

Water Management Referral Response

Application Number:	DA2020/1533
Date:	20/05/2021
To:	Jordan Davies
Land to be developed (Address):	Lot 1 DP 1221920 , Dove Lane WARRIEWOOD NSW 2102

Reasons for referral

Council's Water Management Officers are required to consider the likely impacts.

Officer comments

The applicant has provided a new subdivision plan that has a Torrens subdivision of the main lot into three lots, with each lot owning one third of the stormwater basin. While ownership under community title would have been preferable, conditions have been applied that attempt to ensure maintenance of the basin under this ownership structure. Due to the ownership structure, it has not been possible to apply a condition requesting a maintenance contract is entered into, as would typically be required for these devices. To prevent disputes and avoid the need for Council compliance activities, owners are required to submit an annual maintenance report. This is commonly required by many Councils in the Sydney area.

Previous response:

A Torrens subdivision is not suitable for this lot, as the bio-retention basin at the proposed lot 4 is providing water management for the proposed lots 1-3. Therefore the proposed lots 1-3 will be responsible for maintenance and replacement of the basin on the proposed lot 4. Subdivision is possible under a community title arrangement only to ensure appropriate management of the basin.

1. It is not an effective arrangement for Council's compliance staff to rely on a positive covenant and a large number of individual property and strata managers (the current concept offered is two strata RFBs and a set of townhouses), with whom council would have to negotiate to achieve compliance with maintenance obligations and improvements. It is particularly difficult when the parties subject to the positive covenant do not own the land containing the shared infrastructure.

2. The proposal presents significant risk to council in that the basin is located on a lot that will be retained by the developer. At some stage the developer will pass over ownership of the lot, and because it is an unsellable lot and a buyer is unlikely to be found, council as the provider of last resort, would be forced to take on the lot. While a positive covenant would still be in place, the first point still applies.

Please note Pittwater 21 DCP C6.1 Integrated Water Cycle Management says:

"With the exception of the Inner Creekline Corridor, the water management facilities will remain in private ownership. The maintenance responsibility for this private infrastructure remains with the owners of the land/development."

The proposal is therefore supported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

Recommended Water Management Conditions:

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

Maintenance of Stormwater Treatment Measures - Major

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

Vegetated stormwater treatment measures must maintain an 80 percent survival rate of plantings and limit weed cover to no more than 10 percent of the total area of the stormwater treatment measure, and be kept free of sediment, debris and litter.

Ensure that all removed silt, rubbish, debris, and filter media will be disposed of in a manner consistent with all relevant laws and regulations in effect at the time.

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

Reason: Protection of the receiving environment.

Reporting of stormwater treatment measure maintenance

As a minimum, the collective owners of the stormwater treatment measures are required to submit an annual maintenance report to Council by 1 September each year.

This report must detail the inspection and maintenance activities carried out on-site over the previous 12 months, including any waste disposal dockets.

Council reviews the reports to ensure appropriate maintenance is occurring, and is authorised under the Local Government Act 1993 to enter premises and serve penalty notices for failure to comply with maintenance requirements set out in the Positive Covenant.

Reports must be submitted annually from the issue of the subdivision certificate until five years after all burdened lots have received their final occupation certificate.

Reports must be directed to Council's Environment (Catchments) Team at catchment@northernbeaches.nsw.gov.au.

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

Positive Covenant, Restriction as to User and Registration of Encumbrances for Stormwater Treatment Measures

The positive covenant, restriction as to user and the certificate of title registered for DP1221920 are to be updated to reflect the new ownership arrangement for the stormwater treatment measures.

The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements (available from Council) at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted to the Principal Certifying Authority prior to the issue of the

Subdivision Certificate.

Reason: To identify encumbrances on land, ensure ongoing maintenance, and ensure modification to the stormwater treatment measures is not carried out without Council's approval.