

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/1108
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<b>Responsible Officer:</b>	Nick England
<b>Land to be developed (Address):</b>	Lot 2 DP 1237847, 128 A Elanora Road ELANORA HEIGHTS NSW 2101
<b>Proposed Development:</b>	Construction of a dwelling house including a secondary dwelling
<b>Zoning:</b>	E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Duncan James Stewart Wallace
<b>Applicant:</b>	Duncan James Stewart Wallace

<b>Application Lodged:</b>	14/09/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	22/09/2020 to 06/10/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 750,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The subject development application seeks consent for the approval of a two-storey structure including a dwelling house and integrated secondary dwelling.

The proposed layout of the site will situate the dwelling roughly within the centre of the site, while a detached two-car garage will be located within the northwest-most corner of the site. Pedestrian access to the battle-axe allotment will be provided via a side-entrance to the garage and two pedestrian pathways extending from the access handle.

The ground floor of the building will contain the upper floor of the primary dwelling. Areas include four (4) bedrooms (including an ensuite and walk-in-robe for the master bedroom and an ensuite for bedroom three), a bathroom, two parallel hallways and a large open-plan kitchen, dining and living

room area at the rear of the ground floor. A large (i.e. 34.4m<sup>2</sup>) deck is proposed to the rear of the ground floor.

The lower-ground floor of the building contains the lower floor of the primary dwelling and the entirety of the secondary dwelling. The layout of this level is as follows:

- The northern part of this level contains a sub-floor area.
- The central area contains a home theatre room, passageway area, laundry and a 'man cave'.
- The rear area contains a two-bedroom secondary dwelling. Both bedrooms and the bathroom are to be located on both sides of this area, with a living area (including a kitchen) is to be located within the centre/rear of the secondary dwelling.

Two (2) trees (*Eucalyptus microcorys* (Wallow Wood) and a *Pinus Radiata* (*Monterey Pine*) are proposed to be removed.

No demolition works are proposed, as the subject site is a vacant allotment.

## 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 - 5.4 Controls relating to miscellaneous permissible uses

Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - B8.2 Construction and Demolition - Erosion and Sediment Management

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures

Pittwater 21 Development Control Plan - D5.5 Front building line (Excluding Elanora Heights Village

Centre)

Pittwater 21 Development Control Plan - D5.6 Side and rear building line (Excluding Elanora Heights Village Centre)

Pittwater 21 Development Control Plan - D5.7 Building envelope (Excluding Elanora Heights Village Centre)

Pittwater 21 Development Control Plan - D5.9 Landscaped Area - Environmentally Sensitive Land

Pittwater 21 Development Control Plan - D5.11 Fences - General (Excluding Elanora Heights Village Centre)

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 2 DP 1237847 , 128 A Elanora Road ELANORA HEIGHTS NSW 2101
<b>Detailed Site Description:</b>	<p>The subject site is a battle-axe allotment located on the southern side of Elanora Road. It is an irregularly-shaped allotment with an area of 701.8m<sup>2</sup> (survey) allotment; the front boundary adjoins an L-shaped access handle with all other allotments adjoining other residential sites. The site is oriented in a northeast-southwest direction, and has a significant slope with a front-to-rear fall of approximately 7.21m.</p> <p>the site is located within the E4 Environmental Living under LLEP 2014; the southwest corner of the site adjoins an R2 Low Density Residential zone, however all other allotments are E4-zoned. The site is affected by class 5 acid sulphate soils, however it is not identified as being affected by any other notable affectations. The site does not contain a heritage item, is not within a heritage conservation areas and is not in close proximity to a heritage item.</p> <p>There is no development on the subject site, as it is a vacant allotment.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Development within the surrounding area consists predominantly of low-density residential development (i.e. dwelling houses and associated structures). The two other allotments within this subdivision (i.e. the allotments adjoining the subject site's northeast and southeast boundaries) are vacant, however dwelling houses have been approved on these sites by Development Consent Nos. DA2020/0169 and DA2020/0259.</p>

Map:



## SITE HISTORY

- 17 April 2014: Development Consent No. N0345/13 was refused by Council for a three (3) lot subdivision (including what is now the subject site). An appeal against the refusal was upheld on 23 September 2014. The subdivision certificate (SC2019/0012) for the subdivision which included the subject site was approved on 25 June 2019.
- 24 March 2020: Development Application No. DA2020/0057 withdrawn. The application proposed the construction of a two storey dwelling house and associated works.
- 14 September 2020: Subject Development Application lodged.

## 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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
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) –	None applicable.

Section 4.15 Matters for Consideration'	Comments
Provisions of any planning agreement	
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&amp;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&amp;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&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to building height, building envelope and landscaped area.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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&amp;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&amp;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&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter may be addressed via a condition of consent.</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) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b></p>

Section 4.15 Matters for Consideration'	Comments
	The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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 not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 22/09/2020 to 06/10/2020 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 of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal is for the construction of a new dwelling, secondary dwelling, driveway and garage, and associated site landscape works.</p> <p>Council's Landscape Referral is assessed against Pittwater Local Environmental Plan E4 Environmental Living zone, and the following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> <li>• C1.11 Secondary Dwellings and Rural Workers Dwellings</li> <li>• D5 Elanora Heights Locality</li> </ul> <p>The site is located in the E4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, including the retention of natural landscape features such as rock ledges and outcrops and existing trees.</p> <p>The existing site is a vacant lot under subdivision approval N0345/13. The site supports three existing trees, identified in the Arboricultural</p>

Internal Referral Body	Comments
	<p>Impact Assessment, and with recommendations to protect the significant Moreton Bay Fig. Recommended removal of the two other existing trees are justified based on development impacts without an design alternative. The existing Moreton Bay Fig shall be the subject of conditions of consent to ensure the provision of tree protection measures.</p> <p>A Landscape Plan is submitted with the application and the proposal satisfies the intent of E4 Environmental Living zone, subject to conditions of consent.</p>
NECC (Bushland and Biodiversity)	<p>The proposed dwelling construction and landscaping has been assessed against the following P21 DCP controls - B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land and B4.22 Preservation of Trees and Bushland Vegetation.</p> <p>I note the Arborist Report submitted, and the impact of the current dwelling design which requires the removal of two trees. The large Fig tree will be retained and protected.</p> <p>The controls require that no net loss in native canopy trees will occur as a result of a development and is to include the creation of flora and fauna habitat. The landscape plan is to be amended to delete the <i>Eucalytus saligna</i> and instead include two locally native canopy trees, selected from the Native Plant Species Guide species list for the Narrabeen Ward which is found on the Council website.</p>
NECC (Development Engineering)	<p>As the subject site is accessed via the right of way, it is necessary for vehicles to enter and exit in a forward direction. The proposed position of the garage appears to limit the ability for the second parking space to exit in a forward direction. In this regard, the applicant is to amend the position of the garage and provide turning paths for both spaces to demonstrate vehicles can enter and exit in a forward direction. The submitted basix certificate proposes a 12,000 litre water tank however the stormwater plan indicates only 9,000 litres. In this regard the certificate or the plan is to be amended to correct the anomaly. A review of the proposed OSD system indicates that the pre-development flows for the site are too high and as a result the proposed volume of the OSD tank is too low and the post development discharge rate too high. The applicant's Hydraulic Engineer is to amend the design and provide a copy of the 'DRAINS' file for Council's assessment.</p> <p>Development Engineers cannot support the application due to insufficient information to address Clauses B5.7, B6.2 and B6.3 of Pittwater DCP.</p> <p><b>Amended plans received 9/11/2020</b></p> <p>The amended architectural plans have included turning paths which are satisfactory. The revised hydraulic plans require some minor amendments which have been conditioned prior to the issue of the construction certificate.</p>

Internal Referral Body	Comments
	No objection to approval, subject to conditions as recommended.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. An undated response was received on 16 October 2020, with the requirements of Ausgrid to be imposed as a recommended consent condition.

## 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

The subject site has been vacant since the approval of DA N0345/13, prior to which the site was used for the purposes of residential development for an extended period of time. There is no information to suggest that the site has been occupied by uses that would have resulted in contamination of the site. There is no information to indicate that the site is contaminated, and is therefore suitable for the proposed development.

### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1129548M and 26 August 2020).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	44
Thermal Comfort	Pass	Pass
Energy	50	57

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. An undated response was received on 16 October 2020, with the requirements of Ausgrid to be imposed as a recommended consent condition.

### **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:	N/A			N/A
Minimum subdivision lot size for community title schemes	N/A			N/A
Minimum lot sizes for dual occupancies	N/A			N/A
Rural Subdivision:	N/A			N/A
Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones	N/A			N/A
Height of Buildings:	8.5m	8.29m	N/A	Yes
Floor Space Ratio	N/A			N/A
Density controls for certain residential accommodation	N/A			N/A

### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	N/A
2.7 Demolition requires development consent	N/A
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.4 Controls relating to miscellaneous permissible uses	Yes
5.10 Heritage conservation	N/A
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

#### Detailed Assessment

#### **5.4 Controls relating to miscellaneous permissible uses**

Maximum allowable area of secondary dwelling (cl. 5.4(9)(a): 60sqm  
Proposed floor area of secondary dwelling: 59.6sqm

#### **5.10 Heritage conservation**

There are no heritage items on the site or in the immediate vicinity. The site is mapped as a Category 3 area for potential aboriginal heritage; whilst already disturbed by subdivision works, a condition could be added to address undiscovered finds.

#### **7.1 Acid sulfate soils**

The site is affected by Class 5 Acid Sulphate Soils. An ASSMP is not required.

#### **7.2 Earthworks**

The site is not affected by a geotechnical hazard. Council's Development Engineer does not raise any objection to the level of earthworks being proposed.

#### **Pittwater 21 Development Control Plan**

#### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	Not applicable for battle-axe allotments	To garage: 1.415m To dwelling: 6.413	N/A	Yes
Rear building line	6.5m	To deck: 8.602m <b>To building line: 12.101m</b>	N/A	Yes
Side building line	2.5m	Northwest: <b>To garage: 146mm</b> <b>To dwelling: 3.46 metres</b>	94.16%	No
	1m	Southeast: 2m	N/A	Yes
Building envelope	3.5m	SE: Outside envelope	15.4%	No
	3.5m	NW: Outside envelope	17.4%	No

Landscaped area	60% (421.08m <sup>2</sup> )	51.4% (360.4m <sup>2</sup> )	14.3%	No
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**\*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 x 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	Yes	Yes
B1.3 Heritage Conservation - General	N/A	N/A
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.3 Greywater Reuse	N/A	N/A
B5.13 Development on Waterfront Land	N/A	N/A
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)	N/A	N/A
B6.1 Access driveways and Works on the Public Road Reserve	N/A	N/A
B6.2 Internal Driveways	N/A	N/A
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B6.6 On-Street Parking Facilities	N/A	N/A
B6.7 Transport and Traffic Management	N/A	N/A
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	N/A	N/A
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	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	N/A	N/A
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes
C1.12 Waste and Recycling Facilities	N/A	N/A

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	N/A	N/A
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	N/A	N/A
C1.25 Plant, Equipment Boxes and Lift Over-Run	N/A	N/A
D5.1 Character as viewed from a public place (Excluding Elanora Heights Village Centre)	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)	No	Yes
D5.7 Building envelope (Excluding Elanora Heights Village Centre)	No	Yes
D5.9 Landscaped Area - Environmentally Sensitive Land	No	Yes
D5.11 Fences - General (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.13 Construction, Retaining walls, terracing and undercroft areas (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.14 Scenic Protection Category One Area	Yes	Yes

### Detailed Assessment

#### **B6.3 Off-Street Vehicle Parking Requirements**

A minimum of three (3) parking spaces are provided (two (2) spaces for the primary dwelling and one (1) for the secondary dwelling). Only two spaces are provided, which the submitted SEE erroneously indicates is compliant. Division 2 (Secondary Dwellings) within Part 2 of the ARH SEPP does not apply as the site is E4-zoned.

Despite the shortfall in parking, the variation is considered to be acceptable. It is unlikely that site conditions would permit additional onsite parking to be made available; the width of the access handle will likely prevent safe vehicular maneuvering into/out of the site, while a stacked parking configuration to facilitate additional parking would not be possible due to the large tree that is to be retained to the rear of the garage.

The site is not within a high-density area, therefore there is sufficient parking within the Elanora Road road reserve, noting that the site is also approximately 160-190 metres walk to bus stop IDs 210173 and 210192; both these stops are serviced by the 182 bus route, which provides regular services between Narrabeen, Warriewood and Mona Vale.

As such, the proposed variation is considered to be supportable on merit.

#### **B8.2 Construction and Demolition - Erosion and Sediment Management**

A Erosion and Sediment Control Plan has not been provided, however compliance with the controls can be governed by conditions.

### **C1.3 View Sharing**

A view-loss analysis was not provided and is unable to be undertaken. Despite a variation to the building envelope controls (refer to the separate assessment within this report), the height and location of the building on the site is unlikely to have adverse and significant impacts on views towards Narrabeen Lagoon to the south of the site. No submissions have been received which object to view sharing and to verify any potential issues.

### **C1.5 Visual Privacy**

The proposed development is mostly satisfactory from a visual privacy perspective. Concern is however raised with three living room windows on the ground floor's northwest side elevation; these 700mm wide windows have sill heights of only 600mm, and therefore have the potential to directly overlook the rear private open space area of the adjoining site to the northwest. As such, it is recommended that a condition require that these windows be screened (either by fixed screens or obscure glazing) to a height of at least 1.7 metres above the finished floor level.

Screens are also recommended on both sides of the ground floor deck and the northwest side of the lower ground floor deck (a screen is not recommended on the southeast side of the lower ground floor deck and the adjacent side access stairway, as levels within that area will not enable overlooking of adjoining sites); those screens will extend 1.2 metres past the rear building line on both levels, and will likely direct views away from allotments to both sides of the subject site.

If conditioned measures are adopted, then the proposal is unlikely to have significant adverse impacts on the privacy of surrounding sites.

### **C1.14 Separately Accessible Structures**

If approved, a condition is recommended governing the use of the building and areas on the lower ground floor, to ensure that the secondary dwelling is not expanded into areas used by the primary dwelling and/or the sub-floor space.

### **D5.5 Front building line (Excluding Elanora Heights Village Centre)**

Proposed front setbacks:

- To garage: 1.415m
- To dwelling: 6.413m

The DCP does not provide clear guidance regarding setbacks on battle-axe lots. The proposed setbacks in this instance are however considered to acceptable on merit with regard to the locations of development on surrounding sites and the constraints of the subject site.

### **D5.6 Side and rear building line (Excluding Elanora Heights Village Centre)**

Proposed setbacks:

**Garage:**

- Northwest elevation: 146mm
- Southeast elevation: N/A

**Dwelling:**

- Northwest elevation: 3.46m
- Southeast elevation: 2m

As the dwelling complies with the side and rear setback requirements of the DCP, it will not be discussed further. The noncompliance arises from the placement of the garage, which creates a 2.354 metre variation to the development control. The placement of the garage and the subsequent setback noncompliance is largely dictated by site constraints (i.e. maneuvering space into the garage as a result of the access handle's width and a sharp turn within that handle and the location of a large tree that is to be retained behind the proposed garage).

Despite the variation, the outcomes of the control will be satisfied. The garage is a single-storey structure that will not present excessive bulk and scale to the surrounding area. The garage will also have no impact on solar access and visual privacy and views (noting that the large tree to the rear of the garage would have a significantly greater impact on views than any structure in front of it. As the tree to the rear of the garage is to be retained, the variation will also have no impact on tree canopies and the retention of a landscaped setting as viewed from the public domain.

With regard to the above, the variation is considered to be acceptable and supportable on merit.

**D5.7 Building envelope (Excluding Elanora Heights Village Centre)**

Both sides of the building envelope will breach the building envelope, which is largely due to the notable slope of the site below the proposed building envelope. The variations only affect parts of the affected elevations, and due to the varying topography and irregular shape of the site, the sizes of the noncompliances vary at different points; the largest variations on both sides are located at the rear building line, and would breach the envelope by one metre.

Despite the variations, the outcomes of the control will be satisfied. The areas affected by the breaches are towards to the rear of the building on a battle-axe allotment, therefore they will not be visible from the public domain (noting that the garage will further obscure views from Elanora Road along the access handle); the proposal will subsequently have no impact on streetscape character and views. The breaches are not large, and the irregular topography towards the southeast-most point of the site will assist in reducing apparent bulk and scale when viewed from the site adjoining the southeast side boundary. Further, the development will not significantly and adversely affect the visual privacy, solar access nor views of surrounding allotments.

With regard to the above, the variation is therefore considered to be acceptable and supportable on merit.

**D5.9 Landscaped Area - Environmentally Sensitive Land**

Including allowable exemptions, the site proposes a landscaped area of 360.4m<sup>2</sup>, which equates to 51.4%; a 14.3% variation to the development control. It should be noted that principal private open space areas within the rear decks do not qualify for exemption due to their level of elevation above

ground level.

Given the site's location, the variation will have no impact on the public domain, and as such the character amenity of both the streetscape and locality will remain unchanged (noting that the proposed landscaped area is similar to the 53% landscaped area that was approved on the adjoining battle-axe site under Development Consent No. DA202/0169). Both landscaping and engineering outcomes (in terms of landscape design, tree removal, pervious area, stormwater dispersal, etc.) would be satisfied, noting that neither Council's landscape officer and development engineer have raised any concern to the proposal. Further, the site is not identified as being biodiversity affected, and there are no special rural nor bushland character considerations that apply to this site.

As such, the proposed variation to the landscape area control is satisfactory, and is supportable on merit.

#### **D5.11 Fences - General (Excluding Elanora Heights Village Centre)**

Any boundary fences are capable of being governed via conditions of consent.

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect 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**

##### **Northern Beaches Section 7.12 Contributions Plan 2019**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$7,500 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$750,000.

#### **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 DA2020/1108 for Construction of a dwelling house including a secondary dwelling on land at Lot 2 DP 1237847, 128 A 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
DA01	4 February 2021	Action Plans
DA02	4 February 2021	Action Plans
DA03	4 February 2021	Action Plans
DA04	4 February 2021	Action Plans
DA05	4 February 2021	Action Plans
DA06	4 February 2021	Action Plans
DA07	4 February 2021	Action Plans
DA08	4 February 2021	Action Plans
DA09	4 February 2021	Action Plans
DA10	4 February 2021	Action Plans
DA11	4 February 2021	Action Plans
DA17	4 February 2021	Action Plans

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Management Plan (Job No.	02.11.2020	Barrenjoey Consulting

200807, Drawing No. SW1 DA-A)	Engineers Pty Ltd
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Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No.		
Arboricultural Impact Assessment Report	21.08.2020	Hugh the Arborist

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

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. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	Undated

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

## 3. Approved Land Use

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a 'dwelling house' and a 'secondary dwelling'.

A 'dwelling house' is defined as:  
'A building containing only one dwelling.'

A 'secondary dwelling' is defined as:

'A self-contained dwelling that—

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.'

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

## 4. 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.

**5. 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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) 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.

- (k) 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.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) 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 2018
    - (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

### 6. **Policy Controls**

#### Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$7,500.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$750,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

### 7. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required 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, and 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](http://www.northernbeaches.nsw.gov.au)).

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

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

### 8. Amendments to the approved plans

The following amendments are to be made to the approved plans:

- Privacy screens are to be erected on both sides of the ground floor (i.e. primary dwelling) deck. Such screens are to extend 1.2 metres to the rear of the rear building line (i.e. along sections of the deck that maintain the same side setbacks as the dwelling's side building lines, and not sections of the deck that are diagonal to the side boundaries). Such screens are to be at least 1.7 metres high (measured from the finished floor level of the deck), and are to be finished in durable colours and materials that complement the remainder of the dwelling.
- A privacy screen is to be erected on the northeast side elevation of the lower ground floor (i.e. secondary dwelling) deck. This screen is to extend 1.2 metres to the rear of the rear building line (i.e. along the section of the deck that maintains the same side setback as the dwelling's northeast elevation), and not sections of the deck that are diagonal to the side boundaries). This screens is to be at least 1.7 metres high (measured from the finished floor level of the deck), and is to be finished in durable colours and materials that complement the remainder of the dwelling.
- Ground floor living room windows on the northeast side of the primary dwelling (i.e. Windows W09, W10 and W11) are to be privacy treated. Such treatments are to consist of obscured glazing and/or screens to a height of at least 1.7 metres above the ground floor finished floor level. Any screens are to be finished in durable colours and materials that complement the remainder of the dwelling.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

### 9. On-site Stormwater Detention Details

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management Policy, and generally in accordance with the concept drainage plans prepared by Barrenjoey Consulting Engineers, drawing number 200807 SW1 DA-A, dated 2/11/2020. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. The proposed volume of the detention tank is to be a minimum of 12.5 cubic metres.
- ii. The orifice plate is to be 96mm diameter and there is to be an inspection eye adjacent to the orifice for maintenance and inspection.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

### 10. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the

protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

11. **Soil and Water Management Program**

A Soil and Water Management Plan prepared in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and implemented on site until the works are completed.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACHPC02)

12. **Amend Landscape Drawings**

The Landscape drawings, submitted in conjunction with the approved Development Application and as amended by these conditions of consent, is to delete the *Eucalytus saligna* and instead include two locally native canopy trees, selected from the Native Plant Species Guide species list for the Narrabeen Ward.

Plans are to be amended and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** To improve potential Long-nosed Bandicoot habitat at the site and/or to offset reductions in potential Bandicoot habitat as a result of the development.

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 Construction Certificate.

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

14. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- “Tap in” details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 15. **Tree removal within the property**

This consent approves the removal of the following trees within the property (as recommended in the Arboricultural Impact Assessment):

- T3 - Tallow wood (*Eucalyptus microcorys*)

The following Exempt Species do not require Council consent for removal:

- T4 - Monterey Pine (*Pinus radiata*)

Reason: to enable authorised building works

Note: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

### 16. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection to existing trees identified in the Arboricultural Impact Assessment as T1 - Moreton Bay Fig within the site.

The Project Arborist is to supervise all demolition, excavation and construction works near existing trees T1 to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works within the tree protection zone of T1, including as listed in the Arboricultural Impact Assessment under the following sections:

- i) all requirements under 10. Recommendations, and specifically 10.6, 10.7, 10.8, and 10.9,
- ii) all requirements under 11. Arboricultural Work Method Statement and Tree Protection Requirements, and specifically 11.2, 11.4 and 11.5,
- iii) all requirements under 12. Hold Points.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the

condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: tree protection.

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

### 17. Road Reserve

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

### 18. Survey Certificate

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

### 19. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

### 20. Tree and vegetation protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,

iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) 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) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) 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 Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Certifying Authority must ensure that:

d) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: tree and vegetation protection.

## 21. Protection of rock and sites of significance

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: preservation of significant environmental features.

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

### 22. **Landscape completion**

Landscaping is to be implemented in accordance with the Landscape Plan Sht-101 and Sht-102, prepared by Jamie King Landscape Architect, inclusive of the following conditions:

- i) the proposed tree replacement species nominated as *Eucalyptus saligna* shall be replaced with a locally native tree species as listed in Council's Native Plant Species Guide for Narrabeen Ward, and shall be selected from either Sydney Red Gum - *Angophora costata*, Red Bloodwood - *Corymbia gummifera*, Bangalay - *Eucalyptus botryoides*, or Scribbly Gum - *Eucalyptus haemastoma*,
- ii) in addition, a further one locally native tree shall be planted within the rear yard to comply with the total number of trees under C1.1, and selected from Council's Native Plant Species Guide for Narrabeen Ward,
- iii) all trees shall be a minimum 75 litre container size, planted at least 3 metres from any other trees, and located a minimum of 5 metres from existing and proposed built structures, or minimum of 3 metres where pier and beam footings are used.

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 any conditions of consent.

Reason: environmental amenity.

### 23. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge the Legal Documents Authorisation Application to Council. The application shall include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), and Hydraulic Engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgment with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

24. **Tree Planting**

At least two locally native canopy trees are to be planted onsite to replace trees approved for removal. Canopy tree species are to be as per the approved Landscape Plan, consistent with locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Narabeen Ward Native Plant Species Guide available on the Northern Beaches Council website. All native trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree. Tree replacement plantings are to be certified by the project arborist.

**Reason:** Tree replacement.

25. **House / Building Number**

House/building number is to be affixed to the building and/or letter box to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

**Reason:** Proper identification of buildings.

## ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

26. **Landscape maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

**Reason:** to maintain local environmental amenity.

27. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

**Reason:** Weed management.

28. **Dead or Injured Wildlife**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

**Reason:** To mitigate potential impacts to native wildlife resulting from construction activity.

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

**Signed**



**Nick England, Planner**

The application is determined on 01/03/2021, under the delegated authority of:



**Anna Williams, Manager Development Assessments**