tree 2



Tree 3



Base of Tree No.'s 1-3

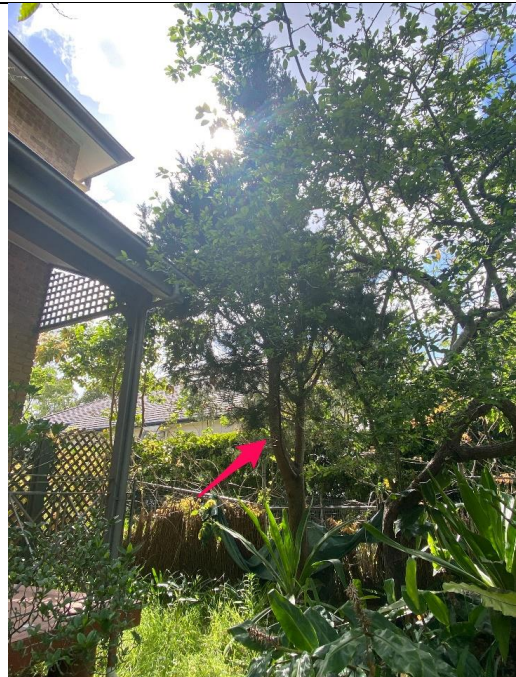
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Tree 4



Tree 5



Tree 6



Tree 7

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Tree 8



Tree 9



Trees No.'s 10-14



Tree No.'s 15-22

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Tree 23



Tree 24



Tree 25



Cocos Palms & Evergreen Alder in yard (T25 front)

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Additional Cocos Palms along east boundary



Cocos Palms near Tennis Court



Corona Projects

DEVELOPMENT APPLICATION

**CI4.6 VARIATION REQUEST – Clause 4.1 Minimum
subdivision lot size**

Demolition of existing site structures and subdivision of one (1) lot into two (2) lots

9 Bundabah Avenue St. Ives

March 2025

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PROJECT DETAILS

Client:	Mr. Ajay Valanju
Subject land:	9 Bundabah Avenue St. Ives
Lot Description:	Lot 1 in Deposited Plan 218828
Proposed development:	Demolition of existing site structures and Torrens Title subdivision of one (1) lot into two (2) lots
Clause being varied:	Clause 4.1 Minimum subdivision lot size (3)
Extent of variation:	Lot sizes: 25.22% (Lot 1) and 20.75% (Lot 2)

The report is prepared by Ellie Zhang
Bachelor of Arts and Social Sciences (USYD)

The report is reviewed by Madeline Maric
Bachelor of Planning (MQU)

I certify that the contents of the Clause 4.6 Variation request to the best of my knowledge, has been prepared as follows:

- In accordance with Section 4.12 of the Environmental Planning and Assessment Act 1979 and Clause 24 of the Environmental Planning and Assessment Regulation 2021;
- The statement contains all available information that is relevant to the environmental impact assessment of the proposed development;
- To the best of my knowledge the information contained in this report is neither false nor misleading.

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1.0 BACKGROUND

This Clause 4.6 variation is a written request to vary a development standard to support a development application for the demolition of existing site structures and Torrens Title subdivision of one (1) lot into two (2) lots at 9 Bundabah Avenue, St. Ives. The proposal is in direct response to the growing housing needs of the St. Ives locality. The subdivision is commensurate to many of the similar lots located within the immediate locality.

More specifically, the proposed works include: -

- Torrens Title Subdivision of one (1) lot into two (2) lots;
- Demolition of the existing dwelling house and tennis court;
- Construction of a new driveway on Lot 1, to provide vehicular access to the site from Bundabah Avenue;
- Removal of one (1) street tree and two (2) trees on site.

Clause 4.1(3) of Ku-ring-gai Local Environmental Plan (KLEP) 2015 relates to the minimum subdivision lot size requirements and states that: *“The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land”*. The Minimum Subdivision Lot Size Map stipulates that the minimum subdivision lot size for 9 Bundabah Avenue St. Ives is **930m²**.

The architectural plans submitted with the Development Application at 9 Bundabah Avenue St. Ives indicate that the proposed lots have the site areas of 695.5m² (Lot 1) and 737m² (Lot 2). This results in 25.22% (Lot 1) and 20.75% (Lot 2) variations to the development standard and non-compliance of 234.5m² (Lot 1) and 193m² (Lot 2).

The proposal is of a reasonable scale and provides a development which will assist to meet the future high demand for additional housing in the St. Ives locality. The development is commensurate in scale and keeping in character with other lot sizes in the area. The variation results in the substantial increase in amenity for the subject site without producing any adverse impacts on the privacy, views, solar access and overall amenity of surrounding properties.

The documentation upon which this report has been prepared is as follows:

Description	Date	Author
Architectural Plans	February 2025	Corona Projects
Statement of Environmental Effects	March 2025	Corona Projects

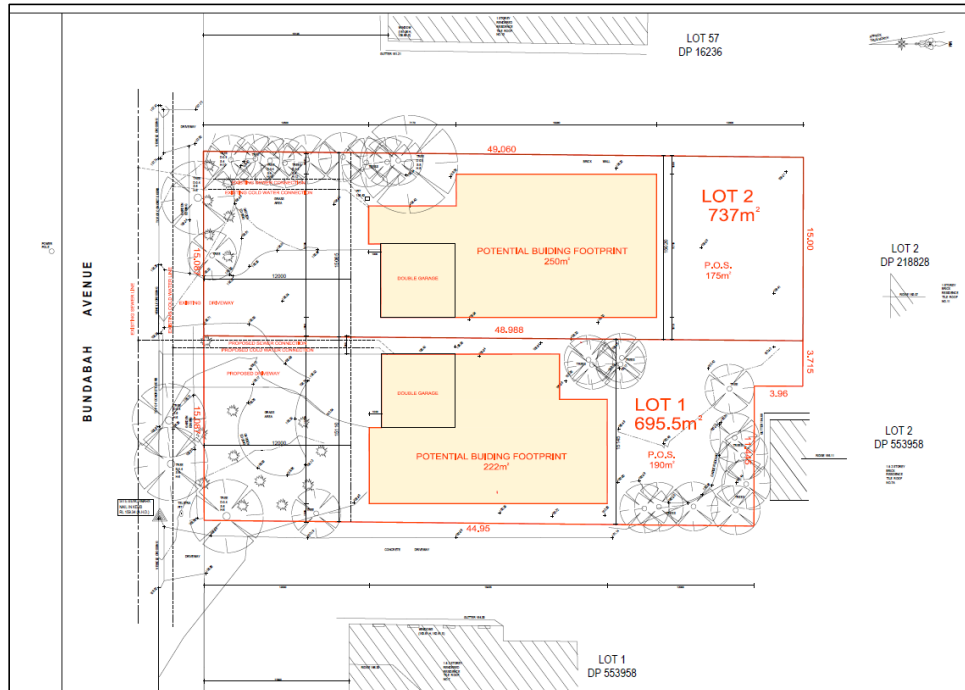


Figure 1: Proposed subdivision plan (Corona Projects, 2025)

2.0 IS THE STANDARD A DEVELOPMENT STANDARD?

Clause 4.1 (3) of the Ku-ring-gai Local Environmental Plan (KLEP) 2015 states that:

- (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.*

A development standard is defined in Section 1.4 of the Environmental Planning and Assessment Act 1979 ("EPA Act") to mean:

"Provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,***
- b) the proportion or percentage of the area of a site which a building or work may occupy,*
- c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- d) the cubic content or floor space of a building,*
- e) the intensity or density of the use of any land, building or work,*
- f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- h) the volume, nature and type of traffic generated by the development,*
- i) road patterns,*
- j) drainage,*
- k) the carrying out of earthworks,*
- l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
- m) the provision of services, facilities and amenities demanded by development,*
- n) the emission of pollution and means for its prevention or control or mitigation, and*
- o) such other matters as may be prescribed."*

The minimum subdivision lot size controls fall under subsection (a); therefore, the control is a development standard and Clause 4.6 of the Ku-ring-gai Local Environmental Plan 2015 is applicable.

3.0 CLAUSE 4.6 OF THE KU-RING-GAI LOCAL ENVIRONMENTAL PLAN 2015

The Standard Instrument LEP contains its own variations clause (Clause 4.6) to allow the variation of development standards. Clause 4.6 of the Standard Instrument is similar in tenor to the former State Environmental Planning Policy No. 1; however, the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) and case law suggests a similar approach to SEPP 1 may be taken in part.

There is abundant judicial guidance on how variations under Clause 4.6 variations should be assessed. Some of these cases are taken into consideration in this request for variation.

While it is not necessary to refer to case law, we do so as it has become customary in sustaining requests under Clause 4.6.

4.0 THE ONUS ON THE APPLICANT

Under Clause 4.6(3)(a), it is the onus of the applicant to demonstrate: -

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

The judgement by Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 clarified the correct approach to Clause 4.6 variation requests, including that:

Paragraph 13 -15 of the judgement states: -

The permissive power in cl 4.6(2) to grant development consent for a development that contravenes the development standard is, however, subject to conditions. Clause 4.6(4) establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard

The first precondition, in cl 4.6(4)(a), is that the consent authority, or the Court on appeal exercising the functions of the consent authority, must form two positive opinions of satisfaction under cl 4.6(4)(a)(i) and (ii). Each opinion of satisfaction of the consent authority, or the Court on appeal, as to the matters in cl 4.6(4)(a) is a jurisdictional fact of a special kind: see Woolworths Ltd v Pallas Newco Pty Ltd (2004) 61 NSWLR 707; [2004] NSWCA 442 at [25]. The formation of the opinions of satisfaction as to the matters in cl 4.6(4)(a) enlivens the power of the consent authority to grant development consent for development that contravenes the development standard.

The first opinion of satisfaction, in cl 4.6(4)(a)(i), is that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by cl 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b)). The written request needs to demonstrate both of these matters.

Accordingly, the matters required to be demonstrated by cl 4.6(3) are set out below using the relevant principles established by the Court.

Clause 4.6 (3) (a) - Compliance with the development standard is unreasonable or unnecessary in this particular case.

In *Wehbe V Pittwater* [2007] NSW LEC 827 (Wehbe) a five-part test was established in which a variation to a development standard is considered to be unreasonable or unnecessary as per Clause 4.6(3A). The five tests established in Wehbe are (emphasis added):

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;**
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- 5. The zoning of the land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Satisfaction of any one of these tests is sufficient to demonstrate the compliance with the standard is unreasonable or unnecessary. This variation is based on the first test, which is addressed below.

Consistency with the objectives of the standard:

The first test of Wehbe requires demonstration that the objectives of a development standard can be achieved notwithstanding noncompliance with that particular standard. The objectives of Clause 4.4 are articulated at Clause 4.1(1):

1) *The objectives of this clause are as follows—*

- (a) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls and minimise risk to life and property from environmental hazards, including bush fires,*
- (b) to ensure that lot sizes and dimensions allow development to be sited to protect natural or cultural features including heritage items, remnant vegetation, habitat and waterways, and provide for generous landscaping to support the amenity of adjoining properties and the desired character of the area,*
- (c) to ensure that subdivision of low density residential sites reflects and reinforces the predominant subdivision pattern of the area.*

Objective (a) is concerned with providing lot sizes which are capable of accommodating development which complies with relevant development controls and minimises environmental hazards. The proposed subdivision provides for logical lot sizes which can appropriately support the development of dwelling house on each subdivided lot evidenced by compliance with Council's controls. This can be observed through the compliant indicative building footprints provided for Lot 1 and Lot 2. The site is not burdened by any environmental hazards.

Objective (b) is concerned with ensuring lot sizes and dimensions that allow development to be sited to protect natural or cultural features, remnant vegetation, habitat to support the amenity of adjoining properties and desired character of the area. The proposed subdivision allows for development which will enable sufficient landscaped area on both lots, and this is demonstrated through compliance with the maximum BUA as per the KDCP. The subject site is not in close proximity to any areas of significant biodiversity or waterways.

Objective (c) is concerned with ensuring that subdivision reflects the subdivision pattern in Ku-ring-gai locality. The subject site is located within the area that contains other lot sizes with less than 930m², and the subdivision of the two (2) lots is in alignment with the land pattern with the local character, as shown in Figure 2. Specifically, the adjacent sites in close proximity to the subject site have a site area ranging

from 699m² to 894m², according to data extrapolated *Real Estate.com*, and are demonstrated in Table 1 below:

Property Address	Site Area (approximately as listed on <i>Real Estate.com</i>)
296 Mona Vale Road	699m ²
12 Bundabah Avenue	711m ²
300 Mona Vale Road	721m ²
8 Bundabah Avenue	723m ²
14 Bundabah Avenue	732m ²
1/302 Mona Vale Road	737m ²
2/302 Mona Vale Road	737m ²
6 Bundabah Avenue	740m ²
10 Bundabah Avenue	745m ²
16 Bundabah Avenue	746m ²
23 Bundabah Avenue	758m ²
4 Bundabah Avenue	778m ²
4A Bundabah Avenue	740m ²
25 Bundabah Avenue	787m ²
5 Bundabah Avenue	806m ²
3 Bundabah Avenue	894m ²

Table 1: Adjacent sites in proximity to the subject site that have less than 930 square metres of lot sizes.



Figure 2: Allotments that are less than the required minimum lot sizes in proximity to subject site (Six Maps 2025).

The proposed subdivision is consistent with other variation request approvals, approved on sites within Ku-ring-gai Council, including 23 Finlay Road Warrawee, 253 Kissing Point Road South Turramurra, 39 Holmes Street Turramurra, 33 Highfield Road Lindfield and 23 Murdoch Street Turramurra. These sites

have been approved with in non-compliant lot sizes for subdivision which range between approximately 644.8m²-881m². See Figure 3-5 below highlighting the relevant lots.



Figure 3: Subdivision of site at 27 Finlay Road Warrawee (Six Maps 2025)



Figure 4: Subdivision of site at 253 Kissing Point Road South Turramurra (Six Maps 2025)

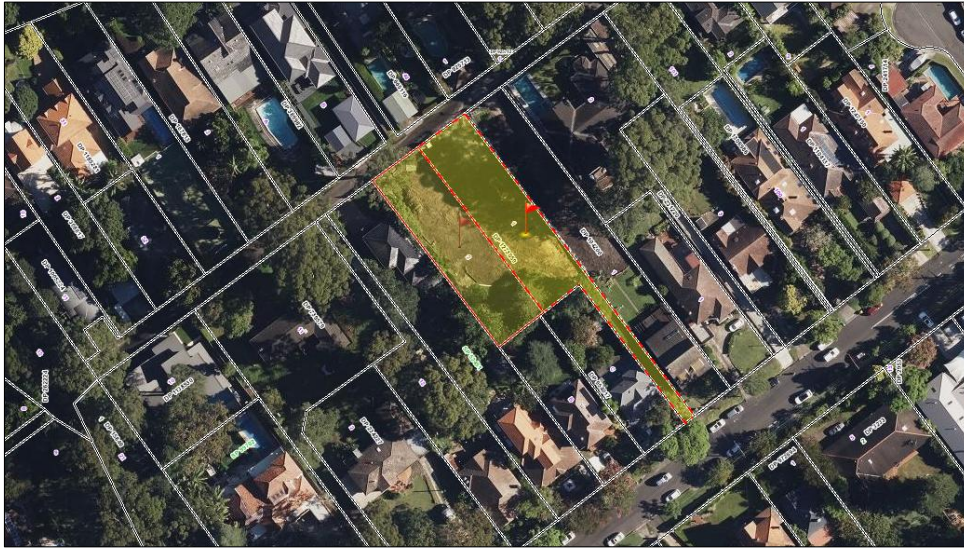


Figure 5: Subdivision of site at 33 Highfield Road Lindfield (Six Maps 2025)

For the above reasons, I am of the view that the variation requested and the resultant development is consistent with the objectives of the development standard and an appropriate degree of flexibility is warranted. Consequently, I conclude that strict compliance with the development standard is unreasonable or unnecessary in this particular case.

Clause 4.6 (3) (b) - That there are sufficient environmental planning grounds to justify contravening the development standard

Satisfaction as to sufficient environmental planning grounds is a matter for the Council to determine and can be site specific as set out in the judgement of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

Paragraph 23 -24 of the judgement states: -

As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be “environmental planning grounds” by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.

*The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31].*

The term ‘environmental planning grounds’ is not defined and may be interpreted with wide scope as has been the practice of the Land and Environment Court. The environmental planning grounds supporting variation are on the basis of:

- Consistency with the subdivision pattern in the locality.

Reiterating the discussion above in relation to the zone objectives, the subject site is located within the area that contains other lot sizes are less than 930m², and the subdivision of the two (2) lots is in alignment with the land pattern with the local character, as shown in Figure 2 above. Specifically, the adjacent sites in close proximity to the subject site have a site area ranging from 699m² to 894m², according to data extrapolated *Real Estate.com*.

The proposed lot sizes are consistent with other similar proposals which have been recently approved previously by Ku-ring-gai Council on lots which have comparable characteristics to the subject site, see Table 2 below. Thus, demonstrating that the proposed lot sizes are consistent with lot sizes within the wider locality.

Application Number	Address	Extent of Variation (%)
DA0125/23	23 Murdoch Street Turramurra NSW 2074	Lot sizes: 30% (Lot 1); 26% (Lot 2)
DA0160/16	27 Finlay Road Warrawee NSW 2074	6.5% (Lot 1); 10.8% (Lot 2)
DA0280/20	33 Highfield Road Lindfield NSW 2070	15.3% (Lot A); 15.3% (Lot B)
DA679/11	39 Holmes Street Turramurra NSW 2074	8.83% (Lot 1)
DA0103/17	253 Kissing Point Road South Turramurra NSW 2074	5.4% (Lot 1)

Table 2: Extent of variation of lot sizes in Ku-ring-gai Council

- Compliant development potential, supporting an increase in housing stock

The proposed two lot subdivision results in two allotments which are capable of providing for compliant dwelling houses, which can assist with providing for the housing needs of the local community. The proposed subdivision plan demonstrates that the newly proposed lots are capable of providing dwelling houses which are compliant with the relevant Council controls including setbacks, BUA, GFA, POS and vehicular access.

- Suitability of the site

Given the suitability of the site and the lack of impact arising from the development, the proposal is consistent with object (c) of the EP& Act 1979 to promote the orderly and economic development of land.

As set out in '*Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*', the aforementioned environmental planning grounds do not rely on the benefits of the development as a whole, but rather they directly relate to the proposed Floor Space Ratio aspect that contravenes the development standard.

For the reasons detailed in this request, I am of the opinion that there are sufficient environmental planning grounds for Council to be satisfied that the request is adequate and to allow appropriate flexibility.

5.0 CONCLUSION

The purpose of the application is to apply for the demolition of existing site structures and Torrens Title subdivision of one (1) lot into two (2) lots at 9 Bundabah Avenue St. Ives. The nature of the proposal necessitates a variation to the minimum subdivision lot size development standard; however, the proposal will be commensurate in bulk and siting to surrounding development within the locality.

As development standards tend to be strictly numerical in nature, they fail to take into consideration the nature of the development, any site constraints, or qualitative aspects of the development or of the particular circumstances of the case. Clause 4.6 of the standard instrument LEP allows such an analysis to be carried out.

It has been demonstrated in this request that strict compliance with the Minimum subdivision lot size development standard is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to allow Council to form the opinion of satisfaction that this written request has adequately addressed the matters required to be demonstrated by Cl.4.6(3)(a) and (b).

Therefore, I request that Council support the variation on the basis that this Clause 4.6 variation demonstrates that strict compliance with the development standard is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify a variation to the development standard.

Prepared By:



Ellie Zhang
Town Planner
Bachelor of Arts and Social Sciences (USYD)

Reviewed By:



Madeline Maric
Town Planner
Bachelor of Planning (MQU)
Planning Institute of Australia (Member)





Corona Projects

DEVELOPMENT APPLICATION

**CI4.6 VARIATION REQUEST – Clause 4.1 Minimum
subdivision lot size**

Demolition of existing site structures and subdivision of one (1) lot into two (2) lots

9 Bundabah Avenue St. Ives

March 2025

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PROJECT DETAILS

Client:	Mr. Ajay Valanju
Subject land:	9 Bundabah Avenue St. Ives
Lot Description:	Lot 1 in Deposited Plan 218828
Proposed development:	Demolition of existing site structures and Torrens Title subdivision of one (1) lot into two (2) lots
Clause being varied:	Clause 4.1 Minimum subdivision lot size (3A)
Extent of variation:	Lot widths: 16.06% (Lot 1) and 16.31% (Lot 2)

The report is prepared by Ellie Zhang
Bachelor of Arts and Social Sciences (USYD)

The report is reviewed by Madeline Maric
Bachelor of Planning (MQU)

I certify that the contents of the Clause 4.6 Variation request to the best of my knowledge, has been prepared as follows:

- In accordance with Section 4.12 of the Environmental Planning and Assessment Act 1979 and Clause 24 of the Environmental Planning and Assessment Regulation 2021;
- The statement contains all available information that is relevant to the environmental impact assessment of the proposed development;
- To the best of my knowledge the information contained in this report is neither false nor misleading.

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1.0 BACKGROUND

This Clause 4.6 variation is a written request to vary a development standard to support a development application for the demolition of existing site structures and Torrens Title subdivision of one (1) lot into two (2) lots at 9 Bundabah Avenue, St. Ives. The proposal is in direct response to the growing housing needs of the St. Ives locality. The subdivision is commensurate to many of the similar lots located within the immediate locality.

More specifically, the proposed works include: -

- Torrens Title Subdivision of one (1) lot into two (2) lots;
- Demolition of the existing dwelling house and tennis court;
- Construction of a new driveway on Lot 1, to provide vehicular access to the site from Bundabah Avenue;
- Removal of one (1) street tree and two (2) trees on site.

Clause 4.1 (3A) of Ku-ring-gai Local Environmental Plan (KLEP) 2015 relates to the Lot Widths requirements and states that: *“Development consent must not be granted for the subdivision of land in any of the following zones unless the subdivision would result in each lot, other than a battle-axe lot, having a width of a least **18 metres** along a line that is 12 metres from the street frontage of the lot—*

*(a) **Zone R2 Low Density Residential,***

*(b) **Zone C3 Environmental Management,***

*(c) **Zone C4 Environmental Living.”***

The subject site is zoned as R2 Low Density Residential. The KLEP 2015 stipulates that the minimum lot width is 18m, as measured 12m from the street frontage of Bundabah Avenue.

The architectural plans submitted with the Development Application at 9 Bundabah Avenue St. Ives indicate that the proposed lots have the lot widths of 15.11m (Lot 1) and 15.065m (Lot 2). This results in 16.06% (Lot 1) and 16.31% (Lot 2) variations to the development standard and non-compliance of 2.9m (Lot 1) and 2.935m (Lot 2).

The proposal is of a reasonable scale and provides a development which will assist to meet the future high demand for additional housing in the St. Ives locality. The development is commensurate in scale and keeping in character with other lot widths in the area. The variation results in the substantial increase in amenity for the subject site without producing any adverse impacts on the privacy, views, solar access and overall amenity of surrounding properties.

The documentation upon which this report has been prepared is as follows:

Description	Date	Author
Architectural Plans	February 2025	Corona Projects
Statement of Environmental Effects	March 2025	Corona Projects

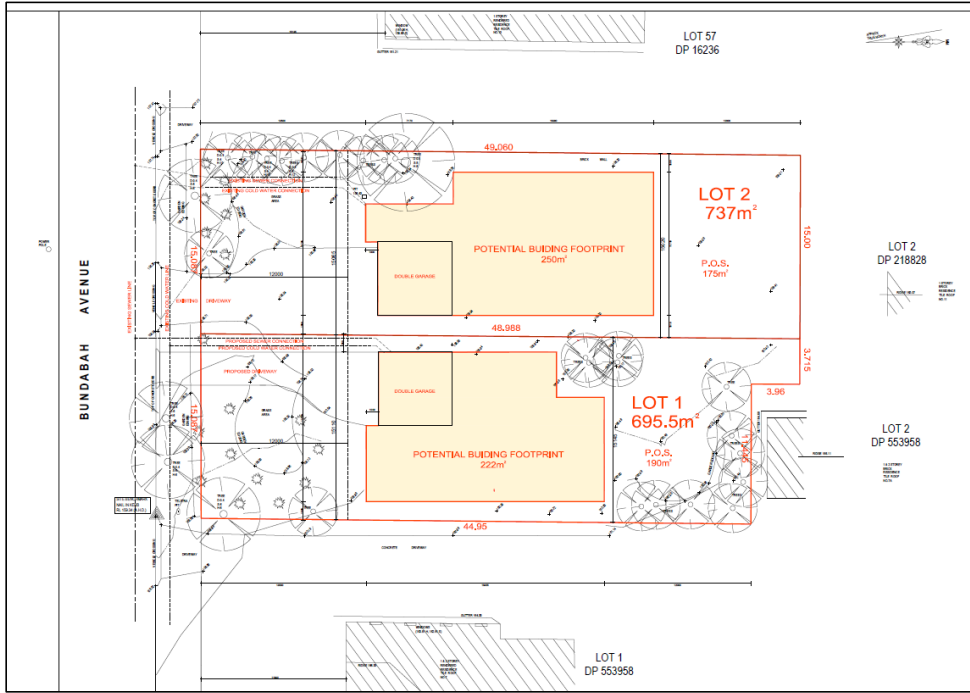


Figure 1: Proposed subdivision plan (Corona Projects, 2025)

2.0 IS THE STANDARD A DEVELOPMENT STANDARD?

Clause 4.1 (3A) of the Ku-ring-gai Local Environmental Plan (KLEP) 2015 states that:

- (3A) Development consent must not be granted for the subdivision of land in any of the following zones unless the subdivision would result in each lot, other than a battle-axe lot, having a width of a least 18 metres along a line that is 12 metres from the street frontage of the lot—
- (a) Zone R2 Low Density Residential,
 - (b) Zone C3 Environmental Management,
 - (c) Zone C4 Environmental Living.

A development standard is defined in Section 1.4 of the Environmental Planning and Assessment Act 1979 ("EPA Act") to mean:

"provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,***
- b) the proportion or percentage of the area of a site which a building or work may occupy,*
- c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- d) the cubic content or floor space of a building,*
- e) the intensity or density of the use of any land, building or work,*
- f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- h) the volume, nature and type of traffic generated by the development,*
- i) road patterns,*
- j) drainage,*
- k) the carrying out of earthworks,*
- l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
- m) the provision of services, facilities and amenities demanded by development,*
- n) the emission of pollution and means for its prevention or control or mitigation, and*
- o) such other matters as may be prescribed."*

The minimum lot width control falls under subsection (a); therefore, the control is a development standard and Clause 4.6 of the Ku-ring-gai Local Environmental Plan 2015 is applicable.

3.0 CLAUSE 4.6 OF THE KU-RING-GAI LOCAL ENVIRONMENTAL PLAN 2015

The Standard Instrument LEP contains its own variations clause (Clause 4.6) to allow the variation of development standards. Clause 4.6 of the Standard Instrument is similar in tenor to the former State

Environmental Planning Policy No. 1; however, the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) and case law suggests a similar approach to SEPP 1 may be taken in part.

There is abundant judicial guidance on how variations under Clause 4.6 variations should be assessed. Some of these cases are taken into consideration in this request for variation.

While it is not necessary to refer to case law, we do so as it has become customary in sustaining requests under Clause 4.6.

4.0 THE ONUS ON THE APPLICANT

Under Clause 4.6(3)(a), it is the onus of the applicant to demonstrate: -

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

The judgement by Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* clarified the correct approach to Clause 4.6 variation requests, including that:

Paragraph 13 -15 of the judgement states: -

The permissive power in cl 4.6(2) to grant development consent for a development that contravenes the development standard is, however, subject to conditions. Clause 4.6(4) establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard

The first precondition, in cl 4.6(4)(a), is that the consent authority, or the Court on appeal exercising the functions of the consent authority, must form two positive opinions of satisfaction under cl 4.6(4)(a)(i) and (ii). Each opinion of satisfaction of the consent authority, or the Court on appeal, as to the matters in cl 4.6(4)(a) is a jurisdictional fact of a special kind: see Woolworths Ltd v Pallas Newco Pty Ltd (2004) 61 NSWLR 707; [2004] NSWCA 442 at [25]. The formation of the opinions of satisfaction

as to the matters in cl 4.6(4)(a) enlivens the power of the consent authority to grant development consent for development that contravenes the development standard.

The first opinion of satisfaction, in cl 4.6(4)(a)(i), is that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by cl 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b)). The written request needs to demonstrate both of these matters.

Accordingly, the matters required to be demonstrated by cl 4.6(3) are set out below using the relevant principles established by the Court.

Clause 4.6 (3) (a) - Compliance with the development standard is unreasonable or unnecessary in this particular case.

In *Wehbe V Pittwater* [2007] NSW LEC 827 (Wehbe) a five-part test was established in which a variation to a development standard is considered to be unreasonable or unnecessary as per Clause 4.6(3A). The five tests established in Wehbe are (emphasis added):

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;**
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- 5. The zoning of the land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Satisfaction of any one of these tests is sufficient to demonstrate the compliance with the standard is unreasonable or unnecessary. This variation is based on the first test, which is addressed below.

Consistency with the objectives of the standard:

The first test of Wehbe requires demonstration that the objectives of a development standard can be achieved notwithstanding noncompliance with that particular standard. The objectives of Clause 4.4 are articulated at Clause 4.1(1): -

1) *The objectives of this clause are as follows—*

- (a) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls and minimise risk to life and property from environmental hazards, including bush fires,*
- (b) to ensure that lot sizes and dimensions allow development to be sited to protect natural or cultural features including heritage items, remnant vegetation, habitat and waterways, and provide for generous landscaping to support the amenity of adjoining properties and the desired character of the area,*
- (c) to ensure that subdivision of low density residential sites reflects and reinforces the predominant subdivision pattern of the area.*

Objective (a) is concerned with ensuring lot sizes and lot widths which are capable of accommodating development which complies with relevant development controls and minimises environmental hazards. The proposed subdivision provides for logical lot widths which can successfully support the development of a well-proportioned dwelling on each resulting lot. This can be observed through the compliant indicative building footprint provided for Lot 1 and Lot 2. Additionally, the site is not burdened by any environmental hazards. Therefore, the proposal aligns with this objective.

Objective (b) is concerned with ensuring lot sizes and dimensions as well as lot widths that allow development to be sited to protect natural or cultural features, habitat, and remnant vegetation to support the amenity of adjoining properties and desired character of the area. The proposal will allow for sufficient landscaped area on both lots, and this is demonstrated through compliance with the maximum BUA as per the KDCP. The subject site is no in close proximity to any areas of significant waterways, biodiversity or heritage items.

Objective (c) is concerned with ensuring that subdivision reflects the subdivision pattern in Ku-ring-gai locality. The subject site is located within an area that contains other lots of a width less than 18 metres, as measured 12 metres from the street frontage. Therefore, the proposed Torrens title subdivision of the two (2) lots provides reasonable lot widths that reflect the predominant subdivision pattern of the local area. Specifically, the subdivision patterns in adjacent land in close proximity to the subject site have a lot width ranging from approximately 12m to 15m, as measured 12 metres from the street frontage on *Six Maps*. See Table 1 below that notes lot widths that are similar with the proposal:

Property Address	Lot Width (approximately as measured on <i>Six Maps</i>)
296 Mona Vale Road	15m
300 Mona Vale Road	15m
1/302 Mona Vale Road	15m
2/302 Mona Vale Road	15m
5 Bundabah Avenue	13m
3 Bundabah Avenue	12m

Table 1: *Adjacent sites in proximity to the subject site that have a width of less than 18 metres, as measured 12 metres from the street frontage.*

According to the Ku-ring-gai Council's website, the sites at 253 Kissing Point Road South Turramurra and 33 Highfield Road Lindfield in the Ku-ring-gai locality have the approved lot widths that are than the minimum requirement. The proposal has a similar with or greater lot widths than the listed non-compliant widths in the Ku-ring-gai locality, as presented in Table 2 below.

Application Number	Address	Lot widths
DA0103/17	253 Kissing Point Road South Turramurra	16.385m (Lot 1); 14m (Lot 2)
DA0280/20	33 Highfield Road Lindfield NSW 2070	12.19m (Lot A); 15.24m (Lot B)
DA0125/23	23 Murdoch Street Turramurra NSW 2074	15.545m (Lot 1)

Table 2: *Sites in the Ku-ring-gai locality that have a Torrens Title subdivision with approved non-compliant widths*

For the above reasons, I am of the view that the variation requested and the resultant development is consistent with the objectives of the development standard and an appropriate degree of flexibility is warranted. Consequently, I conclude that the first test of Wehbe is achieved and thus strict compliance with the development standard is unreasonable or unnecessary in this particular case.

Clause 4.6 (3) (b) - That there are sufficient environmental planning grounds to justify contravening the development standard

Satisfaction as to sufficient environmental planning grounds is a matter for the Council to determine and can be site specific as set out in the judgement of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

Paragraph 23 -24 of the judgement states: -

As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be “environmental planning grounds” by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.

The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].

The term ‘environmental planning grounds’ is not defined and may be interpreted with wide scope as has been the practice of the Land and Environment Court. The environmental planning grounds supporting variation are on the basis of:

- Reasonable lot widths and consistency with the Ku-ring-gai locality

The proposed lot widths are consistent with other similar Torrens Title subdivision proposals which have been recently approved previously by Ku-ring-gai Council, as demonstrated in Table 1 and Table 2 above. As demonstrated in the accompanying subdivision plan, each lot is capable of providing for a compliant building footprint, achieving the desired qualitative and quantitative compliance. The proposed development provides for adequate lot widths that offer a beneficial outcome for the

community through the additional housing opportunity in the Ku-ring-gai locality. Approval of the subdivision will allow for reasonable and appropriate allotments that are capable of providing for two future residential dwellings.

- Compliant development potential, supporting an increase in housing stock

The proposed subdivision allows for the future potential development of one dwelling house on each lot to have the potential to provide high levels of residential amenity. The variation to the lot width control as discussed above, does not decrease the residential amenity afforded to residents, nor does it adversely affect the design or configuration of the future dwellings. The proposed subdivision plan demonstrates that the newly proposed lots are capable of providing dwelling houses which are compliant with the relevant Council controls including setbacks, BUA, GFA, POS and vehicular access.

- Suitability of the site

Given the suitability of the site and the lack of impact arising from the development, the proposal is consistent with object (c) of the EP& Act 1979 to promote the orderly and economic development of land.

As set out in *'Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118'*, the aforementioned environmental planning grounds do not rely on the benefits of the development as a whole, but rather they directly relate to the proposed Floor Space Ratio aspect that contravenes the development standard.

For the reasons detailed in this request, I am of the opinion that there are sufficient environmental planning grounds for Council to be satisfied that the request is adequate and to allow appropriate flexibility.

5.0 CONCLUSION

The purpose of the application is to apply for the demolition of existing site structures and Torrens Title subdivision of one (1) lot into two (2) lots at 9 Bundabah Avenue St. Ives. The nature of the proposal necessitates a variation to the minimum subdivision lot width development standard; however, the lot widths resulting from the proposal will be commensurate in bulk and siting to surrounding development within the locality.

As development standards tend to be strictly numerical in nature, they fail to take into consideration the nature of the development, any site constraints, or qualitative aspects of the development or of the particular circumstances of the case. Clause 4.6 of the standard instrument LEP allows such an analysis to be carried out.

It has been demonstrated in this request that strict compliance with the Minimum subdivision lot size development standard is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to allow Council to form the opinion of satisfaction that this written request has adequately addressed the matters required to be demonstrated by Cl.4.6(3)(a) and (b).

Therefore, I request that Council support the variation on the basis that this Clause 4.6 variation demonstrates that strict compliance with the development standard is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify a variation to the development standard.

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