

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2018/1816
<b>Responsible Officer:</b>	Ashley Warnest
<b>Land to be developed (Address):</b>	Lot 12 DP 1014199, 102 Wakehurst Parkway ELANORA HEIGHTS NSW 2101
<b>Proposed Development:</b>	Alterations and additions to a dwelling house and subdivision of 1 lot into 2 lots
<b>Zoning:</b>	E4 Environmental Living SP2 Infrastructure
<b>Development Permissible:</b>	Yes - Zone SP2 Infrastructure Yes - Zone E4 Environmental Living
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	Yes
<b>Owner:</b>	Zelimir Milovic Zeljka Milovic
<b>Applicant:</b>	Zelimir Milovic
<b>Application Lodged:</b>	10/12/2018
<b>Integrated Development:</b>	Yes
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	14/12/2018 to 21/01/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 260,000.00

### PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the alterations and additions to the existing dwelling and the subdivision of one (1) lot into (2) independent lots. In summary, the works involve:

- The subdivision of one lot into two lots
- New driveway/right of carriage way extending from the existing driveway and crossover to the rear proposed lot
- The demolition of the western portion of the existing dwelling, additions to the rear of the existing dwelling

- New two (2) car detached garage
- The removal of three (3) trees from along the western side boundary

## 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 - B2.2 Subdivision - Low Density Residential Areas

Pittwater 21 Development Control Plan - C1.4 Solar Access

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

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 12 DP 1014199 , 102 Wakehurst Parkway ELANORA HEIGHTS NSW 2101
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the northern side of Wakehurst Parkway.</p> <p>The site is regular in shape with a frontage of 15.94m along Wakehurst Parkway and a depth of 146.91m.</p> <p>The site has a surveyed area of 2191m<sup>2</sup> with a slope of 26.5% that falls from the north to the south.</p> <p>The site is located within the E4 Environmental Living zone and accommodates an existing two storey residential dwelling house.</p> <p>The front of the site contains several 5m-6m trees along the eastern boundary. The rear of the site is heavily vegetated</p>

with native species.

#### Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by similar two lot subdivisions containing two storey dwelling houses.

Map:



#### **SITE HISTORY**

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

#### **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	None applicable.

Section 4.15 Matters for Consideration'	Comments
agreement	
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
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><b>(i) Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. In summary, the proposed development is found to be consistent with the desired future character for the locality and relevant locality specific controls. The proposal is respectful to the site and the adjoining neighbours.</p> <p><b>(ii) Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development as the key characteristics of the site, including its location, orientation, aspect, character, size, and topography make the site suitable for residential development of the type

Section 4.15 Matters for Consideration'	Comments
	proposed, which is consistent with the zoning of the land and predominantly complying with the DCP controls that applicable to the subject site.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received in regards to this application
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. The public interest is best served by the orderly and economic use of land for purposes which are permissible and which, in their design, configuration and operation, satisfy the intent of the relevant controls. In the subject case, the proposal is in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

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

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

## NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	The landscape component has been addressed in detail in the Natural Environment - Biodiversity referral.  No objections subject to conditions.
NECC (Bushland and Biodiversity)	The application has been assessed against the Pittwater LEP 7.6, and DCP B4.4.  Council's Natural Environment – Biodiversity section supports the



Internal Referral Body	Comments
	<p>application, subject to conditions.</p> <p>The development site is subject to the following Pittwater 21 DCP Natural Environment clause, B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor which states: <i>Development shall result in no significant onsite loss of canopy cover or net loss in native canopy trees.</i></p> <p>The proposal plans show 4 trees to be removed, one large Cabbage Tree Palm (<i>Livistona australis</i>) and 3 others which are exempt species under the DCP. During the site visit several other trees were noted on the neighbouring property to the west at number 104, which are within 5m of the proposed driveway, including one large Eucalypt located behind a large sandstone boulder in the rear, and one large Cabbage Tree Palm (<i>Livistona australis</i>) south of the existing building. To satisfy B4.4, an Arboricultural Impact Statement including a Tree Protection Plan is required prior to issue of Construction Certificate to provide certainty on the safe retention of trees proposed for retention within 5m of works and tree protection measures to be implemented during construction.</p> <p>The large Cabbage Tree Palm (<i>Livistona australis</i>) proposed for removal is located within the new proposed lot, in an area where it not considered necessary to remove as part of this DA (subdivision). If the Cabbage Tree Palm (<i>Livistona australis</i>) is removed, it must be replaced by planting at least 2 advanced Cabbage Tree Palm (<i>Livistona australis</i>) somewhere suitable onsite, or alternatively:</p> <ul style="list-style-type: none"> <li>• The existing Cabbage Tree Palm (<i>Livistona australis</i>) can be translocated elsewhere within the property by a suitably qualified and experienced Arborist,</li> <li>or;</li> <li>• Retain the Cabbage Tree Palm (<i>Livistona australis</i>) for DA (subdivision), and consider any proposed impacts at DA (new dwelling) stage.</li> </ul> <p>Details of the outcome regarding the large Cabbage Tree Palm (<i>Livistona australis</i>) is to be submitted to the Certifying Authority prior to issue of the Construction Certificate.</p> <p><u>Arboricultural Impact Statement</u> An arborist's report which identifies the location, species, health and size of all trees within 5m of the proposed development and meets the following requirements:</p> <ul style="list-style-type: none"> <li>• Prepared by a suitably qualified arborist (minimum AQF Level 5);</li> <li>• Developed based on the actual plans and documentation submitted in support of the DA;</li> <li>• A tree protection and management plan with general and/or</li> </ul>

Internal Referral Body	Comments
	specific tree protection measures to enable safe retention of all trees proposed for retention.
NECC (Development Engineering)	<p>The applicant has obtained approval from RMS subject to conditions which requires to form part of the conditions of consent. The subject site is located on a main arterial road. The applicant shall provide the construction of a common driveway, passing bays, turning area, implementation of TCP and drainage as part of the conditions of consent.</p> <p>The "new bdy line" shown within Lot 1 located in the right of carriageway (ROC) is to be deleted and shown only as a dotted line to indicate the extend of the ROC.</p> <p>No Development Engineering objection subject to conditions.</p>
NECC (Riparian Lands and Creeks)	<p>This application has been assessed under:</p> <ul style="list-style-type: none"> <li>• SEPP (Coastal Management) 2018 (Coastal Environment Area)</li> <li>• Pittwater 21 DCP B5.8 (Stormwater management - water quality)</li> <li>• B4.14 (Development in the vicinity of wetlands).</li> </ul> <p>All three can be met by complying with Pittwater 21 DCP B5.8.</p> <p>The application can meet the requirements of Pittwater 21 DCP B5.8 if it complies with the following that are conditioned.</p> <p>A silt arrestor pit must be incorporated into the stormwater drainage line prior to stormwater being discharged from the land. It is recommended that the 600x600 pit located just inside the land to be acquired by the RMS be upgraded for this purpose.</p> <p>Sediment and erosion controls must be installed prior to any soil disturbance on site and maintained until all work is complete and groundcover is re-established.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	The proposed works are located outside the adopted Flood Planning Area extent. No flood related development controls applied.

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.
Integrated Development – NSW Rural Fire Service (Subdivisions and Special Fire Protection Purposes under Section 100B of Rural Fires Act)	<p>The application was referred to NSW Rural Fire Service with regards to Clause 100B of the Rural Fires Act. No objections were raised and General Terms of Approval were provided.</p> <p>The application is supported subject to conditions.</p>

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

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

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

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

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

#### **SEPP 55 - Remediation of Land**

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

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

A BASIX certificate has been submitted with the application (see Certificate No. A330502, Dated 08/10/2018).

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

#### **SEPP (Infrastructure) 2007**

##### **Ausgrid**

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

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

##### Comment

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory



period and therefore, it is assumed that no objections are raised and no conditions are recommended.

### Roads and Maritime Service (RMS)

Clause 100 of the SEPP requires that development(s) any of the following purposes on land reserved for the purposes of a classified road are to be referred to the RMS:

- (a) subdivision that results in the creation of an additional lot with dwelling entitlements,
- (b) development with a capital investment value greater than \$185,000,
- (c) development for the purpose of dwellings that are, or any other building that is, to be held under strata title.

#### Comment

The application was referred to the RMS who did not raise any objection to the proposal subject to conditions of consent.

### Pittwater Local Environmental Plan 2014

Is the development permissible?	Zone SP2: Yes Zone E4 : Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Zone SP2: Yes Zone E4 : Yes

#### Principal Development Standards

Standard	Requirement	Proposed	Complies
Minimum subdivision lot size:	550m <sup>2</sup>	Lot 1: 550m <sup>2</sup> (excluding right of carriage way and land zoned SP2)	Yes
		Lot 2: 1166.5m <sup>2</sup>	Yes
Height of Buildings:	8.5m	6.5m	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.6 Subdivision - consent requirements	Yes
2.7 Demolition requires development consent	Yes
4.1 Minimum subdivision lot size	Yes
4.3 Height of buildings	Yes
5.1 Relevant acquisition authority	Yes
5.1A Development on land intended to be acquired for public purpose	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes

Clause	Compliance with Requirements
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	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	Lot 1	6.5m	31.2m	N/A	Yes
	Lot 2	6.5m	N/A	N/A	Yes
Rear building line	Lot 1	6.5m	9.5m	N/A	Yes
	Lot 2	6.5m	>6.5m	N/A	Yes
Side building line	Lot 1	2.5m (west)	3.6m	N/A	Yes
		1m (east)	1m	N/A	Yes
	Lot 2	2.5m (west)	2.5m	N/A	Yes
		1m (east)	1m	N/A	Yes
Building envelope	Lot 1	3.5m (west)	Within envelope	N/A	Yes
		3.5m (east)	Within envelope	N/A	Yes
	Lot 2	3.5m (west)	Within envelope	N/A	Yes
		3.5m (east)	Within envelope	N/A	Yes
Landscaped area	Lot 1	60%	45.3%	25%	<b>No</b>
	Lot 2	60%	77.6%	N/A	Yes

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

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.5 Elanora Heights Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B2.2 Subdivision - Low Density Residential Areas	No	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.5 Access Driveways and Works on Road Reserves on or Adjacent to a Main Road	Yes	Yes
B6.7 Transport and Traffic Management	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
B8.6 Construction and Demolition - Traffic Management Plan	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
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C4.1 Subdivision - Protection from Hazards	Yes	Yes
C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities	Yes	Yes
C4.3 Subdivision - Transport and Traffic Management	Yes	Yes
C4.4 Subdivision - Public Roads, Footpath and Streetscape	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C4.5 Subdivision - Utility Services	Yes	Yes
C4.6 Service and delivery vehicle access in subdivisions	Yes	Yes
C4.7 Subdivision - Amenity and Design	Yes	Yes
C4.8 Subdivision - Landscaping on the Existing and proposed public road reserve frontage to subdivision lots	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)	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
D5.9 Landscaped Area - Environmentally Sensitive Land	No	Yes
D5.14 Scenic Protection Category One Area	Yes	Yes

#### Detailed Assessment

### **B2.2 Subdivision - Low Density Residential Areas**

Requirement	Proposed	Complies
Any lot (or lots) to be created by a subdivision of an existing lot (or lots) shall have a minimum lot depth of 27 metres.	Lot 1: 47.65m (Excluding SP2 zone) Lot 2: 76.26m	Yes
Any lot (or lots) to be created by a subdivision of an existing lot (or lots) on land identified as Area 1 on the Landscaped Area Map shall have a minimum lot width at the building line of 16 metres.	Lot 1: 15.24m Lot 2: 15.24m	No
Any lot (or lots) to be created by a subdivision of an existing lot (or lots) shall have a minimum lot width at the building line of 9 metres at the waterfrontage.	N/A	N/A
Any lot (or lots) are to be capable of providing for the construction of a building which is safe from hazards, does not unreasonably impact on the natural environment, does not adversely affect heritage, and can be provided with adequate and safe access and services.	N/A	Yes
A person shall not subdivide land if the allotment(s) intended to be created have a slope in excess of 16.7 degrees (30%), measured between the highest and lowest points on any such allotment(s).	Lot 1: 6.2% Lot 2: 45%	No
The minimum area for building shall be 175m <sup>2</sup> .	Lot 1: 550m <sup>2</sup> Lot 2: 430m <sup>2</sup>	Yes

The proposed subdivision is consistent with the existing lot width of the subject site. The 76cm variation to the minimum lot width requirement for both Lots 1 and 2 is considered minor. The proposed lot two has a slope in excess of 30% which can be attributed to the escarpment located to the rear of the site. The slope of indicative building footprint is 33.1% which is consistent with development in the

area. Furthermore, a geotechnical risk assessment report has been submitted with the application which supports the indicative footprint on the rear lot (Lot 2) to be safe from the land slip hazard. Council may consider the variations where it can be demonstrated that the objectives of the clause can be achieved. The objectives are achieved in the following ways:

- Achieve the desired future character of the locality.

Comment

The proposed subdivision is consistent with development in the area. The desired future character of the Elanora Heights locality is maintained.

- Maintenance of the existing environment.

Comment

The proposal will not adversely effect significant landscaping features of the site particularly the existing bush rock and escarpment to the rear of the site. Three trees are proposed for removal as part of the application, to ensure maintenance of the existing environment replacement planting will be a condition of consent.

- Equitable preservation of views and vistas to and/or from public/private places.

Comment

Views and vistas to and from private and public spaces will not be impacted by the proposal.

- The built form does not dominate the natural setting.

Comment

The proposed building envelope for Lot 2 is consistent with development in the area and will not dominate the natural setting.

- Population density does not exceed the capacity of local and regional infrastructure and community services. Population density does not exceed the capacity of local and regional transport facilities.

Comment

The creation of an additional lot is subject to section 7.11 contributions to ensure that the additional demand for public amenities and public services within the area are met.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance

#### **C1.4 Solar Access**

The proposed rear lot and any future dwelling will not receive 3 hours of direct sunlight between the hours of 9am and 3pm. The lot will be overshadowed by the escarpment to the rear of the site for the majority of the day. Clause C1.4 of P21 DCP provides a variation to the requirements where there is adverse slope or topography that prevents compliance with the 3 hour minimum prescribed. The constraints of the subject site are considered to warrant the application of this variation, as the proposal is otherwise consistent with the outcomes of this clause.



## D5.9 Landscaped Area - Environmentally Sensitive Land

### Proposed (lot 1)

315.3m<sup>2</sup> or 45.3% (without variation)

347m<sup>2</sup> or 49.8% (with variation)

### Required (lot 1)

418m<sup>2</sup> or 60%

There is a shortfall in landscaped area of 102.7m<sup>2</sup> (without variation) for proposed lot 1. Clause D5.9 of P21 DCP permits a variation up to 6% of the total site area that is provided as impervious landscape treatment for the purpose of outdoor recreation. The variation also includes impervious areas less than 1.0m in width.

Council may consider these variations where it can be demonstrated that the outcomes of the Clause can be achieved. The outcomes are achieved in the following ways:

- *Achieve the desired future character of the Locality.*

#### Comment

The desired future character of the Elanora Heights locality is maintained.

- *The bulk and scale of the built form is minimised.*

#### Comment

The bulk and scale of the structure is minimised as the proposal complies with the height, building envelope, and setback requirements. The built form is further softened through the retention of vegetation on and around the site and proposed screen planting.

- *A reasonable level of amenity and solar access is provided and maintained.*

#### Comment

As discussed within section C1.4 of this report, the minimum 3 hour solar access requirement can not be achieved for the subject site. However, a reasonable level of privacy, amenity and solar access is maintained by the residents of the subject site and the adjoining dwellings.

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

#### Comment

Three trees are proposed for removal as part of this application. The trees are proposed for removal to facilitate an access driveway to the rear lot. A condition of consent will be imposed for replacement planting to take place on-site. Remaining vegetation and replacement planting will visually reduce the built form.

- *Conservation of natural vegetation and biodiversity.*

#### Comment

No native vegetation or wildlife species will adversely be affected by the proposed works.

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

#### Comment

The proposal is to be connected to the existing stormwater drainage.

- *To preserve and enhance the rural and bushland character of the area.*

Comment

Consistency with the relevant built form controls and the retention of vegetation on the site will ensure the character of the area is maintained. In addition, there are several examples of similar subdivisions in the area.

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

Comment

Soft surfaces and porous materials have been utilised where possible to minimise run-off and assist with stormwater management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

## **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**

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

A monetary contribution of \$2,600 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$260,000.

## **CONCLUSION**

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any

unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1816 for Alterations and additions to a dwelling house and subdivision of 1 lot into 2 lots on land at Lot 12 DP 1014199, 102 Wakehurst Parkway, 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
1-7 773 18 HD, 2-7 773 18 HD, 3-7 773 18 HD, 4-7 773 18 HD, 5-7 773 18 HD, 6-7 773 18 HD, and 7-7 773 18 HD	August 2018	High Design

Engineering Plans		
Drawing No.	Dated	Prepared By
H-11-267066	08/04/2019	Civil and structure Design Services Pty. Ltd.

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Report	02/10/2018	Bushfire Planning and Design
Geotechnical Report - Ref. J1931	13/09/2018	White Geotechnical Group

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

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

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

## 2. **Compliance with Other Department, Authority or Service Requirements**

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

Other Department, Authority or Service	EDMS Reference	Dated
NSW Rural Fire Service	RFS Referral Response - 102 Wakehurst Parkway Elanora Heights	14/01/2019
NSW roads and Maritime Service	RMS Referral Response - 102 Wakehurst Parkway Elanora Heights	03/10/2019

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

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's.

## 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) 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

### 5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$2,600.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$260,000.00.

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

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

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

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

Reason: To provide for contributions in accordance with the Contribution Plan to fund the

provision of new or augmented local infrastructure and services.

**6. 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](http://www.northernbeaches.nsw.gov.au)).

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

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

A Bond of \$7000.00 as security against any damage or failure to complete the construction of Stormwater drainage works as part of this consent.

Reason: Protection of Council's Infrastructure

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

**8. 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 13 September, 2018 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.

**9. Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan must be prepared by an appropriately certified person to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan must obtain written approval from R.M.S. prior to submission to Council.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

10. **Amendments to Approved Plans**

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

- a) The portion of the new driveway/ right of carriage way to the west of Lot 1 is to be included within Lot 1. The reference to "new bdy. 32.535" is to be deleted from the Subdivision Plan. A dotted line should be used to indicate the extent of the right of carriage way.

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

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

11. **Submission of Engineering Plans**

Engineering plans are to be submitted to the Certifying Authority for approval. The submission is to include four (4) copies of Civil Engineering plans designed by a practicing civil Engineer for the design of construction of driveway and vehicular turning area to the following requirements :

1. A concrete driveway 3.5 meters wide and drainage over the proposed common rights of carriageway.
2. A passing bay a minimum 5.5 meters wide and 10 meters in length must be provided at the front boundary and at "Future line of acquired land by NSW RMS". (approximately 20 meters from the front boundary).
3. A concrete turning area to AS/NZS 2890.1:2004 must be provided on both lots to ensure that all vehicle can exit in a forward direction.
4. The levels for the proposed right of carriageway must be incorporated with the approved vehicular access level issued by council within the public road.
5. Construction of an inter-allotment drainage system to service both lots. All roof and hard stand surface areas shall be collected and connected to the inter-allotment drainage system.
6. Provision of all utility services to both lots.

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

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

12. **Submission an Appication for Roads Act Application for Civil Works in the Public Road**

An Application for Works to be approved within Council Roadway, including engineering plans is to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design of any retaining walls through the nature strip and driveway crossing which are to be generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified structural engineer. The design must include the following information:

1. The driveway access over the nature reserve shall be in accordance with the requirements of RMS letter dated 3 October 2019. The driveway width must be at lease 5.5 metres in width.
2. The proposed Inter-allotment drainage system from the development shall be connected to RMS piped drainage system. A minimum of 375 RCP size pipe with pit and head wall are required to be constructed from the front property to the intersection of Elanora Road and Wakehurst Parkway. The alignment of the drainage line shall be located generally within the gutter line.
3. Approval for the Traffic Management plan and Road Occupance from RMS shall be

submitted with the S138 Road Act application to Council.

4. All Public utility services must be identified on the plan and and adjustment required must be shown on the plan with the appropriate consent from the services authority shall be submitted with the S138 Road Act application to Council.
5. A concurrence letter from RMS must be provided in compliance with the above required and in accordance with RMS letter dated 3 October must be submitted with S138 Road Act application to Council.

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

An approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To provide public and private safety.

**13. Large Cabbage Tree Palm (*Livistona australis*) proposed for removal**

The large Cabbage Tree Palm (*Livistona australis*) proposed for removal must be replaced by planting at least 2 advanced Cabbage Tree Palm (*Livistona australis*) somewhere suitable onsite, or alternatively:

- The existing Cabbage Tree Palm (*Livistona australis*) can be translocated elsewhere within the property by a suitably qualified and experienced Arborist, or;
- Retain the Cabbage Tree Palm (*Livistona australis*) for DA (subdivision), and consider any proposed impacts at DA (new dwelling) stage.

Details of the decision regarding the large Cabbage Tree Palm (*Livistona australis*) is to be submitted to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure mitigation of tree removal

**14. Water Quality - Low Density Residential**

To comply with Pittwater 21 DCP B5.8, the applicant must install stormwater quality improvement measures as follows:

- Pre-screening of organic matter (eg. leaf litter) prior to the collection of rainwater in the rainwater tank
- Filtration of stormwater to capture organic matter and coarse sediments prior to discharge from the land.
- Provision must be made for maintenance access.

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

**15. Protection of Trees During Works - Arborist statement and Tree Protection Plan Required**

All trees that are to be specifically nominated to be retained by notation or condition as a requirement of the development consent shall be maintained and protected during any vegetation clearing, demolition, excavation and construction on the site.

To satisfy B4.4, an Arboricultural Impact Statement including a Tree Protection Plan is required prior to issue of Construction Certificate to provide certainty on the safe retention of trees within 5m of works and tree protection measures to be followed during construction. If any additional significant canopy trees are proposed for removal, a 3:1 ratio of replacement canopy tree planting is required.



#### Arboricultural Impact Statement

An arborist's report which identifies the location, species, health and size of all trees within 5m of the proposed development and meets the following requirements:

- Prepared by a suitably qualified arborist (minimum AQF Level 5);
- Developed based on the actual plans and documentation submitted in support of the DA;
- A tree protection and management plan with general and/or specific tree protection measures to enable safe retention of all trees proposed for retention.

The arborist's report and details of protection methods shall be provided to the Certifying Authority by an appropriately qualified person prior to commencement of any works on the site.

All tree protection measures are to be in accordance with as per Australian Standards AS 4970—2009

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

#### 16. **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.

#### 17. **External Finishes**

The external finish are to 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.

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.

### **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

#### 18. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

#### 19. **Tree 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

(b) Tree protection

- i) No tree roots greater than 50mm 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 50mm 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 WDCP2011 Clause E1 Private Property Tree Management 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.

20. **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.

21. **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

22. **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.

23. **Civil Works Supervision**

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer.

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

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

24. **Vehicle Crossings**

The provision of vehicle crossing minimum 5.5 metres wide and compliant with swept turning path as required by RMS dated 3 October 2019. In this regards RMS compliance is required.. Detail desing will be required to form part of the S138 Road Act Approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

25. **Protection of rock and sites of significance**

- a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.
- b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

26. **Arborist Recommendations to be Implemented**

As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report are required to be complied with before and throughout the development period, particularly with regard to the following:

- a) Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
- b) Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
- c) All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.

- d) Signage is to be erected advising all contractors and visitors to the site that no works or storage is to take place within the calculated Tree Protection Zone (TPZ) of existing trees.

Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.

Reason: To ensure the retention of the Urban Forest/Natural Environment and remain consistent with approved reports.

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

27. **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.

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

28. **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.

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.

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

30. **Certification of Drainage Works within the public road and Works as Executed**

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 138 road act approved plans. Works as Executed data (details overdrawn on a copy of the approved drainage and road works plan) certified by a registered surveyor in relation to boundaries.

Written Approval from RMS on completion of the drainage and road works must be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate

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

31. **Right of Carriageway**

A right of carriageway (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and accompanying 88B instrument to include all vehicular access and manoeuvring areas.

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

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

32. **Restriction as to User for Vehicular Access**

A restriction as to user shall be incorporated in the title of front Lot that shall preclude that lot from utilising its frontage for vehicular traffic except for the section created as a Right of Carriageway. The wording of the restriction of use is to be prepared by a surveyor, with terms acceptable to Council.

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

Reason: To ensure compliance with Council policy for vehicular access

33. **Services**

All utilities/services and street lighting is to be installed by the applicant/developer. Certification is to be provided to Council stating the above requirement has been complied with.

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

Reason: Public safety and to ensure services have been provided for the newly created lots

34. **Survey Plan - Construction Identification**

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

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

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

35. **Sydney Water Compliance Certification**

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



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

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

36. **Subdivision Certificate Application**

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

Reason: Statutory requirement of the Conveyancing Act 1919

37. **Title Encumbrances**

All easements, rights of carriageway, positive covenants and restrictions as to user as indicated on the plans and required by this consent are to be created on the title naming Northern Beaches Council as the sole authority empowered to release or modify.

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

Reason: To ensure proper management of land

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

**Signed**



**Ashley Warnest, Planner**

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



**Steven Findlay, Manager Development Assessments**