

Central Coast

Local Planning Panel

Central Coast
Supplementary Local Planning Panel
Business Paper
21 July 2022



Meeting Notice

The Supplementary Local Planning Panel of Central Coast

will be held remotely - online,
Thursday 21 July 2022

for the transaction of the business listed below:

1 Planning Reports - Outside of Public Meeting

- 1.1 LPP Supplementary Report DA/60725/2021 - 8 Gheri Avenue Wamberal - 1
into 2 Lot Subdivision - Agenda Item 4.1 Local Planning Meeting 25 November
20212

Kara Krason
Chairperson

Item No: 1.1
Title: LPP Supplementary Report DA/60725/2021 - 8
 Ghersi Avenue Wamberal - 1 into 2 Lot Subdivision
 - Agenda Item 4.1 Local Planning Meeting 25
 November 2021
Department: Environment and Planning

21 July 2022 Supplementary Local Planning Panel

Reference: DA/60725/2021 - D15201047
 Author: Susana Machuca, Senior Development Planner
 Manager: Ailsa Prendergast, Section Manager Development Assessment South
 Andrew Roach, Unit Manager Development Assessment
 Executive: Alice Howe, Director Environment and Planning

Summary

An application has been received for a two-lot subdivision, at 8 Ghersi Avenue, Wamberal. The Local Planning Panel previously considered the matter at its meeting of 25 November 2021 and 22 March 2022. The application was deferred at that time pending submission of additional information.

The application is referred to the Local Planning Panel with additional information as requested. The application is required to be reported to the Local Planning Panel for determination due to the proposed variation to the minimum lot size development standard of *Gosford Local Environmental Plan 2014*. The variation is greater than 10% (14%, or 77.5m² variation proposed). During the notification period, two submissions were received. The application is recommended for approval

Applicant	Tim Shelly Planning
Owner	B F Lawrence
Application No	DA/60725/2021
Description of Land	Lot 33 DP 20817 - 8 Ghersi Avenue, Wamberal and Associated Drainage Works on Part Lot 47 DP 25382, No. 38 Lucinda Avenue Wamberal
Proposed Development	2 Lot Subdivision and Associated Drainage Works involving adjoining Lot 47 DP25382, No. 38 Lucinda Avenue, Wamberal
Site Area	1081m ²
Zoning	R2 Low-density Residential
Existing Use	Single storey Dwelling House
Estimated Value	Nil
Relevant Legislation	<ul style="list-style-type: none"> • <i>Environmental Planning & Assessment Act 1979 – Section 4.15</i> • <i>Local Government Act 1993 – Section 89</i> • <i>State Environmental Planning Policy (Coastal Management) 2018</i> • <i>Gosford Local Environmental Plan 2014</i> • <i>Gosford Development Control Plan 2013</i>
Current Use	Single storey Dwelling House
Integrated Development	No – not integrated development in accordance with Clause 4.46 of the <i>Environmental Planning & Assessment Act 1979</i>
Submissions	Two (2) submissions received
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> 1. Transfer Granting Easement Document & Schedule Details – D15064054 2. Owners Consent Lot 47 No. 38 Lucinda Avenue Wamberal – D15064056 3. LPP Report and Attachments (25 November 2021) 4. LPP Minutes (25 November 2021) 5. Draft Conditions of Consent

Recommendation

- 1 ***That the additional information be considered in the Panel's determination of the application.***
- 2 ***That the Local Planning Panel assume the concurrence of the Secretary of the Department of Planning to permit the non-compliance with the development standard under Clause 4.6 of the Gosford Local Environmental Plan 2014, in accordance with the provisions of Clause 64 of the Environmental Planning and Assessment Regulation 2000.***
- 3 ***That the Local Planning Panel grant consent to DA/60725/2021 – 8 Gheri Avenue Wamberal for two lot subdivision, subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act.***
- 4 ***That Council advise those who made written submissions of the Panel's decision.***

Precis:

An application was received for a two-lot subdivision, at 8 Gheri Avenue, Wamberal (Lot 33 DP 20817).

The Local Planning Panel considered the matter at its meeting of 25 November 2021. The matter was deferred at the meeting pending the submission of supplementary information regarding:

- Details of the terms of the drainage easement through Lot 47
- The extent of works proposed to and within that easement
- Assessment of the environmental impact of those proposed works through Lot 47
- Owners consent from Lot 47, or alternatively legal advice to indicate owners' consent is not required for the development application on this land
- Consideration of whether the address of the application needs to change and whether re-notification is required, in accordance with Council's notification policy

The applicant submitted the relevant additional documentation including the *Transfer Granting Easement Document & Schedule Details* and *Owners Consent* of Lot 47 (38

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Lucinda) (both attached) that verifies and assists to clarify the matters raised and as requested by the Panel.

On 22 March 2022, the Local Planning Panel considered the matter and was deferred once again pending the submission of supplementary information. The resolution of the meeting of 22 March 2022, is as follows:

'That the Local Planning Panel defer consideration of this matter for electronic determination, to seek the following:

1. *The application needs to include 38 Lucinda Avenue, Wamberal where works are occurring. The application form is to be updated to reflect the description of works proposed across both sites, including the site addresses. Council to determine and provide reasons as to whether the matter needs to be re-notified in accordance with Council's notification policy. The Panel suggests that the Council err of the side of caution and notify the whole application with the new description and address. In so doing the notification letter should explain why the application is being notified.*

2. *The above details, including a supplementary memo, are to be provided to the Panel for determination via electronic means as soon as practicable.'*

The application is now presented to the Panel with the additional information for determination.

Additional Information as Requested by Panel

Inclusion of additional lot in development description

Although the proposed development proposes a 2 lot subdivision of land identified as Lot 33 DP 20817 (8 Gheri Avenue, Wamberal). The proposal relies in an easement for drainage within the adjoining Lot 47 DP25382 (38 Lucinda Avenue, Wamberal).

In response to the outcome of the Panel meeting of 22 March 2022, the proposal has now been amended to include the description of works proposed across both sites, including the site addresses in the description (Precis) of Application.

Re-Notification

The application, as submitted, was notified in accordance with *Gosford Development Control Plan 2013* between 5 February 2021 and 26 February 2021. At that time, 2 submissions were received. The matters raised by those submissions were dealt with in the assessment report presented to the Local Planning Panel meeting of 25 November 2021.

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Given that the application description has been amended to include works within another lot (ie the drainage easement within Lot 47 DP25382 (38 Lucinda Avenue) the application was re-notified between 6 April 2022 and 22 April 2022.

For clarity, the application was notified with the following description:

'Property: 8 Gheri Avenue and Associated Drainage Works on Part Lot 47 DP25382, No. 38 Lucinda Avenue WAMBERAL WAMBERAL NSW 2260

'Proposal: 1 into 2 Lot Subdivision and Associated Drainage Works involving adjoining Lot 47 DP25382, No. 38 Lucinda Avenue Wamberal'

The renotification also included the following text:

'The Local Planning Panel considered the matter at its meeting of 25 November 2021 and 22 March 2022. On 22 March 2022 the matter was deferred pending the submission of supplementary information regarding the requirement for the application description (Precis) to include and reflect the associated drainage works required within the Inter-allotment Drainage (IAD) easement already created for this purpose on adjoining Lot 47 DP25382, No 38 Lucinda Avenue Wamberal. As such, the application has not changed however, it will now describe two (2) distinct components:

1. The original Proposed 1 into 2 Lot Subdivision on LOT:33 DP:20817 (Beneficiary Lot of IAD easement), 8 Gheri Avenue WAMBERAL; and

2. The original Associated works of Disposal of stormwater via an existing 1.0m Interallotment Drainage easement on LOT:47 DP25382 (Burdened Lot of IAD Easement), No. 38 Lucinda Avenue WAMBERAL.'

Nil submissions were received during the renotification period.

Any Other Matters

It is noted that no amendment to the development design and/or plans have been carried out. The assessment of the application included within the Local Planning Panel agendas of 25 November 2021 and 22 March 2022 and the conclusion contained therein remains unchanged.

These previous reports are included as Attachments 3 and 4 for the information of the Panel.









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Conclusion

The applicant has made the amendments requested by the Panel and the application re-notified in accordance with the provisions of *Gosford Development Control Plan 2013*.

This application has been assessed against the matters for consideration of Section 4.15 of the *Environmental Planning & Assessment Act 1979* and all relevant instruments, plans and policies. The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development. Subject to the imposition of appropriate conditions, the proposed development is considered reasonable and therefore it is recommended that the Local Planning Panel grant consent to DA/60725/2021 for a 1 into 2 Lot Subdivision and Associated Drainage Works involving adjoining Lot 47 DP 25382, 38 Lucinda Avenue, Wamberal.

Attachments

- | | | |
|---|---|-----------|
| 1  | Dealing 385422 - Creation of Drainage Easement | D15064054 |
|  | | |
| 2  | D15064056 REDACTED Owners Consent Lot 47 No 38 Lucinda Avenue
Wamberal | D15099258 |
|  | | |
| 3  | LPP Supplementary Report DA/60725/2021 - 8 Gheri Avenue
Wamberal - 1 into 2 Lot Subdivision - Agenda Item 4.1 Local Planning
Meeting 25 November 2021 | D15082151 |
|  | | |
| 4  | DA/60725/2021 - 8 Gheri Avenue, Wamberal - 1 into 2 Lot Subdivision | D14936218 |
|  | | |

Office of the Registrar-General / SEC:GLOBAL / KRI:ADVICS

STAMP DUTY

REGISTRAR GENERAL
NEW SOUTH WALES

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385422 T

TRANSFER GRANTING EASEMENT TG 31 2021 \$ 47 R³/₂

REAL PROPERTY ACT, 1900
(See Instructions for Completion on back of form)

<p>Servient Tenement (Land burdened)</p> <p>Torrens Title Reference</p> <p>Folio Identifier 47/25382 Certificate of Title Volume 5843 Folio 172 ϕ</p> <p>ϕ NOW BEING <u>whole</u> OF LAND COMPRISED IN FOLIO <u>93/20817</u></p>	<p>Dominant Tenement (Land benefited)</p> <p>Torrens Title Reference</p> <p>Volume 9514 Folio 209</p> <p>NOW BEING <u>whole</u> OF LAND COMPRISED IN FOLIO <u>21/504642</u></p>
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DESCRIPTION OF LAND Note (a)

TRANSFEROR (registered proprietor of servient tenement) Note (b)

As to Folio Identifier 47/25382, ERIC JAMES WEST and AILEEN MADGE WEST
As to Certificate of Title Volume 5843 Folio 172, ELISE SAVILLE and JAN LOUISE JAMES

(the abovenamed TRANSFEROR) hereby acknowledges receipt of the consideration of \$ 1.00 and TRANSFERS and GRANTS an easement to drain water one wide within the meaning of Part III of Schedule 8 of the Conveyancing Act 1919 and as shown on Plan annexed to transfer Z 385421

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ϕ PLAN REFILED AS D.P. 123654

OVER

TRANSFEREE (registered proprietor of dominant tenement) Note (b)

JAN LOUISE JAMES and RONALD ALAN JAMES

PRIOR ENCUMBRANCES Note (d)

subject to the following PRIOR ENCUMBRANCES: 1. nil
2. _____ 3. _____

DATE 31-10-20

EXECUTION Note (e)

\$10.00

We hereby certify this dealing to be correct for the purposes of the Real Property Act, 1900. Signed in my presence by the transferor who is personally known to me.

Signature of Witness: [Signature]
Name of Witness (BLOCK LETTERS): [Name]
Address and occupation of Witness: [Address]

Signature of Transferor: [Signature]

Note (e)

Signed in my presence by the transferee who is personally known to me

Signature of Witness: [Signature]
Name of Witness (BLOCK LETTERS): [Name]
Address and occupation of Witness: [Address]

Signature of Transferee: [Signature]

TO BE COMPLETED BY LODGING PARTY

Notes (f) and (g)

LODGED BY: RAVE'S MARSH MURRAY & BACKHOUSE SOLICITORS 219 227 ELIZABETH STREET SYDNEY DX 255

Ref: Delivery Box Number 717A

CT	OTHER	LOCATION OF DOCUMENTS
2		Herowith In L.T.O. with
		Produced by

OFFICE USE ONLY

Checked	Passed	REGISTERED -19	Secondary Directions
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Signed	Extra Fee		Delivery Directions
			2006

Office of the Registrar-General / SRC:GLOBAL / REF:ADV1005

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INSTRUCTIONS FOR COMPLETION

This dealing should be marked by the Commissioner of Stamp Duties before lodgment of at Land Titles Office.
Typewriting and handwriting should be clear, legible and in permanent dense black, or dark blue non-copying ink.
Alterations are not to be made by erasure; the words rejected are to be ruled through and initialed by the parties to the dealing in the left hand margin.
If the space provided is insufficient, additional sheets of the same size and quality of paper and having the same margins as this form should be used. Each additional sheet must be identified as an annexure and signed by the parties and the attesting witnesses.
Registered mortgagees, chargees and lessees of the servient tenement should consent to the grant of easement; otherwise, the mortgage, charge or lease should be noted in the memorandum of prior encumbrances.
Rule up all blanks.

The following instructions relate to the side notes on the form.

- (a) Description of land. TORRENS TITLE REFERENCE -- Insert the current Reference to the Folio of the Register for both the dominant and servient tenements, e.g., Vol. 135/SP12345 or Vol. 12634 Fol. 126.
- (b) Show the full name, address and occupation or description.
- (c) State the nature of the easement (see e.g., section 181 A of the Conveyancing Act, 1919), and accurately describe the site of the easement. The transfer and grant must comply with section 88 of the Conveyancing Act, 1919.
- (d) In the memorandum of prior encumbrances state only the registered number of any mortgage, lease or charge (except where the consent of the mortgagee, lessee or chargee is furnished), and of any writ recorded in the Register.
- (e) Execution.
 - GENERALLY (i) Should there be insufficient space for execution of this dealing, use an annexure sheet.
 - (ii) The certificate of correctness under the Real Property Act, 1900, must be signed by all parties to the transfer, each party to execute the dealing in the presence of an adult witness, not being a party to the dealing, to whom he/she is personally known.
 - (iii) The solicitor for the transferee may sign the certificate on behalf of the transferee, the solicitor's name (not that of his/her firm) to be typewritten or printed adjacent to the signature. Any person falsely or negligently certifying is liable to the penalties provided by section 117 of the Real Property Act, 1900.
 - ATTORNEY (iv) If the transfer is executed by an attorney for the transferee pursuant to a registered power of attorney, the form of attestation must set out the full name of the attorney, and the form of execution must indicate the source of his/her authority, e.g., "AB by his/her attorney (or receiver or delegate, as the case may be) XY pursuant to power of attorney registered Book No."
 - AUTHORITY (v) If the transfer is executed pursuant to an authority (other than specified in (iv)) the form of execution must indicate the statutory, judicial or other authority pursuant to which the transfer has been executed.
 - CORPORATION (vi) If the application is executed by a corporation under seal, the form of execution should include a statement that the seal has been properly affixed, e.g., in accordance with the Articles of Association of the corporation. Each person attesting the affixing of the seal must state their position (e.g., director, secretary) in the corporation.
- (f) Insert the name, postal address, Document Exchange reference, telephone number and delivery box number of the lodging party.
- (g) The lodging party is to complete the LOCATION OF DOCUMENTS panel. Place a tick in the appropriate box to indicate the whereabouts of the Certificate of Title. List, in an abbreviated form, other documents lodged, e.g., stat. doc. for statutory declaration, p/bt for probate, L/A for letters of administration.

OFFICE USE ONLY

FIRST SCHEDULE DIRECTIONS				
(a) FOLIO IDENTIFIER	(b) DIRECTION	(c)	NAME	
SECOND SCHEDULE & OTHER DIRECTIONS				
(a) FOLIO IDENTIFIER (OR REGO DEALING & FOLIO IDENTIFIER)	(b) DIRECTION	(c) NOTFN TYPE	(d) DEALING NUMBER	(e) DETAILS
47/25382	ON	EA		Easement to drain water 1 wide reflecting the part of the land above described shown so burdened in DP 123654
33/20817	ON	EA		Easement to drain water 1 wide reflecting the part of the land above described shown so burdened in DP 123654
31/504642	ON	EA		Easement to drain water 1 wide appurtenant to the land above described.
	CT		717A	

ATTENTION: Common Int & Law Statutory Form 1-1 1009

