

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0041
Responsible Officer:	Kent Bull
Land to be developed (Address):	Lot 214 DP 13643, 36 Allawah Avenue ELANORA HEIGHTS NSW 2101
Proposed Development:	Construction of a secondary dwelling
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Alexander Giles Lonnen Claire Elizabeth Hartley Lonnen
Applicant:	Claire Elizabeth Hartley Lonnen
Application Lodged:	21/01/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	29/01/2020 to 12/02/2020
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 95,500.00

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the construction of a detached secondary dwelling within the rear yard.

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 21 Development Control Plan - B4.22 Preservation of Trees and Bushland Vegetation

Pittwater 21 Development Control Plan - B5.7 Stormwater Management - On-Site Stormwater Detention

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

Pittwater 21 Development Control Plan - C1.1 Landscaping

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - D5.3 Building colours and materials (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 - D5.9 Landscaped Area - Environmentally Sensitive Land

Pittwater 21 Development Control Plan - D5.12 Fences - Flora and Fauna Conservation Areas

SITE DESCRIPTION

Property Description:	Lot 214 DP 13643 , 36 Allawah Avenue ELANORA HEIGHTS NSW 2101
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Allawah Avenue.</p> <p>The site is irregular in shape with a frontage of 16.82m along Allawah Avenue and an average depth of 52.78m. The site has a surveyed area of 804.2m².</p> <p>The site is located within the E4 Environmental Living zone and accommodates a two storey dwelling towards the front of the site.</p> <p>The slope of the site is 3.5%, falling approximately 2m from the north-western road frontage to the south-eastern rear boundary.</p> <p>The site falls within Council's Biodiversity Map, Geotechnical Hazard Map and the Bushfire Prone Land.</p> <p>The side contains a modified landscaped setting, with</p>

vegetation consisting of lawned turfed areas as well as two large Norfolk Island Pines in the rear yard.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by low-density detached residential dwellings of varying architectural styles within a landscaped setting.

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:

On 2 December 2019, Development Application No. DA2019/1330 for the construction of a secondary dwelling was rejected by Council.

On 18 December 2019, REV2019/0073 that sought the review of rejection of DA2019/1330 for construction of a secondary dwelling was refused by Council.

APPLICATION HISTORY

21 January 2020

1. Subject application was lodged with Council.
2. Request for further information letter sent to the applicant requiring a Geotechnical Report and Bush Fire Hazard Assessment Report to be submitted.

29 January 2020

Photo evidence received of the notification sign being erected on site.

5 February 2020

Bush Fire Report is submitted to Council.

11 February 2020

Geotechnical Report is submitted to Council.

18 February 2020

Site inspection is undertaken by the development assessment officer. One (1) property owner and the project designer is present at the time of the inspection.

25 February 2020

Neighbour site inspection undertaken No. 184 Woorarra Avenue by the development assessment officer. Property owners present at the time of the inspection.

30 April 2020

Phone and email communication between the development assessment officer and applicant detailing measures to address tree protection, visual privacy and parking concerns.

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)(iia) – 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)	<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.

Section 4.15 Matters for Consideration'	Comments
	<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 allow Council to request additional information. Additional information was requested in relation to submitting a Geotechnical Report and Bush Fire Report.</p> <p><u>Clause 92</u> of the EP&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&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 Pittwater 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 un/suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance	See discussion on “Notification & Submissions Received” in this report.

Section 4.15 Matters for Consideration'	Comments
with the EPA Act or EPA Regs	
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

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Planning Services Pty Ltd, dated 31.01.2020) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as 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 3 submission/s from:

Name:	Address:
Mr Grant Allan Burton	184 Woorarra Avenue ELANORA HEIGHTS NSW 2101
Mr Mark Paul Bonnar	182 Woorarra Avenue ELANORA HEIGHTS NSW 2101
Withheld	ELANORA HEIGHTS NSW 2101

The following matters raised within the submissions are addressed as follows:

- Impact on Norfolk Pines
Comment:
Submissions were received from adjoining property owners raising concerns with the impact of the proposed development on the two large Araucaria heterophylla (Norfolk Island Pines) located in the rear yard of the site. In view of the incursions into both Tree Protection Zone and Structural Root Zone of the trees Council's Landscape Officer has advised that relocating the proposed secondary dwelling at least 1m further west (i.e. away from the trees) would be considered to present an acceptable level of impact on the trees. As such, a condition of consent has been recommended requiring the rear setback to be increased a further 1m in order to address this matter.
- Drainage and watercourse concerns
Comment:

Concerns were raised in submissions received from adjoining property owners with regards to the impact of the proposal on drainage and watercourses. Both Council's Development Engineer and Natural Environment Unit (Riparian) have reviewed the application with regard to stormwater management and likely impacts on drainage. The responses received recommend that the application be supported subject to conditions. Detailed commentary from Council's Development Engineer and Natural Environment Unit (Riparian) are provided in the 'Referrals' section of this report.

- Lack of Geotechnical and Bush Fire Report

Comment:

Concerns were raised in submissions received from adjoining property owners with regards to a Geotechnical and Bush Fire Report not being submitted at the time of lodgement. Following initial assessment Council requested on the 21 January 2020 for a Geotechnical and Bushfire Report to be provided. The applicant submitted the Bush Fire Report on 5 February 2020 and the Geotechnical Report was provided on 11 February 2020. Council's Development Engineer has indicated that an "Acceptable Risk Management" level is achievable in accordance with the submitted geotechnical report. Further, the recommendations of the Bush Fire Report have also been included as conditions of consent.

- Privacy concerns

Comment:

Submissions were received from adjoining property owners of No. 182 and 184 Woorara Avenue, Elanora Heights, raising concerns with the impact of the proposed secondary dwelling on privacy. In particular, issues highlighted the impacted from the proposed bedroom window facing the south-western (side) boundary and the orientation of the building to face the rear boundary. In order to prevent overlooking and to soften the built form, a condition is recommended requiring native screen plantings capable of attaining a minimum mature height of 3 metres along the south eastern side boundary as well as the rear boundary. Refer to clause C1.5 Visual Privacy of the P21 DCP in this report for further discussion.

- Landscaping

Comment:

Submissions received from adjoining property owners highlighting that a Landscape Plan was not submitted with the application. A review of the plans submitted with the application identified that a Landscape Plan had in fact been submitted. While it is acknowledged that this plan lacks the detail typically required in accordance with Lodgement Requirements, a review of the landscaping arrangement by Council Landscape Officer has considered the proposal to be acceptable subject to conditions. It should also be noted that no trees are being removed as part of this application and that additional native screen plantings are to be incorporated as a condition of consent. Refer to clause C1.1 Landscaping of the P21 DCP in this report for further discussion

- Clarification of Building Height

Comment:

Submissions received from adjoining property owners requested clarification concerning the building height of the proposed secondary dwelling. A review of the submitted plans demonstrates that the building height does vary due to the sloping topography of the site, however, the maximum height of the secondary dwelling is measured to be 4.26m from ground level (existing) R.L. 78.95 to the roof R.L. 83.21. The proposal therefore complies with the 5.5m maximum building height as prescribed under Clause 4.3 of the PLEP 2014.

- Side and Rear Building Line Setbacks

Comment:

Concerns were raised in submissions received from adjoining property owners with regards to works in proximity to the south-eastern side setback as well as the rear boundary. In this regard, the proposed development demonstrates full compliance with the side setback requirements being measured 4.4m from the south-eastern boundary and 2m from the northern side boundary. As a result, it would also be unreasonable given the minimal excavation required to require any dilapidation reports for this application. The proposal does however result in a non-compliance with the 6.5m rear setback, being 3.4m from the entry steps and 5m from the north-eastern elevation of the secondary dwelling. As previously discussed, an increased setback to the rear boundary is recommended as a condition of consent. Refer to clause D5.6 Side and rear building line of the P21 DCP in this report for further discussion.

- Solar Access

Comment:

Concerns was raised by the adjoining property owner at No. 184 Woorara Avenue, Elanora Heights with regards to solar access. Acknowledging the proposed 4.4m setback to the shared side boundary to the subject site and considering that the single storey development is compliant with relevant building height and building envelope requirements, the application is seen to demonstrate compliance with the controls outlined under clause C1.4 Solar Access of the P21 DCP.

- Access and Parking:

Comment:

Submissions were received from adjoining property owners raising concerns with regards to the location of vehicle parking on site. The application indicates that the site currently accommodates two (2) off-street car spaces on site, but does not demonstrate the location of an addition car space required for a secondary dwelling. A merit assessment has considered a variation can be applied in this particular instance. Refer to clause B6.3 Off-Street Vehicle Parking Requirements of the P21 DCP in this report for further discussion. Pedestrian access to the proposed secondary dwelling was also raised in a submission. In this regard, there is an existing pedestrian walkway along the northern side boundary to access the rear of the site.

- Cost of works:

Comment:

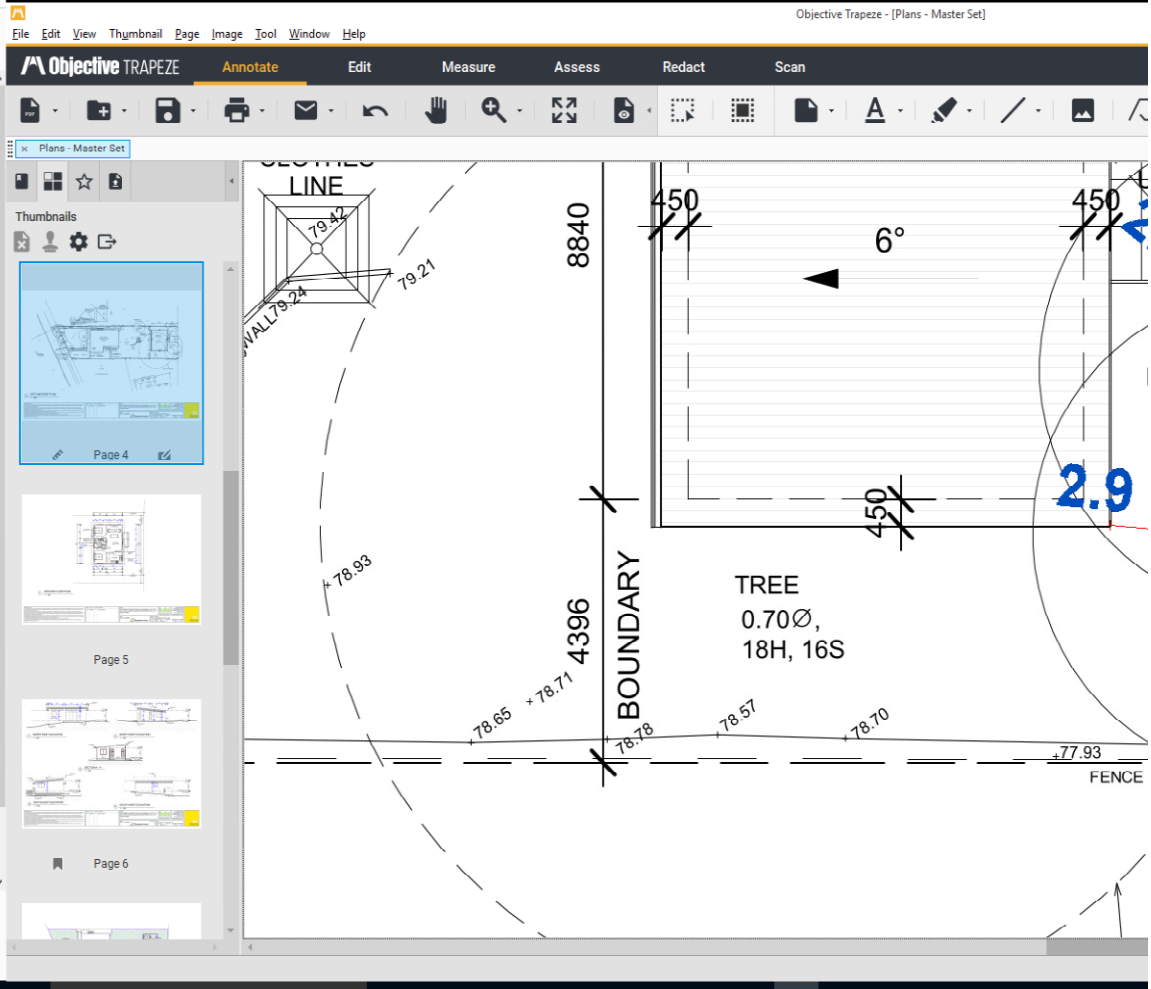
Concern was raised in one submission raised by an adjoining property owner with regards to the accuracy of estimated cost of works. Based on confirmation provided by the applicant and considering the construction costs associated with developments of a similar scale, the estimated cost of works of \$95,000 is regarded as broadly accurate.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Code and there are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. It is determined at Construction Certificate stage.</p>



Internal Referral Body	Comments
Landscape Officer	<p>The Arborist's Report provided with the application is noted.</p> <p>The report indicates that the works will present a significant incursion into the Tree Protection Zone (Norfolk Island Pines) located in the rear yard. The trees are given a High rating for retention.</p> <p>The Report indicates incursions of 25% for Tree1 and 29% for tree 2. These are significant incursions. Protection of trees on development sites.</p> <p>Further assessment indicates that works and (due to the location of the entrance to the building) will result in a calculated Structural Root Zone of the trees.</p> <p>In view of the incursions into both TPZ and SRZ of the trees, the location as proposed is not acceptable.</p> <p>It is recommended that to at least provide adequate clearance from the SRZ of the trees, to the west (i.e. away from the trees). This will reduce the TPZ incursion and clear the SRZ. If the incursion is greater than 10%, the proposed pier and beam construction would be considered to present a risk to the trees based on consideration contained within AS2970.</p> <p>Subject to relocation of the building, no objections are raised to approval, subject to conditions of approval.</p>

Internal Referral Body	Comments
	
NECC (Bushland and Biodiversity)	The development has been assessed against the P21 DCP control B4.3 Flora and Fauna. The development will have limited impact on trees and native vegetation, this control does not require the planting of two canopy trees or appropriate native vegetation and removal/ control of noxious weeds.
NECC (Coast and Catchments)	To be assessed by Riparian Team. No additional coastal assessment required.
NECC (Development Engineering)	<p>The proposed development is located within a Geotechnical Hazard H1 area. In accordance with Pittwater DCP 2014, requires a risk assessment to be undertaken (Geotechnical Risk Management) by Council. In this regard a geotechnical report is required addressing the Geotechnical Risk.</p> <p>DATED 19/03/2020</p> <p>An "Acceptable Risk Management" level is achievable in accordance with the submitted stormwater management plan is acceptable subject to conditions.</p>
NECC (Riparian Lands and Creeks)	This application has been assessed under Pittwater 21 DCP B5.8 Water Quality Pittwater 21 DCP B8.2 Erosion and Sediment Control SEPP Coastal Management 2018 - Coastal Environment Zone

Internal Referral Body	Comments
	As the applicant is increasing impervious area by more than 50sqm, the applicant must install coarse sediments and organic matter prior to stormwater being discharged from the land. Sediment and erosion controls must be installed prior to any work on the site and maintained re-established. The proposal is not expected to impact the tributary to Deep Creek if the conditions are c

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.

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. 1060709S, dated 19 November 2019).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass

Energy	50	50
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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.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

The proposed development is unlikely to cause adverse impact to the integrity and resilience of the biophysical, hydrological (surface and ground water) and ecological environment, coastal environmental values and natural coastal process, the water quality of the marine estate, or to marine vegetation, native vegetation and fauna and their habitats, underdeveloped lands and rock platforms. The proposed development does not restrict any existing public open space or safe access along the foreshore for members of the public, including persons with a disability. A recommended condition will be placed to ensure that if any Aboriginal engravings or relics are unearthed as part of the proposed development, works will cease immediately and the relevant authorities notified. The proposed development is not likely to cause an adverse impact to the use of the surf zone.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The application has been referred to Council's NECC (Coast & Catchments) and NECC (Riparian Lands and Creeks) divisions that have raised no objections to the proposed development. As detailed above, the proposed development has been designed, sited and will be managed to avoid an adverse impact on the cultural and environmental aspects referred to in Subclause (1).

As such, it is considered that the application does/does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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
Height of Buildings:	5.5m	4.26m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes

Clause	Compliance with Requirements
5.4 Controls relating to miscellaneous permissible uses	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

5.4 Controls relating to miscellaneous permissible uses

The total floor area of the proposed secondary dwelling is measured at 56.6m² and therefore complies with the 60m² requirement.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	38m	-	Yes
Rear building line	6.5m	3.4m (Entry steps) 5m (Secondary Dwelling)	48% 8%	No
Side building line	2.5m	4.4m	N/A	Yes
	1m	2m	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	60%	57% (458.9m ²)	5%	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 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	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Wildlife Corridor		
B4.22 Preservation of Trees and Bushland Vegetation	No	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	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	No	Yes
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
C1.1 Landscaping	No	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
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
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)	No	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)	Yes	Yes
D5.9 Landscaped Area - Environmentally Sensitive Land	No	Yes
D5.12 Fences - Flora and Fauna Conservation Areas	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

B4.22 Preservation of Trees and Bushland Vegetation

As discussed earlier within this report, the proposed development in its current form results in the incursions into both Tree Protection Zone and Structural Root Zone on the two large *Araucaria heterophylla* (Norfolk Island Pines) located in the rear yard of the site. Council's Landscape Officer has advised that relocating the proposed secondary dwelling at least 1m further west (i.e. away from the trees) would be considered to present an acceptable level of impact on the trees. Refer to Council's Landscape Officer comments under the 'Referral' section of this report for further discussion.

Subject to compliance with the condition requiring the proposed secondary to be relocated a minimum of 1m further west, the application is seen to meet the outcomes of this clause and is supported on merit.

B5.7 Stormwater Management - On-Site Stormwater Detention

Council's Development Engineer has supported stormwater arrangement as submitted with the application subject to a condition requiring certification of drainage plans being provided prior to the issue of a Construction Certificate detailing the provision of on-site stormwater detention in accordance with the requirements of this clause. 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 (NPER) and registered in the General Area of Practice for civil engineering.

B6.3 Off-Street Vehicle Parking Requirements

Under the provisions of this development control, 3 off-street parking spaces are required to meet the demands of the resultant development. The existing driveway and garage is currently used for off-street parking for up to two vehicles in a tandem arrangement. The control allows a merit consideration for a reduction in the car parking requirements for secondary dwellings to a minimum of 2 spaces per allotment. The on-street parking available on Allawah Avenue as well as the existing parking arrangement is considered reasonable and able to meet the demands generated by the development.

Based on the above, the proposed in this instance is supported on merit and considered to satisfy the outcomes of the control.

C1.1 Landscaping

The application does not incorporate additional landscape plantings and is therefore seen to be non-compliant with the controls requiring the long term retention of the tree canopy of area and vegetation to soften the built form of the proposed development. In order to comply with the requirements of this clause and controls relating to the natural environment, Council's NECC (Bushland and Biodiversity) division has recommended a condition for at least two locally native canopy trees to be planted onsite. In order to soften the built form of the secondary dwelling and address privacy issues, a condition is also recommended for the native screen plantings capable of attaining a minimum mature height of 3 metres to be installed along the south eastern side boundary as well as the rear boundary. Consideration is given that compliance with recommended landscape and tree planting conditions will help to achieve outcomes requiring the long-term retention of Pittwater's locally native tree canopy and the retention and enhancement of the area's biodiversity, habitat and amenity values. Refer to Council's Landscape Officer and NECC Bushland and Biodiversity division comments under the 'Referral' section of this report for further discussion.

Subject to compliance with recommended landscaping and tree planting conditions, the application is seen to meet the outcomes of this clause and is supported on merit.

C1.5 Visual Privacy

The control states that private open space areas of proposed and any existing adjoining dwellings are to be protected from direct overlooking by such measures as landscaping and screening devices. In order to prevent overlooking resulting from the south-east facing bedroom window as well as the rear facing orientation of the proposed secondary dwelling towards the primary outdoor private open space areas of 184 Woorarra Avenue and 182 Woorarra Avenue, conditions have been recommended for the planting of locally native shrub species to screen the proposed development when viewed from adjoining properties.

Subject to compliance with this condition, the proposal in this instance is considered to satisfy the outcomes of this clause and is supported on its merits.

D5.3 Building colours and materials (Excluding Elanora Heights Village Centre)

The proposed use of Colorbond colour "Shale Grey" as a roof finish are technically non-compliant with the control that requires external colours to be of dark and earthy tones. In order to ensure that the development complies with the requirements of this control, a condition is recommended for the roof finish to be equivalent to or darker than Colourbond Windspray.

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

The proposal results in a non-compliance with the 6.5m rear setback control, being 3.4m from the entry steps and 5m from the north-eastern elevation of the secondary dwelling when measure from the rear boundary. As discussed previously, consideration should be given that a condition of consent has been recommended by Council's Landscape Officer for the relocation the proposed secondary dwelling at least 1m further from the this rear boundary, resulting in a lesser variation to this control. Furthermore, the retention of fencing and the provision for native screen planting along the rear boundary, is seen to maintains a reasonable level of privacy for both the occupants of the subject site and those at 182 Woorarra Avenue. The proposed secondary dwelling being a single storey structure that complies with the side setback and building envelope controls is not considered to result in any unreasonable impacts on the amenity, views or solar access for the neighbouring property to the rear. As discussed earlier in this report, to ensure the outcomes requiring canopy trees and the preservation of the locality's bushland character, conditions requiring tree protection measure and tree plantings have been imposed.

Based on the above, the proposed rear setback in this instance is supported on merit and considered to satisfy the outcomes of the control.

D5.9 Landscaped Area - Environmentally Sensitive Land

The proposed development is technically non-compliant with the control that requires 60% of the total site area to be dedicated for landscaping. The proposal seeks to vary this control by reducing the overall landscaped area to 57% (458.9m²). The variations of this clause allow for a revised landscaped area calculation to include imperious areas of less than 1m in width and up to 6% of the total site area if used for outdoor recreational purposes. On this basis, the revised landscaped area is measured at 63% (507.2m²). As discussed under C1.1 Landscaping, a condition has also been recommended for the planting of locally native canopy trees as well native screen planting on site. This condition has been recommended to ensure the enhancement and conservation of the biodiversity of the area, while also contributing towards the visually reducing the built form proposed development. The proposal is also considered acceptable with regard to stormwater run-off and the infiltration of water with Council's Development Engineer raising no objection to the application subject to conditions. The existing amenity to adjoining properties are not to be unreasonably affected by the proposal, with adequate

setbacks, solar access and amenity being provided.

Based on the consideration above, the proposed development is consistent with the outcomes of the control and is supported on merit.

D5.12 Fences - Flora and Fauna Conservation Areas

No fencing is proposed or authorised as part of this application.

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

Northern Beaches Section 7.12 Contributions Plan 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

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 DA2020/0041 for Construction of a secondary dwelling on land at Lot 214 DP 13643, 36 Allawah Avenue, 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
19-68, Sheet 1 (Site and Roof Plan)	20.08.19	RK Designs
19-68, Sheet 2 (Ground Floor Plan)	20.08.19	RK Designs
19-68, Sheet 3 (Elevation and Section)	20.08.19	RK Designs

Engineering Plans		
Drawing No.	Dated	Prepared By
CSW034, Drawing No. 02, Rev. 1 (Stormwater Design Plan)	16.10.19	CSEG Civil Stormwater Engineering Group
CSW034, Drawing No. 03, Rev. 1 (RWT/OSD Detailed Sections)	16.10.19	CSEG Civil Stormwater Engineering Group

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate Ref. 1060709S	19 November 2019	RK Designs
Arborist Report	11 December 2019	Canopy Consulting
Bushfire Risk Assessment Ref. 2742	31 January 2020	Bushfire Planning Services Pty Ltd
Geotechnical Report, Ref. J2559	10 February 2019	White Geotechnical Group Pty Ltd

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

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

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Landscape Plans		
Drawing No.	Dated	Prepared By
19-68, Sheet 4 (Landscape Plan)	20.08.19	RK Designs

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan Ref. 19-68	19.11.19	RK Designs

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. **Approved Land Use - Secondary Dwelling**

Nothing in this consent shall authorise the use of site as detailed on the approved plans for any land use of the site beyond the definition of a *Secondary Dwelling*.

A *Secondary Dwelling* is defined as:

“secondary dwelling means 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.

Note. See clause 5.4 for controls relating to the total floor area of secondary dwellings.”

(development is defined by the Pittwater Local Environment Plan 2014 (as amended) Dictionary)

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.

3. **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.

4. **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) 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

5. **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.

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

6. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White geotechnical group dated 10th February, 2020 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

7. **Amendments to the approved plans**

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

- The entire secondary dwelling is to be relocated at least 1.5m further west (i.e. away from the rear boundary and Norfolk Island Pines).

For the avoidance of doubt, the resultant development should be a minimum of 4.9m from the entry steps and 6.5m from the secondary dwelling when measured from the rear boundary.

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

Reason: To ensure the development minimises unreasonable impacts upon surrounding properties and for tree protection.

8. **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 clause B5.7 PITTWATER DCP21 and generally in accordance with the concept drainage plans prepared by CSEG Civil Stormwater Engineering Plan, drawing number CSW034 drawing 02 Rev1, dated 16.10.2019. 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 (NPER) and registered in the General Area of Practice for civil engineering.

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.

9. **Tree Protection Plan**

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

(a) A Tree Protection Plan prepared by a AQF Level 5 Arborist (or equivalent) showing the following:

- Layout of the approved development
- Location of trees identified for retention
- Extent of canopy spread
- Location of tree protection fencing / barriers (fencing in accordance with AS2470 – 2009)
- General tree protection measures and inspection hold points

(b) The Tree Protection Plan is to be submitted to the Principal Certifying Authority for approval prior to issue of a Construction Certificate.

(c) Tree protection measures identified on the plan are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

10. **Water Quality Management**

The applicant must install a filtration device (such as a sediment control pit or absorption trench) that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment

11. **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.

12. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

To avoid any doubt, the finish is to be equivalent to or darker than Colourbond Windspray.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

13. 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 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

14. Tree trunk, branch and root protection

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land
- iii) Trees numbered Tree 1 and Tree 2 in the Arboricultural Impact Assessment dated 6 December 2019 prepared by Canopy Consulting.

(b) Tree protection

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by the Project Arborist on site.
- iii) All tree protection to be in accordance with the approved Tree Protection Plan and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with local planning controls and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

15. Project Arborist

- i) A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works.
- ii) The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as outlined in the approved Tree Protection Plan and AS4970-2009 Protection of trees on development sites.
- iii) The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: to ensure protection of vegetation proposed for retention on the site.

16. **Installation and Maintenance of Sediment and Erosion Control**

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.

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. **Aboriginal Heritage**

Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, the Department of Planning, Industry and Environment (DPIE) and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Aboriginal Heritage Protection.

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

19. **Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist 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, including the following information:

- a) Compliance to Arborist recommendations for tree protection and excavation works.
- b) Extent of damage sustained by vegetation as a result of the construction works.
- c) Any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: To ensure compliance with the requirement to retain and protect significant planting on development sites.

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

The Applicant shall lodge the Legal Documents Authorisation Application with the original

completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of 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 lodgement 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 for on-site storm water detention as to user is to be submitted to the PCA.

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

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

21. **Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

22. **Weed Removal and Management**

No weeds are to be imported on to the site.

All invasive and priority weeds on the site are to be removed and managed continuously, in accordance with the Biosecurity Act 2015.

Details demonstrating the removal and management of weeds are to be prepared by the project ecologist in writing and submitted to the Principal Certifying Authority prior to occupation certificate.

Reason: Weed management and biosecurity

23. **Works as Executed Drawings - Stormwater Treatment Measures**

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment

24. **Tree Planting**

At least two locally native canopy trees are to be planted onsite. Canopy tree species are to be consistent with locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the Narrabeen Ward locality as per the 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. **Certification of Landscape Works (Screen Planting)**

Landscaping is to be implemented inclusive of the following requirements:

i) planting of locally native shrub species along the south-eastern (side) boundary to the extent (width) of the secondary dwelling to the rear boundary, consisting of screen plantings that attain a minimum mature height of 3 metres and planted at a minimum 200mm potsize, and planted no more than 1 metre apart, and

ii) planting of locally native shrub species along the rear boundary to the extent (length) of the secondary dwelling, consisting of screen plantings that attain a minimum mature height of 3 metres and planted at a minimum 200mm potsize, and planted no more than 1 metre apart.

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

Reason: to ensure that the landscape treatments are installed to maintain sufficient privacy between neighbours and provide landscape amenity.

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

26. **Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

27. **Maintenance of Stormwater Treatment Measures**

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment

28. **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.

29. **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.

30. **Landscape maintenance**

Any existing landscaping including trees required to be retained together with any additional landscaping required by this consent is to be maintained for the life of the development.

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

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

Signed



Kent Bull, Planner

The application is determined on 08/05/2020, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments