

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2018/1412
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<b>Responsible Officer:</b>	Ashley Warnest
<b>Land to be developed (Address):</b>	Lot 11 DP 1014199, 104 Wakehurst Parkway ELANORA HEIGHTS NSW 2101
<b>Proposed Development:</b>	Construction of a dwelling house
<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>	No
<b>Owner:</b>	Aaron Luke Kendall
<b>Applicant:</b>	Aaron Luke Kendall

<b>Application lodged:</b>	24/08/2018
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	30/08/2018 to 17/09/2018
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 730,092.00
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### ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest

- groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings  
 Pittwater 21 Development Control Plan - A4.5 Elanora Heights Locality  
 Pittwater 21 Development Control Plan - C1.4 Solar Access  
 Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways  
 Pittwater 21 Development Control Plan - C1.23 Eaves  
 Pittwater 21 Development Control Plan - D5.6 Side and rear building line (Excluding Elanora Heights Village Centre)  
 Pittwater 21 Development Control Plan - D5.7 Building envelope (Excluding Elanora Heights Village Centre)

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 11 DP 1014199 , 104 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 15.25m along Wakehurst Parkway and a depth of 140.55m. The site has a surveyed area of 2137m<sup>2</sup> with a slope of 30.8% that falls from the north to the south.</p> <p>The site is located within the E4 Environmental Living zone and accommodates Dwelling Houses. The front portion of the site is located within the SP2 Infrastructure zone.</p> <p>The site contains an existing brick two storey dwelling house located towards the front of the site.</p> <p>The rear of the site is heavily vegetated with native species.</p> <p><u>Detailed Description of Adjoining/Surrounding Development</u></p> <p>Adjoining and surrounding development is characterised by similar 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:

- Development Application - DA2018/1411 for the alterations and additions to an existing Dwelling House. Lodged 24/08/2018 and currently under assessment
- Development Application - N0510/06 for the construction of a new Dwelling House. Determined 16/02/2017
- Development Application - N013/06 for the alterations and additions to an existing Dwelling House. Determined 16/02/2017
- Development Application - N0432/04 for the demolition of existing structures, subdivision of 2 lots into 4 lots and driveway construction. Determined 31/05/2015

## PROPOSED DEVELOPMENT IN DETAIL

Development consent is sought if the construction of a new Dwelling House. The proposed works are as follows:

- Construction of a part 2 part 3 storey dwelling house towards the rear of the site
- Access driveway
- Planting including screen planting and roof planting

## 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)(iiia) – 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)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. In summary, the proposed development is found to be consistent with the desired future character of the Elanora Heights Locality and relevant locality specific controls. The proposed works are respectful to the site and the adjoining neighbours.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 the location, orientation, aspect, character, size, and topography. The proposal is consistent with the zoning of the land and predominantly complying with the DCP controls that are 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 relation 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 and operation satisfy the intent of the relevant controls.

## 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 Bushfire Consultancy Australia, dated 02/08/2018) 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.

**MEDIATION**

No requests for mediation have been made in relation to this application.

**REFERRALS**

Internal Referral Body	Comments
Landscape Officer	<p>The landscape component of this proposal is acceptable subject to completion of landscaping and protection of existing trees, vegetation and rock outcrops.</p> <p>Councils Landscape Section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls:</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> </ul>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the following Natural Environment controls:</p> <ul style="list-style-type: none"> <li>- Pittwater LEP Clause 7.6 (Biodiversity Protection)</li> <li>- Pittwater DCP Clause B4.4 (Flora and Fauna Habitat Enhancement Category)</li> </ul> <p>The application relates to dwelling construction on Lot 3 of approved subdivision N0432/04. The proposed building footprint and APZ is generally consistent with those approved with the subdivision consent and will therefore not result in a significant additional impact to existing native vegetation on the site. It is considered that, subject to recommended conditions of consent, the proposal is consistent with the controls.</p>
NECC (Coast and Catchments)	<p><b>12 Development on land within the coastal vulnerability area</b></p> <p><i>Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:</i></p> <ul style="list-style-type: none"> <li>(a) <i>if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and</i></li> <li>(b) <i>the proposed development:</i> <ul style="list-style-type: none"> <li>(i) <i>is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i></li> </ul> </li> </ul>

Internal Referral Body	Comments
	<p>(ii) <i>is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and</i></p> <p>(iii) <i>incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i></p> <p>(c) <i>measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i></p> <p><u>Comment:</u> The subject site is not within the area mapped as a coastal vulnerability area under <i>State Environmental Planning Policy (Coastal Management) 2018</i>. Pursuant to Part 2 Division 5 Clause 15 of the SEPP the proposed development is not likely to cause increased risk of coastal hazards on the subject land or other land.</p> <p>As such, it is considered that the application does not need to satisfy the requirements of <i>State Environmental Planning Policy (Coastal Management) 2018</i> as they relate to a coastal vulnerability area.</p>
NECC (Development Engineering)	<p>Comments for Development Engineers:</p> <ol style="list-style-type: none"> <li>1. A new dwelling is to be constructed. A new internal driveway and parking area is proposed. The existing internal levels are very steep. The proposed driveway makes the gradients very flat.</li> <li>2. Council's flood assessment engineers have no objection to the proposal.</li> <li>3. The site is located within Geotechnical Hazard H1 Area, an "Acceptable Risk Management" level is achieved in accordance with the geotechnical report provided by martens consulting engineers, dated 20 July 2018.</li> <li>4. Drains to Narrabeen Lagoon, no OSD required.</li> </ol> <p>No objection to approval, subject to conditions as recommended.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The southern part of the property at 104 Wakehurst Parkway, inside the front boundary, is flood affected.</p> <p>The 1% AEP flood level of 3.05m AHD extends approximately 6m into the property.</p> <p>The Probable Maximum Flood level of 5.03m AHD extends approximately 13-18m into the property, ie approximately half way into the yard in front of the existing house.</p> <p>The proposed residential building works are outside of the flood affected part of the property.</p>
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

External Referral Body	Comments
	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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 949410S, Dated 08/08/2018). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0003023843-02, Dated 07/08/2018).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	53

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

#### 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	% Variation	Complies
Height of Buildings:	8.5m	9.6m	N/A	Yes



(10m variation applicable)

### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	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
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

### Detailed Assessment

#### **4.3 Height of buildings**

The proposed dwelling exceeds the 8.5m height requirement by 1.1m. Subclause 2D identifies development may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

*(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and*

#### Comment

A portion of the roof structure pitched to maximise solar access exceeds the 8.5m limit. The portion of the roof that exceeds the height limit has a varied height of 9.6m to 8.7m and extends for a length of 5.1m.

*(b) the objectives of this clause are achieved, and*

#### Comment

- The proposed dwelling is a three storey development, this is considered reasonable as there are examples of similar styles of developments in the vicinity. The desired future character of the Elanora Heights Locality is maintained
- The proposed dwelling is consistent and compatible with the height and scale of surrounding and nearby developments. The proposal consists of similar contemporary architectural features such as the roof structure.
- the breach in the 8.5 height limit will not exacerbate overshadowing due to the topography of the site and surrounding area.
- A reasonable level of view sharing is maintained
- The building has been designed to minimise excavation on the site whilst maintaining natural

- features of the site including rock outcrops, rock faces, and significant trees
- A landscape plan accompanies the application that features the incorporation of screen planting and a roof top garden to minimise the adverse visual impact of development on the natural environment.

(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and

Comment

The building is situated on a slope of 38.6% which exceeds the 30% requirement.

(d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.

Comment

The proposed dwelling includes excavation for the garage level. The dwelling has been sited and designed to minimise cut and fill.

**Pittwater 21 Development Control Plan**

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	N/A	N/A	N/A
Rear building line	6.5m	54m	N/A	Yes
Side building line	2.5m (west)	2m (garage and level 1)	20%	<b>No</b>
		2.9m (level 2)	N/A	Yes
	1m (east)	0.9m (garage and level 1)	10%	<b>No</b>
		1.6m (level 2)	N/A	Yes
Building envelope	3.5m (west)	Outside envelope	44.8%	<b>No</b>
	3.5m (east)	Outside envelope	52.8%	<b>No</b>
Landscaped area	60%	81.2%	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 x 100 = 95 then 100 - 95 = 5% variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.5 Elanora Heights Locality	No	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	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
B5.3 Greywater Reuse	Yes	Yes
B5.4 Stormwater Harvesting	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
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
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	No	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
C1.19 Incline Passenger Lifts and Stairways	No	Yes
C1.23 Eaves	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D5.1 Character as viewed from a public place (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.3 Building colours and materials (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.5 Front building line (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.6 Side and rear building line (Excluding Elanora Heights Village Centre)	No	Yes
D5.7 Building envelope (Excluding Elanora Heights Village Centre)	No	Yes
D5.9 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D5.13 Construction, Retaining walls, terracing and undercroft areas (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.14 Scenic Protection Category One Area	Yes	Yes

#### Detailed Assessment

#### **A4.5 Elanora Heights Locality**

The desired future character statement for the Elanora Heights locality identifies that dwelling houses are to be a maximum of two (2) storey in any one place. The proposed dwelling consists of a three storey built form which does not comply with the above requirement. The dwelling is to be sufficiently setback from the street so as to not appear prominent in the streetscape when viewed from a public place. In addition, the garage level is to be partially excavated with the remainder of the dwelling to be partially obstructed by existing development and vegetation.

As three storey design will not be a prominent feature of the dwelling when viewed from Wakehurst Parkway the desired future character of the Elanora Heights Locality will be maintained.

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

The proposed dwelling house does not receive three hours of sunlight between the hours of 9am to 3pm in midwinter and therefore does not comply with the requirements of the Clause. The escarpment, located to the rear of the site, overshadows the site between the hours of 9am to 3pm. Clause C1.4 of P21 DCP permits a variation to the three hour minimum requirement where the site is constrained by an adverse slope or topography. The proposed dwelling is sited and designed to maximise solar access and is considered reasonable and satisfactory in addressing this control.

#### **C1.19 Incline Passenger Lifts and Stairways**

The proposed stairway is located along the western boundary with a null setback and therefore does not comply with the minimum 2m setback. The proposed stairway is to provide access from the front yard and driveway area to the paved area on level one.

To ensure the proposed stairway causes minimal visual and acoustic disturbance to the adjoining neighbours the stairway is to maintain a minimum 1m setback to the western boundary. The re-positioning of the stairway allows for planting and screening opportunities along the boundary to maximise privacy for the residents at 106 Wakehurst Parkway and the future residents of the dwelling.

The subject to conditions the location of the stairway is considered reasonable and satisfactory in

addressing this control.

### **C1.23 Eaves**

No eaves are proposed for the dwelling and therefore does not comply with the requirements of the clause. The proposed development is of a more contemporary nature that is consistent with other development in the locality. As discussed within Section C1.4 of this report the level of solar access to be received to the site is minimal and the addition of eaves unnecessary shading. The variation to the requirements of the control is considered to be reasonable and satisfactory in addressing this control.

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

The garage level and level one do not comply with the side setback requirements. The 10cm variation to the east and 50cm variation to the west may be considered on merit where the outcomes of the clause are achieved. The outcomes are achieved in the following ways:

- The desired future character of the Elanora Heights Locality is maintained
- The bulk and scale of the proposal is minimised through the articulation of the built form and stepping in of level two. The proposed colours and finishes ensure that the dwelling will harmonise with the natural environment.
- The proposed dwelling will not result in any unreasonable impacts upon views currently enjoyed from public or private places.
- The proposal has been designed to maximise amenity for the future occupants of the dwelling whilst maintaining a reasonable level of privacy, amenity and solar access to the adjoining properties.
- The application is accompanied by a landscape plan that provides a reasonable level landscaping including the retention and enhancement of existing vegetation.
- The dwelling is situated and designed to minimise site disturbance and maintain the natural features of the site

With consideration of the above the variation to the side setback requirements is considered satisfactory in addressing this control.

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

A portion of the level one and level two along the eastern and western elevations do not comply with the building requirements. The site is considered constrained as the building footprint is situated on a slope of 38.6%. A variation to the building envelope requirement is permitted for constrained sites where the outcomes of the clause are achieved. The outcomes are achieved in the following ways:

- The desired future character of the Elanora Heights Locality is maintained
- The proposed building scale and density is consistent with similar forms of development in the area.
- The dwelling is situated and designed to minimise site disturbance and maintain the natural features of the site.
- The bulk and scale of the proposal is minimised through the articulation of the built form and stepping in of level two. The proposed colours and finishes ensure that the dwelling will harmonise with the natural environment.
- The proposed dwelling will not result in any unreasonable impacts upon views currently enjoyed from public or private places.
- The proposal has been designed to maximise amenity for the future occupants of the dwelling whilst maintaining a reasonable level of privacy, amenity and solar access to the adjoining properties.

- The application is accompanied by a landscape plan that provides a reasonable level landscaping including the retention and enhancement of existing vegetation.

With consideration of the above the variation to the building envelope requirements is considered satisfactory in addressing this control.

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

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

## **POLICY CONTROLS**

### **Pittwater Section 94 Development Contributions Plan**

S94 Contributions are not applicable to 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 DA2018/1412 for Construction of a dwelling house on land at Lot 11 DP 1014199, 104 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Site Plan/Site Analysis - Rev. H	26/02/2019	Thodey Design
Floor Plans - Rev. H	26/02/2019	Thodey Design
Roof Plan - Rev H	26/02/2019	Thodey Design
Elevations - Rev. H	26/02/2019	Thodey Design
Sections - Rev. H	26/02/2019	Thodey Design

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Bushfire Report	18/10/2018	Bushfire Consultancy Australia
Geotechnical Report	20/07/2018	Martens

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:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
L01/1 - Rev. A	09/08/2018	Outdoor Interests

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. Amendments to the approved plans**

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

- (a) The portion of the driveway that encroaches within the front lot (Lot 3) as identified on the Garage Level plan prepared by Thodey Design (Dated 26/02/2019) is to be

deleted. The driveway is to be located within the right of carriage way and the rear lot (Lot 4).

(b) The external stairway located along the western boundary is to be amended by maintaining a minimum 1m setback from the western boundary

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.

### 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.

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. Security Bond

A bond (determined from cost of works) of \$2,000 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.

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

### 6. **Stormwater Disposal**

Drainage plans are to be submitted in accordance with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2:1998 - Stormwater Drainage – Acceptable solutions are to be submitted and certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the interallotment drainage line benefiting the site.

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

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

### 7. **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 martens consulting engineers dated 20 July 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.

### 8. **Vehicle Driveway Gradients**

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Details demonstrating compliance by a suitably qualified Civil Engineer are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate

Reason: To ensure suitable vehicular access to private property.

### 9. **Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

10. **Flooding**

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

Fencing – H1

Any new fencing within the area affected by the 1% AEP flood (ie within 6m of the front boundary from the natural ground level up to the 1% AEP flood level of 3.05m AHD, to allow flood

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.

11. **External Finishes**

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

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.

12. **Sydney Water "Tap In"**

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

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

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

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

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

13. **Registration of title of Lot 4**

Lot 4 is to be registered with Land Titles (NSW Lands and Property Information Office). Evidence that the lot has been registered with Land Titles is to be provided to Council.

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

Reason: To ensure permissible development.

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

14. **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.

15. **Maintenance of Sediment**

Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Reason: To ensure sediment controls are effective

16. **Tree and Vegetation Protection**

A) Existing trees and vegetation shall be retained as follows:

- i) all trees and vegetation within the site, nominated for retention including T01 as nominated by the Landscape Plan provided by Outdoor Interests drawing number L01/1, shall be protected during all construction stages, excluding exempt trees under the relevant planning instruments or legislation,
- ii) all other trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation,
- iv) all trees and vegetation to be retained shall be in accordance with the Landscape Plans provided by Outdoor Interests.

B) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, with particular attention to section 4, and AS4373-2007 Pruning of amenity trees,
- ii) any tree roots exposed during excavation with a diameter greater than 25mm within the TPZ must be assessed by an Arborist,
- iii) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- iv) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorized by the Project Arborist on site,
- v) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
- vi) should either or both iv) and v) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations and shall report on the tree protection action undertaken, including photographic evidence,
- vi) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009.

Reason: to retain and protect significant planting on development sites.

17. **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.

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

18. **Landscape Works**

a) Landscape works are to be implemented in accordance with the Landscape Plan prepared by Outdoor Interests drawing number L01/1 issue A.

b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with the nominated landscape plan.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

19. **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.

20. **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.

21. **Clearing of vegetation for APZ**

Clearing for establishment of any APZ is to prioritise removal of any Priority weeds and environmental weeds (as listed in Appendices 1 and 2 of the Greater Sydney Regional Strategic Weed Management Plan 2017 - 2022, respectively) over removal of native vegetation. Details demonstrating compliance are to be certified by a qualified ecologist or landscape architect prior to issue of the Occupation Certificate.

Reason: To retain native vegetation on site in accordance with relevant Natural Environment LEP and DCP controls.

22. **Sydney Water**

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 any interim / final Occupation Certificate.

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

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

23. **Landscape maintenance**

All landscape components are to be maintained for the life of the development. A maintenance program is to be established.

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species to maintain the landscape theme and be generally in accordance with the Landscape Plans.

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

24. **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.

25. **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**



**Ashley Warnest, Planner**

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



**Steven Findlay, Manager Development Assessments**