

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0140
Responsible Officer:	Rhiannon McLardy
Land to be developed (Address):	Lot 1 DP 243271, 9 Wakooka Avenue ELANORA HEIGHTS NSW 2101
Proposed Development:	Construction of a secondary dwelling
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Antje Kuehnast Markus Bisping
Applicant:	Antje Kuehnast Markus Bisping
Application lodged:	19/02/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	22/02/2019 to 12/03/2019
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 99,000.00

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 21 Development Control Plan - B3.11 Flood Prone Land

Pittwater 21 Development Control Plan - B3.13 Flood Hazard - Flood Emergency Response planning

Pittwater 21 Development Control Plan - C1.12 Waste and Recycling Facilities

Pittwater 21 Development Control Plan - C1.23 Eaves

Pittwater 21 Development Control Plan - D5.8 Landscaped Area - General (Excluding Elanora Heights Village Centre)

SITE DESCRIPTION

Property Description:	Lot 1 DP 243271 , 9 Wakooka Avenue ELANORA HEIGHTS NSW 2101
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Wakooka Avenue.</p> <p>The site is irregular in shape with a frontage of 24.19m along Wakooka Avenue and a depth of 60.91m along the southern boundary. The site has a surveyed area of 1776m².</p> <p>The site is located within the R2 - Low Density Residential Zone of the PLEP 2014 zone and accommodates a dwelling house, swimming pool and detached garage.</p> <p>The site falls gently away from Wakooka Avenue.</p> <p>The site is heavily vegetated with native and exotic species.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one- and two-storey dwelling houses.</p>

Map:



SITE HISTORY

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

Application **T0253/17** for Tree/Bushland Works was approved by staff on 19 June 2017.

Application **T0534/15** for Tree/Bushland Works was approved by staff on 25 November 2015.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the construction of a secondary dwelling.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(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

Section 4.15 Matters for Consideration'	Comments
	<p>addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The 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</p>

Section 4.15 Matters for Consideration'	Comments
	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 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 Ronald Coffey, dated 28 June 2019) 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 of the application Council received no submissions.

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 Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p><i><u>Note:</u> The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i></p>
Landscape Officer	The landscape component is assessed and satisfactorily covered

Internal Referral Body	Comments
	<p>within the Natural Environment - Biodiversity referral.</p> <p>The landscape outcomes satisfy the controls of B4.22 Preservation of Trees and Bushland Vegetation and C1.1 Landscaping.</p> <p>No further assessment is provided by Council's Landscape section over and beyond NECC imposed conditions.</p>
NECC (Bushland and Biodiversity)	<p>The proposal has been assessed against Pittwater DCP B4.11 and B4.22. The site borders bushland to the south. The proposal includes the removal of 4 trees (2 exempt palms (T6 and T7), one dead Melaleuca (T12) and one Syzguim (T20).</p> <p>The B4.22 control allows for the removal of a tree where the base of the trunk is within 2m of an existing approved building, without Council consent. The plans show the following trees would be within 2m of the secondary dwelling on completion, and thus in the future, would be exempt from requiring Council approval:</p> <ul style="list-style-type: none"> • T4 - Alexander palm - exempt (non local native) • T5 - Davidsons plum - non local native • T8 and T9 - Syzgiums - non local native • T17 - Native frangipani - non local native • T19 - Golden Penda - non local native. <p>The proposal to remove exempt species (T4, T6, T7) and the dead tree (T12) is supported. The remaining trees are non locally native and are not significant canopy trees. Their removal is supported subject to replacement planting of locally native canopy trees (species from the Shale slopes vegetation type) and understorey at least 3m from the proposed secondary dwelling. A Landscape Plan with proposed plantings is not provided. A condition will be imposed.</p> <p>---</p> <p>Planner comment:</p> <p>Following additional consultation with the applicant and Council's Bushland and Biodiversity team the condition has been adjusted to require three (3) locally native trees or shrubs instead of three (3) canopy trees.</p>
NECC (Development Engineering)	<p>Comments for Development Engineers:</p> <ol style="list-style-type: none"> 1. Council's flooding engineer proposes no objection to the application. 2. OSD is not required. 3. No Council pipeline is located within the site after site visit confirmation. <p>Development Engineers have reviewed the proposal and cannot support it due to the following reasons.</p> <ol style="list-style-type: none"> 1. The site is located within Geotechnical Hazard H1 Area, no

Internal Referral Body	Comments
	<p>geotechnical report has been submitted to Council. Failure to comply with Clause B3.1 in Pittwater DCP21.</p> <p>Additional Information received 27/06/2019</p> <p>The submitted geotechnical report addresses the relevant DCP controls.</p> <p>No objection to approval, subject to conditions as recommended.</p>
NECC (Riparian Lands and Creeks)	No objection to the proposed development on the basis the development is unlikely to impact on waterways and riparian lands.
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed development generally complies with the flood requirements of the LEP and DCP.</p> <p>Flood levels vary over the property, due to its sloping nature. The FPL at the western edge of the proposed granny flat is 57.1m AHD, and the eastern edge of the proposed granny flat is affected by Flood Life Hazard Category H5, which means that the floor level must be above the PMF. The proposed floor level of 57.1m AHD meets the requirements throughout the building.</p>
Parks, reserves, beaches, foreshore	The proposal has been reviewed by Council's Officers who have recommended it for approval subject to conditions. No further comments were provided.

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 (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 2: Secondary dwellings

Clause 19: Definition

Development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

Note: The standard instrument defines secondary dwelling as follows:

"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 (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling."*

Comment:

The proposed use is defined under PLEP 2014 as a secondary dwelling.

Clause 20: Land to which this Division applies:

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is permissible on the land:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential.	Consistent. The site is located within the R2 - Low Density Residential zone and, as such, the proposed use is permissible with consent under PLEP 2014.

Clause 21: Development to which this Division applies

Requirement	Comment
This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling.	Consistent. The development involves the construction of a secondary dwelling, as defined by the Standard Instrument. Therefore, this Division applies.

Clause 22: Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	The proposal will only result in the principal and secondary dwelling being on the site.
(3) A consent authority must not consent to development to which this Division applies unless: (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and (b) the total floor area of the secondary dwelling is no more than 60m ² or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	a) Floor space ratios are not adopted in this area. b) The total floor area of the proposed secondary dwelling is 51.9m ² .
(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds: (a) site area if: (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or (ii) the site area is at least 450 square metres. (b) parking if no additional parking is to be provided on the site.	a) The site area is greater than 450 metres. b) No additional parking is being provided on site. There is sufficient parking available for the principal dwelling.

Note: A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

Clause 24: No subdivision

Requirement	Comment
A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the	Consistent. This application does not propose any subdivision of the existing allotment.

purposes of a secondary dwelling has been carried out under this Division.

Conclusion

The proposal for a secondary dwelling meets the requirements above and therefore is worthy of support.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 982829S, dated 13 February 2019). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0003590171-01, dated 12 February 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

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
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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:	8.5m	4.57m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	44.06m	N/A	Yes
Rear building line	6.5m	6.98m	N/A	Yes
Side building line	2.5m	8.75m	N/A	Yes
	1m	1.06m	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	50% (888m ²)	42.17% (749m ²)	15.66%	No
		48.14% (855m ²)	3.72%	No

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
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Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.5 Elanora Heights Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	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
B3.11 Flood Prone Land	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4.11 Land Adjoining Bushland	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	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
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
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
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
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes
C1.12 Waste and Recycling Facilities	No	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	No	Yes
D5.1 Character as viewed from a public place (Excluding Elanora Heights Village Centre)	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D5.3 Building colours and materials (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.5 Front building line (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.6 Side and rear building line (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.7 Building envelope (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.8 Landscaped Area - General (Excluding Elanora Heights Village Centre)	No	Yes
D5.13 Construction, Retaining walls, terracing and undercroft areas (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.14 Scenic Protection Category One Area	Yes	Yes

Detailed Assessment

B3.11 Flood Prone Land

No flood report was submitted with the application. The proposal has been reviewed by Council's flood engineers who have recommended it for approval subject to conditions.

B3.13 Flood Hazard - Flood Emergency Response planning

The proposal has been assessed by Council's Flood Engineers who have assessed that the floor level of the proposed secondary dwelling is above the height level of the Probable Maximum Flood (PMF).

C1.12 Waste and Recycling Facilities

A detailed waste management plan has not been submitted with the application. To ensure proper disposal of demolition and builders' wastes, a condition has been included in the consent requiring details prior to the issue of a construction certificate.

C1.23 Eaves

Description of Non-compliance

The proposed roof of the secondary dwelling does not include eaves on the west, north or east elevations. The roof form extends 1m over the deck on the southern elevation.

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the control as follows:

- *Housing that reflects the coastal heritage and character of Pittwater. (S)*

Comment

The proposed secondary dwelling is of modern design and does not incorporate eaves. The proposal will not have a significant impact on the streetscape due to the highly vegetated front setback which will screen it from view.

- *Optimise roof forms. (S)*

Comment

The proposed roof minimises bulk and scale and contributes to the modern design of the structure.

- *Appropriate solar access and shading is achieved. (En)*

Comment

The proposed development is acceptable in relation to solar access. While the roof form does dwelling is proposed in a vegetated area and will receive appropriate shading from the surrounding trees the secondary dwelling achieves an adequate level of natural light and thermal comfort.

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

Description of Non-compliance

The proposal will result in a landscaped open space of 42.17% (749m²) where the requirement is for 50% (888m²). The existing landscaped open space is 46.75% (830.2m²).

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the control as follows:

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

Comment

The proposal is consistent with the desired future character of Elanora Heights.

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

Comment

The secondary dwelling is proposed in a heavily vegetated area of the site, which will soften the visual impact of the secondary dwelling from all directions.

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

Comment

The proposed secondary dwelling has significant setbacks to any neighbouring structure, ensuring that a reasonable level of amenity and solar access is maintained.

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

Comment

The proposal includes the removal of four trees. A significant number of canopy trees are to be

retained as part of the proposal which will contribute to softening the impact of the built form.

- *Conservation of natural vegetation and biodiversity. (En)*

Comment

The proposed secondary dwelling has been designed to retain a significant proportion of the existing vegetation. A condition has been included in the recommendation of this report requiring that additional native vegetation be planted.

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

Comment

Significant vegetation and landscaped open space remains onsite to reduce stormwater runoff and soil erosion.

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

Comment

Significant landscaped space continues to exist as part of this proposal. A condition has been included in the recommendation of this report requiring that additional native vegetation be planted on the site to assist with enhancing the bushland character of the area.

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

Comment

Sufficient soft surface areas of significant dimensions are available to assist with water management including infiltration of water to the water table. The landscaped area is heavily vegetated, assisting in the minimisation of run-off.

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 DA2019/0140 for Construction of a secondary dwelling on land at Lot 1 DP 243271, 9 Wakooka 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
A3 11.01 - Site Plan	13/02/2019	envirotecture projects pty ltd.

A3 21.01 - Floor Plan	13/02/2019	envirotecture projects pty ltd.
A3 21.02 - Roof Plan	13/02/2019	envirotecture projects pty ltd.
A3 30.01 - Elevations	13/02/2019	envirotecture projects pty ltd.
A3 40.01 - Sections	13/02/2019	envirotecture projects pty ltd.

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate	13/02/2019	Envirotecture
NATHERS Certificate	12/02/2019	Stephen Collins (Concept Designs Australia)
Consulting Arboricultural Assessment Report	30/01/2019	Elke Haege
Bushfire Assessment Report	17/01/2019	John Delany (Australian Bushfire Safety & Planning)

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
Arboricultural Tree Retention Values and Trees Impact Plans	30/01/2019	Elke Haege

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
A3 62.01 - Waste Management Plan	13/02/2019	envirotecture projects pty ltd.

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

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

2. **Prescribed Conditions**

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement

3. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished

- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

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

FEES / CHARGES / CONTRIBUTIONS

4. **Security Bond**

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

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

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

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

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

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

5. 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 25 June 2019 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.

6. 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. (DACHPCPCC1)

7. Flooding

In order to protect property and occupants from flood risk the following is required:

Building Components and Structural Soundness – C1

All new development shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – C2

All new development must be designed and constructed to ensure structural integrity up to the Flood Planning Level of 57.1m AHD, taking into account the forces of

floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 57.1m AHD.

Storage of Goods – D1

Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level of 57.1m AHD unless adequately protected from floodwaters in accordance with industry standards.

Floor Levels – F2

The underfloor area of the eastern half of the dwelling must be elevated on suspended pier/pile footings and remain unenclosed to allow the clear passage of floodwaters, as shown on Drawings A3 30.01 and A3 40.01.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

8. **Landscape Plan**

Detailed Landscape Plans are to be prepared by a qualified landscape architect and are to include the following:

- The location of existing trees and vegetation to be retained, removed and/or planted. The structural root zone (SRZ) and tree protection zone (TPZ) of all trees to be retained in accordance with the Arborist report prepared by Elke Landscape Architect (dated 30/01/2019).
- Provision of three (3) locally native trees or shrubs to be planted onsite. The trees or shrubs are to be selected from the Pittwater Native gardening Guide, available on Council's website.
- A planting schedule with details of species, sizes and quantities to be planted on site. At least 80% of any new planting is to incorporate native vegetation specified in the Pittwater Native gardening Guide.

The Landscape Plan is to be certified as complying with these requirements prior to the issue of the Construction Certificate.

Reason To achieve compliance with the technical requirements of Pittwater DCP Clause B4.11.

9. **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.

10. **Waste management Plan**

A Waste Management Plan must be prepared for this development.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

11. **Submission of Survey**

All works are to be contained wholly within the subject site.

A survey, prepared by a Registered Surveyor, identifying the boundaries of the subject site and all existing structures/buildings, is to be prepared.

The plans submitted for the construction certificate are to accurately reflect the boundaries as shown on the survey.

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

Reason: To ensure all approved works are constructed within the subject site.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. **Arborist Recommendations**

The recommendations of the Arborist report (prepared by Elke Landscape Architect, dated 30/01/2019) are to be implemented at the appropriate stage of development. Evidence of compliance with the Arborist recommendations is to be provided by the Arborist to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: Tree protection (DACNEDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. **Maintenance of Road Reserve**

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

Reason: Public Safety.

14. **Arborist recommendations**

The recommendations of the Arborist report (prepared by Elke Landscape Architect, dated 30/01/2019) are to be implemented at the appropriate stage of development. Evidence of compliance with the Arborist recommendations is to be provided by the Arborist to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: Tree protection (DACNEEDW1)

15. **Implementation of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans and these conditions of consent. The new landscaping is to be certified in accordance with approved Landscape Plans and these conditions of consent by a qualified landscape architect, arborist or ecologist prior to issue of the Occupation Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls. (DACNEEDW2)

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

16. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

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

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

18. **Arborist recommendations**

The recommendations of the Arborist report (prepared by Elke Landscape Architect, dated 30/01/2019) are to be implemented at the appropriate stage of development. Evidence of compliance with the Arborist recommendations is to be provided by the Arborist to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: Tree protection (DACNEFPOC2)

19. **Certification of Landscaping Works**

Landscaping is to be implemented in accordance with the approved Landscape Plans and these conditions of consent. The new landscaping is to be certified as complete and in accordance with approved Landscape Plans and these conditions of consent by a qualified landscape architect, arborist or ecologist prior to issue of any Occupation Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls.

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

20. **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.

21. **Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

22. **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



Rhianon McLardy, Planner

The application is determined on 25/07/2019, under the delegated authority of:



Daniel Milliken, Acting Development Assessment Manager