

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1890
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Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 62 DP 24638, 51 Elanora Road ELANORA HEIGHTS NSW 2101
Proposed Development:	Alterations and additions to an existing dwelling and subdivision of one lot into two lots
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Helen McLennan Nicholas John Ashworth Madeleine Margaret Kent McLennan
Applicant:	Nicholas John Ashworth

Application lodged:	29/11/2018
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	19/12/2018 to 25/01/2019
Advertised:	Not Advertised
Submissions Received:	5
Recommendation:	Approval

Estimated Cost of Works:	\$ 247,720.00
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ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards
 Pittwater 21 Development Control Plan - A4.5 Elanora Heights Locality
 Pittwater 21 Development Control Plan - B2.2 Subdivision - Low Density Residential Areas
 Pittwater 21 Development Control Plan - C1.3 View Sharing
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy
 Pittwater 21 Development Control Plan - C1.12 Waste and Recycling Facilities
 Pittwater 21 Development Control Plan - C4.7 Subdivision - Amenity and Design
 Pittwater 21 Development Control Plan - D5.8 Landscaped Area - General (Excluding Elanora Heights Village Centre)

SITE DESCRIPTION

Property Description:	Lot 62 DP 24638 , 51 Elanora Road ELANORA HEIGHTS NSW 2101
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Elanora Road, Elanora Heights.</p> <p>The site is regular in shape with a frontage of 18.29m along Elanora Road and a depth of 67.055m. The site has a surveyed area of 1,214m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a two-storey detached dwelling.</p> <p>The site slopes approximately 4.3m from west to east, and contains several significant and mature canopy trees.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one- and two-storey detached dwellings.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- T0248/16 for Tree/Bushland Works was withdrawn on 18 October 2016.
- DA2018/0379 for Two 2 lot Torrens Title subdivision including alterations and additions of the existing dwelling was withdrawn on 24 July 2018.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the following works:

- Alterations and additions to the existing dwelling, including:
 - First floor addition
 - Internal reconfiguration
 - Carport with deck (including privacy screening) over
 - New roof
- Driveway works;
- Landscaping works; and
- Torrens title subdivision into two lots.

The application provides indicative architectural drawings of a dwelling house on the proposed new lot (no. 51A Elanora Road, Elanora Heights), to demonstrate consistency with the requirements of Clause C4.7 Subdivision - Amenity and Design of the P21 DCP. No works are proposed on the rear lot under this application. Development on the rear lot would be subject to full assessment under a separate application.

On 15 February 2019, Council requested withdrawal of the application in relation to the requirement to

provide a 3.5m-wide right of carriageway, requiring amendment of plans and supporting documentation, and an insufficient arboricultural assessment report. On 2 and 4 April 2019, the Applicant provided amended plans and an updated arboricultural assessment report in order to address the concerns raised. In accordance with Clause A5.1 of the P21 DCP, the amended plans and documentation did not warrant re-notification of the application, as they result in a development that is substantially the same as the original plans, and result in equivalent environmental impact.

It is noted the Applicant intends to construct the proposed development in stages, as follows:

1. Construct works to enable the subdivision (construction of driveway and passing bay, and increase eastern side setback of existing house)
2. Obtain Occupation Certificate for existing dwelling, following completion of the works to enable the subdivision.
3. Lodge Subdivision Certificate to subdivide the lot into two lots.
4. Construct alterations and additions to the existing dwelling.
5. Obtain final Occupation Certificate for the alterations and additions to the existing dwelling.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The</p>

Section 4.15 Matters for Consideration'	Comments
	<p>Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the WPittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land and the proposed development is for a subdivision of bush fire prone land that could lawfully be used for residential purposes under Section 100B of the Rural Fires Act 1997. As such, the proposal is integrated development and requires a bush fire safety authority from the NSW Rural Fire Service.

The application was referred to the NSW RFS as integrated development. The NSW RFS issued a bush fire safety authority, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS as part of the bush fire safety authority, have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 5 submission/s from:

Name:	Address:
Ms Peta Anne Johnston	55 Elanora Road ELANORA HEIGHTS NSW 2101
Mr Thomas Ian Kindred	5 Georgina Avenue ELANORA HEIGHTS NSW 2101
Mr Rupert James Elkington-Cole	1 Georgina Avenue ELANORA HEIGHTS NSW 2101
Mr Paul Andrew Hardwick	3 Georgina Avenue ELANORA HEIGHTS NSW 2101
Mr Adrian Peter Dunbar Webb	2 Georgina Avenue ELANORA HEIGHTS NSW 2101

The following issues were raised in the submissions and each have been addressed below:

- Excessive height, bulk, and scale - the house is already two storeys.
- View loss to no. 55 Elanora Road.
- Inadequate onsite parking.
- Discrepancies in calculation of hard surface areas, and increased stormwater run-off.
- Proposed lot does not comply with minimum subdivision lot size.
- Loss of vegetation.
- Flood risk assessment is inadequate.
- Bushfire report for the new lot does not address the proposed house.
- Cost of works does not account for construction of house on new lot.
- The site contains native flora and fauna.
- Overlooking impacts on privacy.
- Overshadowing impacts.
- The fence along the driveway will not contain a vehicle on the site if it were to contact with the fence.

The matters raised within the submissions are addressed as follows:

- Height, Bulk, Scale

Comment:

The proposed development is compliant with the height of building development standard within Clause 4.3 Height of Buildings of the PLEP 2014 (which controls height) and with Clause D5.7 Building Envelope of the P21 DCP (which controls bulk and scale). As such, the proposal is acceptable in relation to height, bulk, and scale. The proposed development includes three storeys (comprising an undercroft area, a ground floor and a first floor). However, the lower level is not a habitable space, as it has a floor to ceiling height of 1.9m, where the Building Code of Australia requires a minimum floor to ceiling height of 2.1m for a room to be considered habitable.

- View Loss

Comment:

The proposed development is acceptable in relation to view sharing for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP.

- Parking

Comment:

The proposed development provides compliant parking for the existing dwelling, being two spaces within the proposed carport, in accordance with Clause B6.3 Off-Street Vehicle Parking Requirements of the P21 DCP. The proposed new lot is demonstrated to be of sufficient dimensions to provide for compliant parking on site. As such, on-street parking is not anticipated to be relied upon for the proposed development.

- Hard Surface Areas / Stormwater Run-Off

Comment:

The Assessing Officer has independently calculated the proposed site areas based on the submitted plans. The subsequent assessment of the proposal is based on those independent calculations. The proposal is acceptable in relation to landscaped area, for the reasons detailed in the section of this report relating to Clause D5.8 Landscaped Area - General of the P21 DCP. The development application was reviewed by Council's Development Engineer, who raised no objections in relation to stormwater, subject to conditions.

- Minimum Subdivision Lot Size

Comment:

The variation to the minimum subdivision lot size is acceptable for the reasons detailed in the section of this report relating to Clause 4.6 Exceptions to Development Standards of the PLEP 2014.

- Loss of Vegetation

Comment:

One tree is proposed to be removed for the purpose of the driveway. The proposal otherwise retains significant vegetation on site and is supported by additional planting. Any future proposed removal of trees that are not exempt will be subject to a separate assessment.

- Flood Risk

Comment:

The proposal and its supporting flood risk assessment have been reviewed by Council's Stormwater and Floodplain Engineering team, who support the proposed development, subject

to conditions of consent.

- Bushfire Report

Comment:

The proposed development involves subdivision, and alterations and additions to the existing dwelling. No dwelling is proposed on the rear lot as part of this proposal. The plans indicating a dwelling on the rear lot are for indicative purposes only, to demonstrate a dwelling can reasonably be built on the lot, in accordance with Clause C4.7 Subdivision - Amenity and Design of the P21 DCP. As such, the proposed bushfire report is adequate for the application. Any proposed works on the rear lot must be supported by a relevant bushfire report under a separate future application.

- Cost of Works

Comment:

The proposed development involves subdivision, and alterations and additions to the existing dwelling. No dwelling is proposed on the rear lot as part of this proposal. The plans indicating a dwelling on the rear lot are for indicative purposes only, to demonstrate a dwelling can reasonably be built on the lot, in accordance with Clause C4.7 Subdivision - Amenity and Design of the P21 DCP. As such, the proposed cost of works is accurate for the works proposed, being alterations and additions to the existing house, and subdivision.

- Flora and Fauna

Comment:

The subject site is not classified as containing threatened species or wildlife corridors. The proposal requires removal of one tree for the purpose of the driveway. All other significant vegetation onsite is retained (supported by additional planting in accordance with the landscape plan), demonstrating adequate vegetation on site to support biodiversity.

- Privacy

Comment:

The proposed development is acceptable in relation to visual privacy for the reasons detailed in the section of this report relating to Clause C1.5 Visual Privacy of the P21 DCP and does not result in any unreasonable privacy impacts to adjoining developments.

- Overshadowing

Comment:

The proposed development is compliant with the solar access requirements under Clause C1.4 Solar Access of the P21 DCP and does not result in any unreasonable overshadowing impacts to adjoining developments.

- Fence Adjacent to Driveway

Comment:

The proposed driveway remains in relatively the same location as existing (i.e. not significantly closer to adjacent properties). The proposal is not considered to increase density to a point where the safety of adjacent properties is at risk due to vehicle movements.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal, in terms of landscape outcome, is acceptable subject to the protection of existing trees and vegetation nominated for retention, and completion of landscaping.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls: B4.22 Preservation of Trees or Bushland Vegetation C1.1 Landscaping</p>
NECC (Development Engineering)	<p>The subject lot is located near a school and a busy road which high pedestrian activity. The access to the street shall be five (5) meters wide at the street boundary to ensure safe access and exit to the proposed development. The vehicular crossing shall be located next to the eastern boundary. The proposed driveway access at the street is not safe and must be amended in accordance with the recommended conditions of consent.</p> <p>The proposed connection to Council's pipe must be by means of a pit and lintel, in order to capture stormwater runoff from within and upstream catchment.</p>
NECC (Riparian Lands and Creeks)	<p>The development is located outside of waterway and riparian lands. As such no objection is raised with no additional conditions recommended.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed development generally complies with the flood related requirements of the DCP and LEP.</p> <p>Drainage details for the driveway will be covered by the Development Engineers.</p> <p>No flood related objections.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p>
Integrated Development – NSW Rural Fire Service (Subdivisions and Special Fire Protection Purposes under Section 100B of Rural Fires Act)	<p>The NSW Rural Fire Service has provided General Terms of Approval in relation to this application. These General Terms of Approval are required to be adhered to, as per conditions of consent.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment,

many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A329554 dated 27 September 2018). A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	550sqm	Lot 621: 524.1sqm (676.3sqm incl. access)	4.7%	No
		Lot 622: 550sqm	N/A	Yes
Height of Buildings:	8.5m	7.4m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision - consent requirements	Yes
2.7 Demolition requires development consent	Yes
4.1 Minimum subdivision lot size	No
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.10 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Minimum Subdivision Lot Size
Requirement:	550sqm
Proposed:	524.1sqm
Percentage variation to requirement:	4.7%

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.1 Minimum Subdivision Lot Size development standard, has taken into consideration the recent judgement contained within Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

Clause 4.6 Exceptions to development standards:

(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.

Comment:

Clause 4.1 Minimum Subdivision Lot Size development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(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.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

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

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) Assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied 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 Clause 4.6(3). There are two separate matters for consideration contained within Clause 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard. In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by Clause 4.6(3)(a).

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

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'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.’

Section 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The Applicant's written request argues, in part:

- The proposed subdivision is consistent with the surrounding subdivision pattern;
- The proposed subdivision is consistent with the desired future character of the area;
- The site will remain low-density;
- The site provides dwellings free of hazards;
- The proposal will not result in unreasonable environmental or amenity impacts;
- The proposed new lot includes safe access;
- The proposed new lot is capable of supporting a reasonably compliant dwelling; and
- This not a case where the difference between compliance and non-compliance is the difference between good and bad design.

The above reasoning is agreed by the Assessing Officer.

In this regard, the Applicant’s written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the development is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying Clauses 1.3 (c) and (g) of the EPA Act. Therefore, the Applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by Clause 4.6 (3)(b).

Therefore, Council is satisfied that the Applicant’s written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment:

Clause 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Minimum Subdivision Lot Size development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of Development Standard

The underlying objectives of the standard, pursuant to Clause 4.1 Minimum Subdivision Lot Size of the PLEP 2014 are:

(1) The objectives of this clause are as follows:

(a) to protect residential character and amenity by providing for subdivision where all resulting lots are consistent with the desired character of the locality, and the pattern, size and configuration of existing lots in the locality,

Comment:

Clause 4.1 (3A) Minimum Subdivision Lot Size of the PLEP 2014 provides that if a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size. As such, the proposed subdivision results in two lots, one of which is compliant with the minimum subdivision lot size, and one of which is not compliant as a result of the required right of carriageway. However, this does not change the material overall size of the lot. The proposed lots are of consistent dimension and configuration to that in the existing subdivision pattern. Specifically, the proposed subdivision is comparable to (and demonstrates greater compliance than) Nos. 55 and 55A Elanora Road to the west. The proposed development is consistent with the desired future character of the locality, as demonstrated in the section of this report relating to Clause A4.5 Elanora Heights Locality.

(b) to provide for subdivision where all resulting lots are capable of providing for the construction of a building that is safe from hazards,

Comment:

The proposed subdivision is supported by a set of indicative architectural plans for the proposed new lot. These plans demonstrate reasonable compliance with the relevant controls, and that a dwelling can be supported on the proposed new lot. This shows that the resulting lot provides for construction of a building that is safe from hazards.

(c) to provide for subdivision where all resulting lots are capable of providing for buildings that will not unacceptably impact on the natural environment or the amenity of neighbouring properties,

Comment:

The proposed subdivision is supported by a set of indicative architectural plans for the proposed new lot. The indicative plans demonstrate a reasonably compliant dwelling house that does not result in unreasonable tree removal or excessive earthworks in consideration of the slope of the land. The proposal is supported by a bushfire assessment and a flood risk assessment, and by positive referral comments from the NSW Rural Fire Service and Council's Stormwater and Floodplain Engineering team. As such, the proposal does not unacceptably impact on the natural environment. The indicative plans also demonstrate that a dwelling that does not result in unreasonable overshadowing, privacy or noise impacts, or view loss, indicating that the proposal suitably responds to amenity of neighbouring properties.

(d) to provide for subdivision that does not adversely affect the heritage significance of any

heritage item or heritage conservation area,

Comment:

Not applicable. The subject site and surrounding land are not heritage-listed, nor in a heritage conservation area.

(e) to provide for subdivision where all resulting lots can be provided with adequate and safe access and services,

Comment:

The proposed subdivision is supported by a reasonable right of way to provide suitable, safe and easy vehicular and pedestrian access to the proposed new lot. The required services are to be located within an easement along this right of way.

(f) to maintain the existing function and character of rural areas and minimise fragmentation of rural land,

Comment:

Not applicable. The subject site is zoned R2 Low Density Residential and is not rural land.

(g) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls,

Comment:

The proposed subdivision is supported by a set of indicative architectural plans for the proposed new lot. These plans demonstrate reasonable compliance with the relevant controls, and that a dwelling can be supported on the proposed new lot.

Zone Objectives

The underlying objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposed development retains the dwelling house on the lot fronting Elanora Road, and results in a lot of commensurate size to existing lots in the locality, suitable for development with a dwelling house. As such, the proposal retains the land for low density residential use.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

Not applicable. The subject site remains used for low density residential development.

- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.*

Comment:

Not applicable. The subject site remains used for low density residential development.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of Clause 4.1 Minimum Subdivision Lot Size and the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted. Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone

and that the variation is less than 10%, the concurrence of the Secretary for the variation to the Minimum Subdivision Lot Size Development Standard is assumed.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	20.2m	N/A	Yes
Rear building line	6.5m	3.2m	50.7%	No
Side building line	2.5m (East)	3.5m	N/A	Yes
	1m (West)	1.7m	N/A	Yes
Building envelope	3.5m (East)	Within Envelope	N/A	Yes
	3.5m (West)	Within Envelope	N/A	Yes
Landscaped area	60% (405.78sqm)	Lot 621: 58.5% (396sqm, incl. 6% variation)	2.41%	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.5 Elanora Heights Locality	No	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B2.2 Subdivision - Low Density Residential Areas	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C4.1 Subdivision - Protection from Hazards	Yes	Yes
C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities	Yes	Yes
C4.5 Subdivision - Utility Services	Yes	Yes
C4.6 Service and delivery vehicle access in subdivisions	Yes	Yes
C4.7 Subdivision - Amenity and Design	Yes	Yes
D5.1 Character as viewed from a public place (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.2 Scenic protection - General	Yes	Yes
D5.3 Building colours and materials (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.5 Front building line (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.6 Side and rear building line (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.7 Building envelope (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.8 Landscaped Area - General (Excluding Elanora Heights Village Centre)	No	Yes
D5.13 Construction, Retaining walls, terracing and undercroft areas (Excluding Elanora Heights Village Centre)	Yes	Yes

Detailed Assessment

A4.5 Elanora Heights Locality

The proposed development includes three storeys (comprising an undercroft area, a ground floor and a first floor) where the locality calls for two-storey development. However, the lower level is not a habitable space, as it has a floor to ceiling height of 1.9m, where the Building Code of Australia requires a minimum floor to ceiling height of 2.1m for a room to be considered habitable. Further, the proposed development involves minimal environmental impact, is set well below the general tree canopy height on site in the area, includes building modulation to minimise bulk, reasonably steps with the topography of the land, and provides an appropriate balance between respecting the landform and encouraging

development. As such, the proposed development achieves the intention of the desired character of the area and is acceptable in this regard.

B2.2 Subdivision - Low Density Residential Areas

In relation to the requirements of Clause B2.2 Subdivision - Low Density Residential Areas:

- The lots have depths of 36.98m (Lot 621) and 30.375m (Lot 622), where the requirement is 27m.
- The lots each have a width of 18.29m, where the requirement is 15m (Landscaped Area 2)
- The lots are not located on the water frontage.
- The proposal demonstrates the lots are capable of providing for the construction of a building that is safe from hazards, does not unreasonably impact on the natural environment, and can be provided with adequate and safe access and services. The site is not heritage listed, nor within a heritage conservation area, or in the vicinity of a heritage item or heritage conservation area.
- The proposed lots have a slope of less than 16.7 degrees (30%), being approximately 10% (Lot 621) and 21.7% (Lot 622).
- The lots have minimum areas for building of greater than 175sqm. Lot 621 indicates a building footprint of 179.3sqm. Lot 622 indicates a building footprint of 127.8sqm, but the lot dimensions allow for a greater (compliant) building footprint.

C1.3 View Sharing

An objection has been received from No. 55 Elanora Road regarding view loss. The proposed development is acceptable in relation to the relevant outcomes of this clause, as follows:

A reasonable sharing of views amongst dwellings. (S)

In determining the extent of potential view loss to adjoining and nearby properties, the four planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

Nature of the views affected

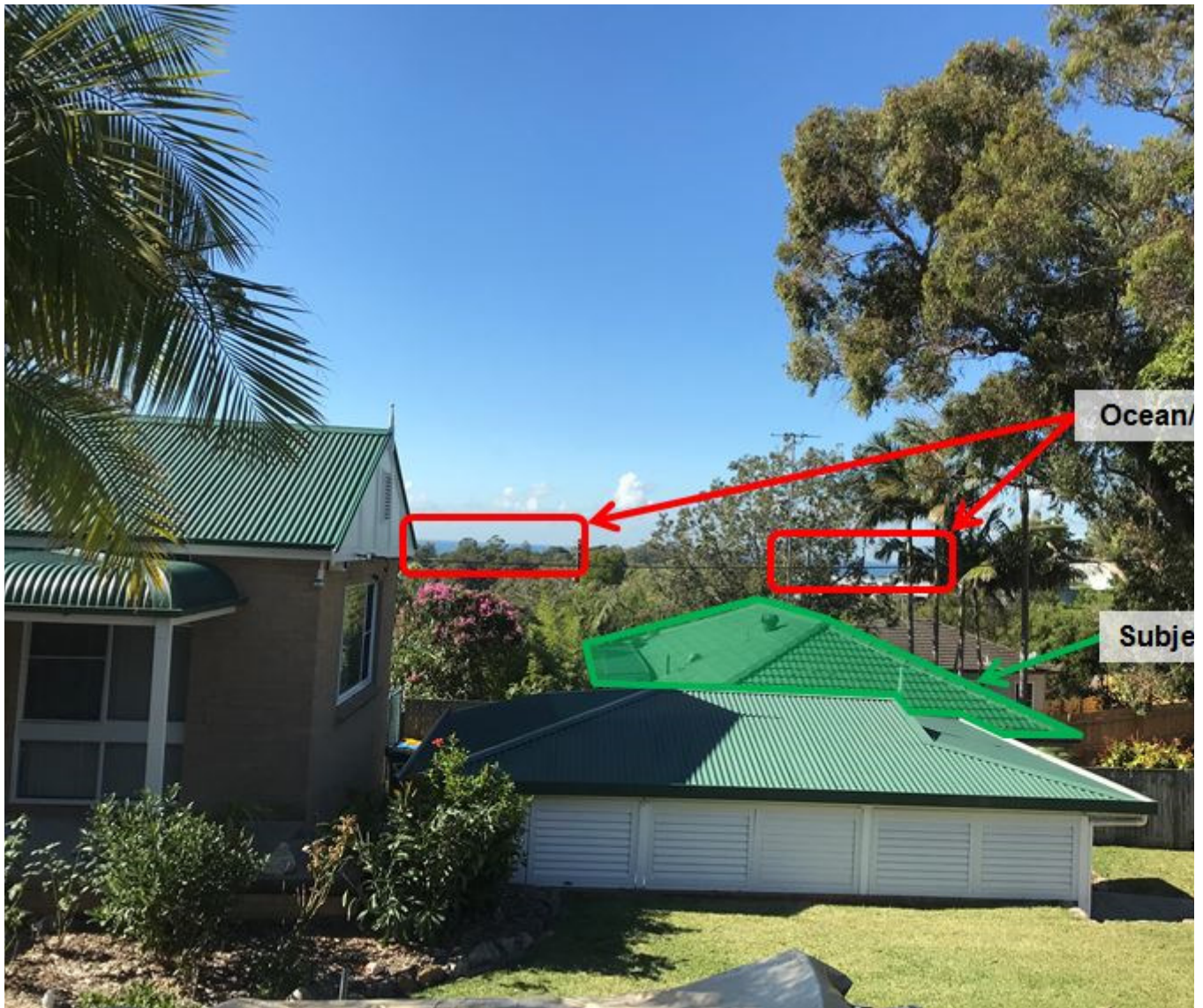
"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

The view from No. 55 Elanora Road to the east contains dwellings, vegetation, and obscured distant views of the ocean and horizon. See below photographs from No. 55 Elanora Road, across the subject site, towards the east:



Above: Standing view from ground floor living room of No. 55 Elanora Road, looking east.



Above: Standing view from ground floor dining room of No. 55 Elanora Road, looking east.

What part of the affected property are the views obtained

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

Comment to Principle 2:

The view from No. 55 Elanora Road is available from the ground floor living room and dining room, from standing and, to a lesser extent, seated positions. The view is available across the eastern side boundary.

Extent of impact

"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor,

moderate, severe or devastating”.

Comment to Principle 3:

The proposed development will result in the loss of the partial distant view to the ocean to the south-east, but will retain the partial distant view to the ocean to the north-east. The loss of view to No. 55 Elanora Road is minor, as the ocean glimpses are not significant, do not contain icons, are distant, and are obstructed by existing vegetation and buildings.

Reasonableness of the proposal that is causing the impact

“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”

Comment to Principle 4:

The proposed development is not compliant with the rear building line, as it relies on the setbacks of the existing dwelling. The proposed rear setback is acceptable for the reasons detailed in the section of this report relating to Clause D5.6 Side and Rear Building Line of the P21 DCP. The portion of non-compliant rear setback relates to the ground floor deck extension only, and does not result in view loss. The proposal is also not compliant with the landscaped area required by Clause D5.8 Landscaped Area - General of the P21 DCP. However, this is acceptable for the reasons detailed in this report and does not directly relate to the built form of the development that results in view loss. The proposal is compliant with the height of building development standard within Clause 4.3 Height of Buildings of the PLEP 2014 and the building envelope control within Clause D5.7 Building Envelope of the P21 DCP, which control the height and bulk of the development. Additionally, the proposal employs a skillion roof form to reduce the overall height and bulk of the dwelling. To require increased setbacks or reduced height to retain the views is not reasonable, given the acceptable nature of the non-compliances and the minor nature of the affected views. It is therefore demonstrated that this is the most skilful design for the intention of the development.

Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced. (S)

The proposed development does not unreasonably impact upon views from public places.

Canopy trees take priority over views. (En, S)

The proposed development does not unreasonably impact upon trees.

C1.5 Visual Privacy

The proposed development includes an upper level balcony and ground floor rear deck within 9m of the eastern side boundary. The ground level deck is partly screened. The proposed development is acceptable in relation to the relevant outcomes of this clause, as follows:

Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)

The balcony at the upper level is 7.5m from the eastern side boundary. Given the topography of the land and the portion of the proposed development jutting to the east below the balcony (at the ground floor), overlooking of the yards within 9m of the balcony in the properties to the east is mitigated. The proposed ground floor rear deck is 3.5m from the eastern side boundary. Fencing between the subject site and adjacent sites to the east, in conjunction with existing vegetation on the adjacent sites to the

east, the proposed partial privacy screening, and the topography of the land, preventing unreasonable overlooking from the proposed deck above the carport. As such, the proposed development adequately manages visual privacy.

A sense of territory and safety is provided for residents. (S)

As above, the proposed development provides an adequate level of visual privacy for adjacent sites, and therefore retains an adequate sense of territory and safety for the surrounding residents.

C1.12 Waste and Recycling Facilities

While no waste receptacles are shown on plans, the proposed lots are of sufficient dimensions to allow appropriate storage of waste on site.

C4.7 Subdivision - Amenity and Design

The proposed right of way is 3.5m wide, being less than 20% of the width of the lot over which it is located. Each proposed lot has a boundary dimension of greater than 6.5m. The proposed lots have areas of 524.1sqm (Lot 621) and 550sqm (Lot 622), excluding the access handles.

The proposal includes indicative architectural plans for a potential dwelling on the proposed new lot (though no works are actually proposed on the new rear lot under this application). The plans demonstrate that the proposed subdivision is acceptable in relation to:

- the slope, topography and any natural features;
- trees and vegetation;
- viewlines from within the proposed lots and from adjoining properties;
- solar access to the subdivision site;
- the applicable setbacks;
- the visual impact of future built development;
- vehicular access to, and onsite car parking for, the future buildings on the proposed lots;
- landscaping and/or recreation space for each proposed lot;
- provision of services to each lot; and
- provision of emergency services to each lot.

The submitted plans demonstrate that each property achieves a level of amenity commensurate with the locality and the desired character of the area. The proposal demonstrates that the impact on the environment of potential completed development is acceptable.

D5.8 Landscaped Area - General (Excluding Elanora Heights Village Centre)

The proposed development includes 58.5% of Lot 621 (396sqm, incl. 6% variation) as landscaped open space, where 60% is required. However, Lot 621 is burdened by a 3.5m wide right of way (and passing bay) along the length of the eastern boundary for access to the proposed lot to the rear. This impedes the site's ability to provide compliant landscaped area. If the subject site was not burdened by the right of way, the subject site would be able to provide significantly more landscaped open space on site. The subject site has a developable area (that is, excluding the area required for the right of way) of 524.1sqm. The proposal includes 396sqm of landscaped open space, equating to 75% of the developable area, presenting landscaped area in excess of the requirement when considering the site excluding the right of way. The proposed development is acceptable in relation to the relevant outcomes of this clause, as follows:

Achieve the desired future character of the Locality. (S)

The proposed development is consistent with the desired future character of the locality for the reasons detailed in the section of this report relating to Clause A4.5 Elanora Heights Locality of the P21 DCP.

The bulk and scale of the built form is minimised. (En, S)

The proposed development is set well below the general tree canopy height on site in the area and is compliant with the maximum height of building development standard. Additionally, the proposed development is generally compliant with the built form development controls within the P21 DCP, with the exception of the rear setback. This non-compliance is acceptable for the reasons detailed in the section of this report relating to Clause D5.6 Side and Rear Building Line. The proposal includes building modulation and architectural features to provide visual interest and relief, and reasonably steps with the topography of the land. As such, the bulk and scale of the development is minimised.

A reasonable level of amenity and solar access is provided and maintained. (En, S)

The proposed development is designed to retain an adequate level of amenity and solar access for the subject site and adjacent sites. The proposed development provides compliant solar access in accordance with Clause C1.4 Solar Access of the P21 DCP, and is acceptable in relation to privacy for the reasons detailed in the section of this report relating to Clause C1.5 Visual Privacy of the P21 DCP.

Vegetation is retained and enhanced to visually reduce the built form. (En)

The proposed development is supported by a landscape plan that details suitable landscaping in order to visually reduce the proposed works. The proposed development also retains the significant mature trees and hedging to the front yard of the site, thus minimising visibility of the development from the street level.

Conservation of natural vegetation and biodiversity. (En)

As above, the proposal includes the removal of one tree for the purpose of the driveway. However, the proposal includes supporting vegetation on site, thereby allowing for suitable vegetation that will support biodiversity.

Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)

The proposed development provides meaningful and significant areas of landscaped open space and is supported by suitable stormwater management measures. As such, the proposal provides suitable onsite infiltration, and adequately manages runoff, erosion and siltation.

To preserve and enhance the rural and bushland character of the area. (En, S)

As above, the existing significant trees and hedging in the front yard are retained for the purpose of this development, thereby preserving the bushland character of the area. The subject site is zoned R2 Low Density Residential, so is not rural land.

Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management. (En, S)

Soft surface is maximised for the developable portion of the site, being the area not including the right of way. As such, the proposal provides suitable onsite infiltration, and adequately manages runoff and stormwater.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Pittwater Section 94 Development Contributions Plan

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1890 for Alterations and additions to an existing dwelling and subdivision of one lot into two lots on land at Lot 62 DP 24638, 51 Elanora Road, ELANORA HEIGHTS, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A4 Proposed Carport Plan	September 2018	Mitch Clark Design & Draft Services
A5 Prop. Ground Floor Plan	September 2018	Mitch Clark Design & Draft Services
A6 Prop. First Floor Plan	September 2018	Mitch Clark Design & Draft Services
A7 Prop. Roof Plan	September 2018	Mitch Clark Design & Draft Services
A8 Elevations	September 2018	Mitch Clark Design & Draft Services
A9 Elevations	September 2018	Mitch Clark Design & Draft Services
A10 Section AA	September 2018	Mitch Clark Design & Draft Services
A12 Landscape Plan	September 2018	Mitch Clark Design & Draft Services
S.D1 Subdivision/Drive. Longsection	September 2018	Mitch Clark Design & Draft Services
217019_C Proposed Plan of Subdivision	26 March 2019	Frankham Engineering Services

Engineering Plans		
Drawing No.	Dated	Prepared By
A13 Sediment and Erosion	September 2018	Mitch Clark Design & Draft Services
A14 Stormwater Concept Plan	September 2018	Mitch Clark Design & Draft Services

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A329554	27 September 2018	Mitchell Clark
Arboricultural Impact Assessment	4 April 2019	Complete Arborcare
Bushfire Hazard Assessment Report	29 January 2018	Building Code & Bushfire Hazard Solutions
Flood Risk Assessment Report	11 March 2018	Jack Hodgson Consultants Pty Limited

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

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Landscape Plans		
Drawing No.	Dated	Prepared By
A12 Landscape Plan	September 2018	Mitch Clark Design & Draft Services

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the

development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement

3. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and

construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater

management system.

- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

4. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

5. **Construction, Excavation and Associated Works Bond (Drainage)**

A Bond of \$5,000 as security against any damage or failure to complete the construction of Stormwater drainage works as part of this consent.

Reason: Protection of Council's Infrastructure.

6. **Construction, Excavation and Associated Works Bond (Crossing / Kerb)**

A Bond of \$12,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

Reason: Biodiversity/Vegetation Conservation and Management

Reason: Protection of Council's Infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

7. **Submission of Engineering Plans**

Engineering plans are to be submitted to the Certifying Authority for approval. The submission is to include four (4) copies of Civil Engineering plans for the design and construction of driveway and drainage to the following requirements:

1. Concrete right of carriageway a minimum of 3.5 metres wide with one way cross fall

(3%) with kerb on the low side.

2. Inter-allotment drainage to service the subdivision.
3. Under grounding of all utility services for the proposed two lots.
4. Provision of a cast in-situ pit with a 2.4 lintel over Council pipe and shall be to Council specification and shall be on the common driveway. A separate approval under Section 68 of the Local Government Act will be required for work on Council's drainage Asset.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

(NOTE: An application for a Subdivision Construction certificate can be applied for approval from Council for the above works which can also include the S138 Road Road Act for the works within the public road.)

Reason: To ensure compliance with Council's specification for engineering works.

8. **Submission Roads Act Application for Civil Works in the Public Road**

An Application for Works to be approved within Council Roadway, including engineering plans is to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design of driveway crossing and 1.5 metres wide concrete footpath along the entire street frontage of the development site which are to be generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and/ or Council's Minor Works Policy. The plan shall be prepared by a qualified Civil engineer. The design must include the following information:

1. Design of one normal low vehicle crossing 5.0 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/3] and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. The existing vehicular crossing and layback are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.
2. Construction of 1.5 metres wide concrete footpath for the entire street frontage.
3. Any public utility service adjustments required undertaken and expenses borne by the owner.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. An approval is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate.

Reason: To provide public and private safety.

9. **Vehicle Driveway Gradients**

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate

Reason: To ensure suitable vehicular access to private property.

10. **Construction Traffic Management Plan**

A Construction Traffic Management Plan is to be submitted to Council for approval. The Traffic

Management Plan shall be prepared to RMS standard by an appropriately certified person. An approval is to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community.

11. **Stormwater Drainage Application**

A stormwater drainage application under Section 68 of the Local Government Act 1993 is to be submitted to Council for approval. The submission is to include four (4) copies of Civil Engineering plans for the design and construction of the a stormwater pit and 2.4 m lintel connection which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The form can be found on Council's website using the following link:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/stormwater-drainage-approval/4022-stormwater-drainage-approval.pdf>

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

Reason: To ensure appropriate provision for stormwater management and disposal, and compliance with the BASIX requirements, arising from the development.

12. **Pre-Construction Stormwater Assets Dilapidation Report**

A pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Certifying Authority prior to the issue of the relevant Construction Certificate.

Reason: Protection of Council's Infrastructure.

13. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

14. **Amendment to Plans**

The eastern side setback to the existing dwelling house is to be increased by 500mm to allow for the required 3.5m wide carriageway along the eastern boundary of the site. Plans are also to

be updated to demonstrate the required 5m x 10m passing bay and driveway configuration detailed on the approved Proposed Plan of Subdivision 217019_C dated 26 March 2019 prepared by Frankham Engineering Services. Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

Reason: To ensure the construction of the required driveway works.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. **Project Arborist**

A Project Arborist with AQZ Level 5 qualification in horticulture is to be appointed to supervise and certify tree protection measures identified in the Arboricultural Impact Assessment report prepared by Complete Arborcare for the following trees: numbers T5, T6, and T7, and any other site or adjoining property that may be impacted by the works including the proposed driveway and internal passing bay, and the required road reserve footpath.

The Project Arborist is to supervise all excavation and construction works near these trees, including recommending the construction methods near existing trees to protect tree roots, trunks, branches and canopy. Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Reason: To ensure the protection of the existing landscape amenity.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. **Civil Works Supervision**

All civil works approved in the relevant Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer. Details demonstrating compliance are to be submitted to the Certifying Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

17. **Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to any council pipeline or easements to be created to benefit Council are to be designed in accordance with Council's Pittwater 21 Development Control Plan 2014 Clause B5.12. Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted).

Reason: Protection of Council's Infrastructure.

18. **Tree and vegetation protection**

A) Existing trees and vegetation shall be retained and protected as follows:

- i) all trees and vegetation within the site identified for retention on the plans and as identified in the Arboricultural Impact Assessment report for this DA, and in particular tree numbers T5 (Southern Mahogany), T6 (Southern Mahogany), and T7 (Sydney Red Gum), excluding exempt trees under the relevant planning instruments or legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

B) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, and the requirements as listed in

Section 9 Recommendations / Conclusions of the Arboricultural Impact Assessment report prepared by Complete Arborcare,

- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iii) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,
- iv) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a Project Arborist on site,
- vi) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- vii) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, to provide for root protection measures,
- viii) should either or all of v), vi) and vii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- ix) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
- x) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

Reason: to retain and protect significant planting on development and adjoining sites.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

19. **Landscape works**

Landscaping is to be implemented in accordance with the landscape plan A.12, prepared by Mitch Clark Design, inclusive of the following requirement:

- i) screen planting as identified on drawing A4 along the street frontage south-west corner shall be capable of attaining 3 metres in height at maturity, and installed at minimum 300mm pot size,
- ii) screen native shrub planting capable of attaining 3 metres in height at maturity, and installed at minimum 300mm pot size, shall be planted along the proposed subdivision boundary to provide privacy for any future occupant of the rear lot.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the amended landscape plan and the conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

20. **Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by a Project Arborist with AQZ Level 5 qualification in horticulture, shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, and in particular tree numbers T5 (Southern Mahogany), T6 (Southern Mahogany), and T7 (Sydney Red Gum), including the following information:

- i) compliance to Arborist recommendations for tree protection and excavation works.
- ii) extent of damage sustained by vegetation as a result of the construction works.
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: to retain and protect significant planting on development sites.

21. Post-Construction Dilapidation Survey

A post-construction dilapidation survey of Council's stormwater assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The post construction dilapidation report must be submitted to the Council for review and the Principal Certifying Authority prior to the issue of the relevant Occupation Certificate(s). Any damage to Council's stormwater infrastructure is to be rectified in accordance with Council's technical specifications prior to the release of the security bond.

Reason: Protection of Council's Infrastructure.

22. Restoration of Damaged Public Infrastructure

Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.

Reason: To ensure public infrastructure is returned to the state it was in prior to development.

CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE

25. Right of Carriageway

A right of carriageway (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and accompanying 88B instrument to include all vehicular access and manoeuvring areas. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919.

26. Restriction as to User for Vehicular Access

A restriction as to user shall be incorporated in the title of Lot 621 (front lot) that shall preclude that lot from utilising its frontage for vehicular traffic except for the section created as a Right of Carriageway. The wording of the restriction of use is to be prepared by a surveyor, with terms acceptable to Council. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure compliance with Council policy for vehicular access.

27. **Stormwater Drainage and Utility Services Plan**

A plan of subdivision identifying the location of water, gas, telephone, electricity and stormwater drainage in relation to boundaries and/or relevant easements, prepared by a registered surveyor is to be submitted to Council. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that services have been provided with appropriate easements as required by the Conveyancing Act 1919.

28. **Survey Plan - Construction Identification**

A declaration by a registered surveyor shall be provided to Council as evidence that all construction has been effected within the appropriate property, easement boundaries and rights of carriageway. This shall be in the form of a copy of the final subdivision or easement plan, with the distances from the boundaries to the edges of these structures endorsed in red thereon and signed by the surveyor. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure accurate location of buildings, access and services.

29. **Sydney Water Compliance Certification**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance. Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water.

30. **Easement for Drainage**

An easement for drainage (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision the accompanying 88B instrument to ensure all drainage infrastructure is located within the appropriate easement(s). Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.

31. **Easement for Services**

An easement for services (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and the accompanying 88B instrument to ensure all utility services are located within the appropriate easement(s). Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.

32. **Release of Subdivision Certificate**

To enable the lodgement of the final plan at the NSW Land and Property Information Department the Subdivision Certificate shall not be issued until the relevant Occupation Certificate is issued. A copy of the Occupation Certificate is to be issued to Council.

Reason: To ensure that the plans relate to approved development.

33. **Subdivision Certificate Application**

Prior to the issue of the Subdivision Certificate, a completed Subdivision Certificate form, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919 are to be submitted to Council. Nine copies of the final plan of subdivision are to be submitted. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919.

34. **Creation of Drainage Easement Benefiting Council**

Under Section 88B of the Conveyancing Act 1919 an easement to drain water that is a minimum 2.5 metres wide centrally located over the existing Council drainage system is required to be created on the title of the land in favour of the Council.

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.

35. **Certification and work as executed plan for the Subdivision works**

A Certificate is to be submitted by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field confirming to the satisfaction of the Principal Certifying Authority that the vehicular crossing, concrete footpath, common driveway, passing bay, inter-allotment drainage and Council drainage pit & Lintel have been constructed in accordance with the approved construction certificates and relevant conditions of Development Consent. The Subdivision Certificate will not be released until this certification and work as executed plan have been submitted and the Principal Certifying Authority has confirmed that this condition has been satisfied.

Reason: To ensure the subdivision works have been built to the appropriate standard

36. **Title Encumbrances**

All easements, rights of carriageway, positive covenants and restrictions as to user as indicated on the plans and required by this consent are to be created on the title naming Northern Beaches Council as the sole authority empowered to release or modify. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate

Reason: To ensure proper management of land.

37. **Works to Enable the Subdivision**

Prior to the issue of the Subdivision Certificate, the following works must be completed to the satisfaction of the Certifying Authority:

- Construction of the 3.5m wide carriageway;
- Construction of the 5m x 10m passing bay;
- Increase the eastern side setback the existing dwelling house by 500mm in order to

- allow for the 3.5m wide carriageway to the east; and
- All requirements as stipulated under the section of this consent titled 'Conditions That Must Be Complied With Prior To The Issue Of Any Strata Subdivision Or Subdivision Certificate'.

Reason: To ensure all works relied upon to enable the subdivision are completed prior to the issue of the Subdivision Certificate.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Claire Ryan, Principal Planner

The application is determined on 21/05/2019, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments