

Randwick Local Planning Panel (Electronic) Meeting

Monday 24 April 2023



RANDWICK LOCAL PLANNING PANEL (ELECTRONIC)

Notice is hereby given that a Randwick Local Planning Panel (Electronic) meeting will be held in the online via Microsoft Teams on Monday, 24 April 2023.

Development Application Reports

D27/23 17-17A Woonah Street, Little Bay (DA/632/2022) - DEFERRED ITEM..... 1

Kerry Kyriacou
DIRECTOR CITY PLANNING

Development Application Report No. D27/23

Subject: 17-17A Woonah Street, Little Bay (DA/632/2022) - DEFERRED ITEM


Executive Summary

Proposal:	Torren Title Subdivision of an attached dual occupancy (variation to min lot size).
Ward:	South Ward
Applicant:	Mr P B Cornish
Owner:	Mr R M Kolbe, Mr S E K Kolbe, Mrs A E C Cornish & Mr P B Cornish
Cost of works:	Nil.
Reason for referral:	Variation to the minimum subdivision lot size development standard by more than 10%.

Recommendation

- A. That the RLPP is satisfied that the matters detailed in Clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the subdivision lot size development standard in Clause 4.1 of Randwick Local Environmental Plan 2012. The concurrence of the Secretary of Planning and Environment may be assumed.
- B. That the RLPP grant consent under Section 4.16 of the *Environmental Planning and Assessment Act 1979*, as amended, to Development Application No. DA/632/2022 for Torren Title Subdivision of an attached dual occupancy at Nos. 17-17A Woonah Street, Little Bay, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  [RLPP Dev Consent Conditions \(general\) - DA/632/2022 - 17-17A Woonah Street, LITTLE BAY NSW 2036 - DEV - Randwick City Council](#)

1. Executive summary

The subject Development Application (DA) was considered at the electronic Randwick Local Planning Panel (RLPP) meeting on 23 February 2023. At the meeting, the Panel deferred the application under the following resolution:

- A. *The Panel deferred consideration of the proposal and requested further information as to whether approval of the subdivision creates non-compliance with provisions of Council's DCP including deep soil landscaped area, noting the existing pool which would be entirely within the proposed Lot 73. Additionally, the Panel seeks advice on whether alternative forms of subdivision could enable continued shared use of the rear yard and pool.*
- B. *The Applicant is invited to provide a response to the above within 14 days of the notice of the resolution and a report from Council staff shall be done as soon as practicable for the same Panel's (as available) consideration and determination electronically.*

Additional information was provided including a landscape plan which has been prepared by the applicant and received by Council, which identifies changes to the existing site to provide additional deep soil permeable area, complying with the deep soil permeable area controls outlined in the DCP. As such, alternative forms of subdivision are not considered necessary, and Torren Title subdivision is appropriate in this instance. It is considered that the additional information provided by the applicant has adequately addressed the reasons for deferral by the Panel.

2. Response to Deferral Resolution

The applicant submitted additional information including an amended landscape plan on 13 March 2023, however as a result of consultation with the Assessment Officer, a final response and amended landscape plan were submitted on 01 April 2023. The following comments are provided in response to the Panel's resolution and reasons for deferral:

1. *Whether approval of the subdivision creates non-compliance with provisions of Council's DCP including deep soil landscaped area, noting the existing pool which would be entirely within the proposed Lot 73.*

Applicant comments:

Section 2.4 – Landscaping and Permeable Surface

- *Controls for Lots 301 to 450m² = 25% (min)*
- *0.25 x 356.4 = 89.1m² (min)*
- *Proposed Landscape and Permeable Surfaces: 89.1m² (25%)*
- *Therefore, the proposed Lot # 73 meets the minimum requirement for Landscaping and Permeable Surface with proposed landscaping amendments.*

Refer sketch SKC-01, Landscaping and Permeable Surfaces, Rev C dated 01.04.2023 for calculation of landscaping and permeable surfaces.

In addition to the Proposed lot #73 meeting the minimum area of Landscaping and Permeable Surface the existing site has extensive indigenous landscaping that has been established including the award winning 'Best Vertical Garden, 2021'.

Assessment Officer comments:

In regards to amount of deep soil permeable area on Lot No. 73, a landscape plan has been provided by the applicant that increases the amount of deep soil permeable area from 10.3% or 36.77sqm (as approved per the landscaped plan under DA/709/2010) to 25% or 89.1sqm. This involves the following works:

- a) Removal of the existing timber boardwalk path and replacement with landscaping and pebbles at the front of the site.
- b) Removal of the existing pavers and replacement with mulch along the north-western side of the No. 73 dual occupancy dwelling.

- c) Removal of the existing raised timber deck and replacement with landscaping with native grasses located within the pool area in the south-western rear corner of the site.

Each of these areas includes deep soil permeable areas that comply with the calculation definition of deep soil permeable areas as outlined in Clause 2.4 'Landscaping and Permeable Surfaces' of C1 in the DCP. The 25% site area allocated for deep soil permeable area for Lot No. 73 complies with the minimum requirement for the site to allocate 25% of the site for deep soil permeable area.

It is noted no works are proposed to increase the amount of deep soil permeable area at Lot No. 74, as the site will retain 34% (or 112m²) of the site as deep soil permeable area, which complies with the minimum requirement for the site to allocate 25% of the site for such use.

As such, both allotments now comply with the numerical control of 25%, satisfying the objectives of the Clause 2.4 'Landscaping and Permeable Surfaces' of the DCP.

2. *Whether alternative forms of subdivision could enable continued shared use of the rear yard and pool.*

Applicant comments:

With regards to alternate forms of subdivision, as the proposal meets the required minimum area for landscaping and permeable surface there is no longer a need to explore alternate forms of subdivision.

Assessing Officer comments:

The proposal has been amended to include works to increase the amount of deep soil permeable area for Lot No. 73 to comply with the numerical control requirements outlined in Clause 2.4 'Landscaping and Permeable Surfaces' of C1 in the DCP. As such, each allotment complies with the site requirements including minimum lot size requirements (as per the draft Planning Proposal and amendments to the Randwick LEP which has been endorsed by Council), frontage width (as per the Council endorsed Stage 1 Draft DCP), site coverage, and deep soil permeable area. The proposed lots also comply with the required minimum POS for each site. As such, an alternative form of subdivision that seeks to keep the rear yards of both sites as shared or common property (through a form of subdivision such as strata subdivision) is not considered required in this instance.

3. Amended Conditions

The additional information and landscape plan have resulted in the Conditions of Consent being revised. A revised draft development consent has been prepared by the Assessment Officer which is attached to the supplementary development application report.

4. Conclusion

That the application to Torren title subdivision of an attached dual occupancy be approved (subject to conditions) for the following reasons:

1. While the proposed lot sizes do not comply with the minimum provisions in Clause 4.1 of the RLEP 2012, the proposal is consistent with the Council endorsed Planning Proposal and amendments to the Randwick LEP 2012 regarding minimum lot size requirements and the future character of the R2 zone.
2. Compliance with the minimum lot size is considered to be unreasonable or unnecessary in the circumstances of this case and there are environmental planning grounds that would warrant a variation to the development standard, based on the Council endorsed Planning Proposal and amendments to the Randwick LEP 2012. As such, the written request pursuant to Clause 4.6 of the RLEP 2012 to vary the minimum lot size standard pursuant to Clause 4.1 is considered to be well founded.
3. The proposed development is consistent with the objectives of the R2 zone in relation to providing for the housing needs of the community, recognising the desirable

elements of the streetscape and the desired character of the area, protecting the amenity of residents, and encouraging housing affordability.

4. The proposed development is consistent with Part C1 of the DCP including the objectives and controls relating to site coverage, deep soil permeable areas and frontage width as outlined in the Council endorsed Stage 1 Draft DCP.

Responsible officer: William Joannides, Environmental Planning Officer

File Reference: DA/632/2022

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Development Consent Conditions



D27/23

Folder / DA No:	DA/632/2022
Property:	17-17A Woonah Street, LITTLE BAY NSW 2036
Proposal:	Torren Title Subdivision of an attached dual occupancy (variation to min lot size).
Recommendation:	Approval

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

- The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

Plan	Drawn by	Dated	Received by Council
Plan of Subdivision of Lot 57 in DP28008, Reference 431, Sheet 1 of 2 Sheets	Robert Francis Lyon	22/10/2021	06/12/2022
Plan of Subdivision of Lot 57 in DP28008, Reference 431, Sheet 2 of 2 Sheets	Robert Francis Lyon	22/10/2021	06/12/2022
Proposed Subdivision Landscaping and Permeable Surfaces, SKC-01, Issue C	Unknown	01/04/2023	04/04/2023

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

The following conditions of consent must be complied with prior to the 'Principal Certifying Authority' issuing a 'Subdivision certificate'.

These conditions have been applied to satisfy the provisions of Council's environmental plans, policies and codes for subdivision works.

Landscaping

- The approval provided above is subject to the Principal Certifying Authority ensuring that areas of deep soil and landscaping/planting are provided, consistent

with what has been shown on the Proposed Subdivision Landscaping and Permeable Surfaces Plan, dwg SKC-01, Issue C, dated 01/04/2023 and stamped by Council 04/04/2023. The Principal Certifying Authority must ensure that landscaping at this site has been installed substantially in accordance with this plan prior to the release of a Subdivision Certificate, with the owner to maintain it in a healthy and vigorous state until maturity.

Sydney Water

3. A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains, and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC).

Go to sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

A Section 73 Compliance Certificate must be completed before a subdivision certificate will be issued.

NOTE: The Section 73 certificate issued upon the completion of the dwellings will not be acceptable to comply with this condition. A separate S73 compliance certificate that specifically refers to the subdivision of the site into two lots must be provided.

Easements

4. The applicant shall create suitable rights of carriageway, easements for services, support and stormwater lines, as required. The applicant shall be advised that the minimum easement width for any stormwater line is 0.9 metres.

Public Utilities

5. The applicant must meet the full cost for telecommunication companies, Jemena, Ausgrid and Sydney Water to adjust/relocate their services as required. This may include (but not necessarily be limited to) relocating/installing new service lines and providing new meters. The applicant must make the necessary arrangements with the service authorities.

Should compliance with this condition require works that are not exempt development, the necessary approvals must be obtained prior to any works being undertaken.

Road / Asset Opening Permit

6. A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.

The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a subdivision certificate.

For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.

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Street and/or Sub-Address Numbering

7. Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.

An application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and/or unit numbers for the development. The street and/or unit numbers must be allocated prior to the issue of a subdivision certificate.

Please note: any Street or Sub-Address Numbering provided by an applicant on plans, which have been stamped as approved by Council are not to be interpreted as endorsed, approved by, or to the satisfaction of Council.

Restriction and Positive Covenant

8. A certificate of title providing evidence of registration of the "restriction on the use of land" and "positive covenant" (required under condition 76 of DA/709/2010) shall be provided to Council prior to the issuing of a subdivision certificate.

If the restriction and positive covenant have **not** yet been registered, a "restriction on the use of land" and "positive covenant" (under section 88B of the Conveyancing Act 1919) shall be placed on the title of the subject property, in conjunction with the registration of the proposed plan of subdivision for this property, to ensure that the onsite detention system is maintained and that no works which could affect the design function of the detention system are undertaken without the prior consent (in writing) from Council. Such restriction and positive covenant shall not be released, varied or modified without the consent of the Council.

Notes:

- a. The "restriction as to user" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.
- b. The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.

Subdivision Certificate

9. A formal application for a subdivision certificate is required to be submitted to and approved by the Council and all conditions of this development consent are required to be satisfied prior to the release of the subdivision plans.