

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/0017
<b>Responsible Officer:</b>	Brendon Clendenning Creative Planning Solutions Pty Limited
<b>Land to be developed (Address):</b>	36 Weeroona Avenue ELANORA HEIGHTS NSW 2101
<b>Proposed Development:</b>	Construction of a secondary dwelling
<b>Zoning:</b>	E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Nick Frank
<b>Applicant:</b>	Nick Frank
<b>Application Lodged:</b>	22/01/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential – Single new detached dwelling
<b>Notified:</b>	03/02/2021 to 17/02/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$150,000.00

### EXECUTIVE SUMMARY

Council is in receipt of development application DA2021/0017 for construction of a secondary dwelling.

The site is zoned E4 Environmental Living under the Pittwater Local Environmental Plan 2014 (PLEP 2014) and the proposed development is permissible with consent.

The initial proposal was non-compliant with the height of buildings development standard, and the design was amended through a reduction in the length of the skillion roof eave overhang. However, this amendment creates a non-compliance with the minimum eave length, and conditions are recommended requiring the initial 450mm eave be to be reinstated, and that the height non-compliance is managed through a reduction in the proposed floor levels.

The proposed building is also provided with limited design modulation, and a condition is recommended requiring an increase in the size of one of the windows which fronts Weeroona Avenue.

Other non-compliances, relating to landscaped area and building envelope provisions were found to be consistent with the objectives of these controls with no unreasonable amenity impacts. The proposal has been found to be contextually compatible with nearby development.

The application was notified in accordance with Council's Community Participation Plan and one (1) submission was received objecting to the application. The issues that have been raised in the submission relate to visual privacy and car parking. The assessment has concluded that the matters raised within the submission does not warrant refusal of the application nor further design amendments.

The submission received was made by an internal staff member involved in providing referrals to planning staff, and has therefore been assessed by an independent consultant town planner and is referred to the Development Determination Panel (DDP) for determination.

The application has been assessed against the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), Environmental Planning and Assessment Regulations 2000 (EP&A Regulations 2000), relevant Environmental Planning Instruments (EPIs), and Council policies.

Subject to conditions of consent, the consent authority can be satisfied that the proposal is consistent with the aims and objectives of the relevant plans and policies, and the application is recommended for approval.

## 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.

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 18 DP 13152, 36 Weeroona Avenue ELANORA HEIGHTS NSW 2101
<b>Detailed Site Description:</b>	<p>The subject site is located on the northern side of Weeroona Avenue, and has a site area of 1,005m<sup>2</sup> by title. The land is generally rectangular in shape, except for the 16.165m angled frontage to the street.</p> <p>The site has a front-to-rear fall of approximately 8m that is comparatively steeper toward the front than rear. In the location of the proposed secondary dwelling, a fall of approximately 2.75m occurs across the building footprint.</p>

	<p>The site, along with land to the east, south and west is located within the E4 Environmental Living zone under the PLEP 2014. Land to the north of the site comprises the Elanora Heights Primary School and is zoned SP2 Infrastructure.</p> <p>The site is provided with a generous front setback that is unusual in the locality, with the existing dwelling located towards the rear northern boundary, and a swimming pool located forward of the dwelling, but also within the rear half of the allotment.</p> <p>The site is mapped as being affected by Class 5 acid sulphate soils and Biodiversity under the PLEP 2014, and is also within the coastal environment area per SEPP (Coastal Management) 2019. The site does not contain a heritage item, is not within a heritage conservation area, and not in close proximity to a heritage item.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by dwelling houses amongst relatively dense vegetation cover, typical of the E4 zone. Aside from the neighbouring dwelling to the east, No.38 Weerona Avenue, the majority of other nearby allotments are provided with dwellings which are located far closer to Weerona Avenue than the dwelling at the subject site. As indicated above, the Elanora Heights Primary School is located immediately to the north and is also densely vegetated along its southern boundary.</p>
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## SITE HISTORY

- 17 August 2011 – Development Application (N0169/11) approved for construction of a swimming pool and associated decking.
- 23 September 2011 – Construction certificate (CC0359/11) approved for construction of a swimming pool and associated decking.
- 22 August 2019 – Tree Permit (TA2019/0431) approved granting consent for the removal of one (1) tree.
- 22 January 2021 – Subject Development Application (DA2021/0017) lodged.

## APPLICATION HISTORY

This application was submitted to Council on 22 January 2021, and Council's consultant planner undertook a site visit on 5 March 2021. A request for information was prepared by the consultant planner on 23 March 2021, and forwarded to the applicant by Council. Issues raised include:

- Building height non-compliance.
- Streetscape and character concerns.
- BASIX commitments not nominated on architectural plans.
- Inconsistent information regarding rainwater tank capacity and location.

Amended plans were received on 29 March 2021.

## 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 Community Participation Plan.

As a result of the public exhibition process, Council is in receipt of one (1) submission from:

Name:	Address:
Mr James Brocklebank	34 Weeroona Avenue, ELANORA HEIGHTS NSW 2101

The following matters were raised in the submission and each have been addressed below:

### **Request for a privacy screen on the western side of the front deck**

#### Comment:

The front porch area sits forward of the building line of the neighbouring dwellings, and therefore no screening is required. The western edge of the rear elevated alfresco deck is located almost 9m from the boundary shared with 34 Weeroona Avenue. In addition, the floor level of the dwelling is over 3m lower than the sill height of the nearest windows on that property. Therefore, privacy screening is not warranted in this instance.

### **Request for additional parking**

#### Comment:

There is sufficient space within the driveway from Weeroona Avenue to accommodate further informal parking spaces, including an approximately 6m x 4m area located to the side of the primary driveway area.

#### Concluding Remarks

The matters raised within the submissions have been appropriately addressed above and do not warrant refusal of the application nor further design amendments.

## REFERRALS

Internal Referral Body	Comments
Building Assessment	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Development Engineer	No objections to approval subject to conditions as recommended.
Landscape Officer	<p>The Arborist's Report submitted with the application is noted.</p> <p>The report concludes that all trees can be retained with an acceptable level of impact, subject to Arboricultural supervision during works.</p> <p>Conditions requiring appointment of a Project Arborist have been included in recommended conditions</p>
Natural Environment	The submitted Arboricultural Impact Assessment (Canopy Consulting 2020) has identified that no trees are required for removal to facilitate



Internal Referral Body	Comments
	the proposed development. As such, the biodiversity referral team are satisfied that the proposed development satisfies the controls listed above, subject to these consent conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	No impact to Ausgrid assets with the proposed alterations.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

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 of particular relevance.
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 regulations	<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 conditions 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 allow Council to request additional information. Council requested additional information in order to address a potential height non-compliance, improvements to the streetscape presentation, as well as information to address inconsistencies within the submitted plans and documentation. The Applicant provided amended plans which partly responded to the concerns, and design amendment conditions are able to be imposed to address the outstanding matters.</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). No such upgrade is warranted in this instance.</p>

Section 4.15 'Matters for Consideration'	Comments
	<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 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 (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.</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.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## 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 little risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

## **SEPP (Affordable Rental Housing) 2009**

### **Division 2: Secondary dwellings**

Clause 20: Land to which this Division applies:

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but only if development for the purposes of a dwelling house is permissible on the land:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential.	<b>Consistent.</b> The site is located within the E4 Environmental Living zone and, as such, this Division does not apply to the development.

### Conclusion

As Division 2 does not apply to the E4 zone, no further consideration of SEPP (ARH) 2009 is required.

## **SEPP (Coastal Management) 2019**

### **13 Development on land within the coastal environment area**

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

### Comment:

This Clause is relevant to the subject site. The assessment has concluded that the proposal will not require any tree removal, and stormwater can be dispersed on the site through the proposed level spreader, in accordance with the recommendations of the submitted geotechnical report. There is therefore unlikely to be any adverse impact associated with any of the abovementioned matters.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*



- (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

This Clause is relevant to the subject site. Suitable conditions are recommended to ensure that any potential impacts are managed effectively.

**15 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed development is unlikely to increase the risk of coastal hazards.

**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, who indicated that there was no impact associated with the development. No conditions were recommended.

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

A BASIX certificate has been submitted with the application (see Certificate No. 1148205S\_02, 23 March 2021). The BASIX Certificate indicates that the development will achieve the following:

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

The plans initially submitted with the application had not shown all BASIX commitments required to be shown with the DA plans. However, this was rectified within the amended plan set.

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?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	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

Subclause 4.3(2FA) limits the height of secondary dwellings within the E4 zone to 5.5 metres.

The initial assessment had identified that although the height of the ridge was not nominated on the plans, it was estimated to be approximately RL 60.54. The lowest surveyed existing ground level (existing) in this location is approximately RL 55.00. This gives a total height of 5.54m, which did not comply with the standard.

In response to this issue, the applicant opted to reduce the length of the skillion roof eave overhang from 450mm to 350mm. This change creates a non-compliance with C1.23 of P21 DCP, which requires eaves of a minimum length of 450mm. This change is not supported, noting that the building contains limited design modulation, and that all other eaves within the development are 450mm.

The building floor is raised approximately 400mm above the existing ground level at the entry, and it is therefore possible that the entire building could be lowered to ensure compliance with the height of buildings development standard.

In relation to the discussion above, the following design amendment conditions are recommended:

- *"In order to improve design modulation and consistency, the eave overhang of the skillion which sits above the clerestory windows is to be increased from 350mm to 450mm.*
- *To ensure compliance with the height of buildings development standard is maintained, the entirety of the building, including all floor levels, roof levels, and the like, is to be reduced in height by 130mm".*

The height of the gutter line above the alfresco roof has also not been nominated on the plans; however, it is estimated to be approximately RL 59.35. The lowest surveyed ground level (existing) in this location is approximately RL 54.20. This gives a total height of 5.15m, which complies with the standard.

## 5.4 Controls relating to miscellaneous permissible uses

The proposed Secondary Dwelling will result in a gross floor area of 59.9m<sup>2</sup>. As such, the proposal achieves compliance with 5.4(9)(a).

### Pittwater 21 Development Control Plan

#### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	7.6m	N/A	Yes
Rear building line	6.5m	Unchanged (dwelling located to the rear)	N/A	Yes
Side building line	2.5m (western boundary)	4.5m	N/A	Yes
	1m (eastern boundary)	1m	N/A	Yes
Building envelope	3.5m (western boundary)	3.5m	N/A	Yes
	3.5m (eastern boundary)	4.9m	40%	No
Landscaped Area	60% (603 <sup>2</sup> )	Site Area: 1005m <sup>2</sup> Landscaped Area: 46.7% Increased to 52.7% when recreation area is included.	12.2%	No

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.5 Elanora Heights Locality	Yes	Yes
B1.3 Heritage Conservation – General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6 Access and Parking	Yes	Yes
B8 Site Works Management	Yes	Yes
C1.1 Landscaping	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	No	No
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
C5.1 Landscaping	Yes	Yes
C5.17 Pollution Control	Yes	Yes
C5.21 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D5.1 Character as viewed from a public place (Excluding Elanora Heights Village Centre)	No	No
D5.2 Scenic Protection - General	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)	No	Yes
D5.9 Landscaped Area - Environmentally Sensitive Land	No	Yes
D5.13 Construction, retaining walls, terracing and undercroft areas (excluding Elanora Heights Village Centre)	Yes	Yes

### Detailed Assessment

#### **D5.7 Building envelope**

The proposed development seeks a minor non-compliance with the building envelope requirement along the eastern elevation.

With regard to the consideration for a variation, the development is assessed against the underlying objectives of the Control as follows:

- *To achieve the desired future character of the Locality.*

#### Comment:

Under Clause A4.5 Elanora Heights Locality of the P21 DCP, the proposed development achieves the desired future character of the locality in that the overall height of the development is well below the existing tree canopy, no native plant species are proposed to be removed and no significant amenity impacts will arise as a result of the proposed development.



- *To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*

Comment:

The proposed secondary dwelling is located at the front of the property, but is partly located below street level. As such, there will be minimal impact upon the existing streetscape as a result of the secondary dwelling. Additionally, the development will remain well below the height of the trees within the natural environment.

- *To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*

Comment:

No vegetation is required to be removed to facilitate the proposed works. It is considered the development responds to, reinforces and sensitively relates to the spatial characteristics of the existing natural environment.

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

Comment:

The proposal provides a central skillion roof, which pitches up from the front façade. As a consequence, the tallest element of the building aligns along the length of the building, with the height of the building reducing towards the front and rear with the slope of the skillion roof, rather than towards the sides.

In addition, the building is not sited parallel to the side boundaries, but the shortest side setbacks provided are compliant with the side building line. This means that the majority of the building is set back comfortably in excess of the minimum requirements, reducing the apparent bulk and scale of the building.

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

Comment:

The proposed secondary dwelling will not impact upon the views and vistas to and/or from public/private places.

- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*

Comment:

Given the generous setbacks to all boundaries, it would not be expected that the development would create undue impacts upon the privacy, amenity and solar access to the adjoining properties as a result of this encroachment.

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

Comment:

The proposal is sited as to avoid the need for any tree removal, and this siting partly contributes to the building envelope non-compliance.

While the proposed development is numerically non-compliant with the building envelope, it is considered to be appropriate within the locality and consistent with the objectives of this control. As such, the proposal can be supported on merit, in this instance.

## **C1.23 Eaves**

The design amendments had created a non-compliance by reducing the length of the skillion roof eave overhangs to 350mm, short of the 450mm requirement. However, as indicated earlier, a condition is recommended to require compliant 450mm eaves.

#### **D5.1 Character as viewed from a public place**

This part requires that buildings which front the street must have a street presence and incorporate design elements that are compatible with the design themes for the locality.

The front (southern) façade of the proposed secondary dwelling presents with the low end of the skillion roof and contains only a single door and fenestration that is limited to two highlight windows. Although the building will sit partly beneath the street level, given the minimal level of design modulation that is provided, a condition is recommended as follows:

*“To improve the street presence of the development, the sill height of W6 to Bed 1 is to be lowered to sit 1200mm above the finished ground floor level, such that the overall height of the window is 900mm”.*

Subject to compliance with this condition, the design of the building is acceptable.

#### **D5.9 Landscaped Area – Environmentally Sensitive Land**

The existing landscaped open space equates to approximately 48.1% (483.2sqm) of the site, which does not meet the required 60% (603sqm). This noncompliance is reduced when recreation areas, equal to 6% of the site area, are added to provide a total of 54.1% landscaped area.

The proposed building would reduce the landscaped area to 53.2%. The proposal building is located centrally within a large landscaped area, and the relatively small proposed building does not therefore interfere with the bushland character of the locality, particularly given that no tree removal is required. Furthermore, the proposal contains a pebbled driveway area of approximately 159sqm, which is permeable but is excluded from the landscaped area calculation. Were this area included, the proposal would be comfortably compliant with the minimum requirement.

Therefore, the existing non-compliance is supported on merit in this particular circumstance.

### **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.

The application is referred to the Development Determination Panel (DDP) as a submission received was made by an internal staff member involved in providing referrals to planning staff.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and concludes that the proposal does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation, including minor design amendment conditions.

In consideration of the proposal and the merit consideration of the development, subject to conditions, 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 DA2021/0017 for construction of a secondary dwelling on land at Lot 18 DP 13152, 36 Weeroona Avenue, ELANORA HEIGHTS subject to the conditions printed below:

## CONDITIONS

### 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>
1 - Site and Roof Plan	22 September 2020	RK Designs
2 - Ground Floor Plan	22 September 2020	RK Designs
3 – North/South/East/West Elevations + Section A-A	22 September 2020	RK Designs
5 – Ground Floor	22 September 2020	RK Designs

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>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Stormwater Plan	4 December 2020	Horizon Engineers
Stormwater Details	4 December 2020	Horizon Engineers
RWT/OSD Details	4 December 2020	Horizon Engineers
Ground Floor Timber Joist & Bearer Slab Plan Revision B	4 December 2020	Horizon Engineers

Foundation Details Revision B	4 December 2020	Horizon Engineers
Retaining Wall Details	4 December 2020	Horizon Engineers
Sections	4 December 2020	Horizon Engineers

<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>
Arborist Report	17 November 2020	Canopy Consulting
Geotechnical Report	11 November 2020	White Geotechnical Group

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	25 November 2020	RK Designs

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

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

## **2. 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.

### **3. General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

7.00 am to 5.00 pm inclusive Monday to Friday,

8.00 am to 1.00 pm inclusive on Saturday,

No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

8.00 am to 5.00 pm Monday to Friday only.

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

(b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.

(c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

i) Building/s that are to be erected

ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place

iii) Building/s that are to be demolished

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

v) For any work/s that is to be demolished

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

(l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and

bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(n) 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 2018

(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.

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

### **4. Stormwater Drainage Disposal**

The stormwater drainage systems for the development are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.

All stormwater drainage systems must comply with the requirements of Council's Water Management for Development Policy. Any recommendations identified within a Geotechnical Report relevant to the development are to be incorporated into the design of the stormwater drainage system. Details demonstrating compliance from a qualified and practising Civil Engineer and where relevant a Geotechnical Engineer must be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate.

When the proposed discharge point for the development in this consent cannot strictly comply with the Water Management for Development Policy, the Applicant must apply to verify the proposed discharge point by gaining Council approval via a Stormwater Drainage Application. Council

approval must be provided to the Certifying Authority prior to the issue of a Construction Certificate when a Stormwater Drainage Application is required. The Stormwater Drainage Application form can be found on Council's website.

Compliance with this condition must not result in variations to the approved development or additional tree removal.

Reason: To ensure satisfactory management of stormwater.

## **5. Amendments to the approved plans**

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

- In order to improve design modulation and consistency, the eave overhang of the skillion, which sits above the clerestory windows is to be increased from 350mm to 450mm.
- To ensure compliance with the height of buildings development standard is maintained, the entirety of the building, including all floor levels, roof levels, and the like, is to be reduced in height by 130mm.
- To improve the street presence of the development, the sill height of W6 to Bed 1 is to be lowered to sit 1200mm above the finished ground floor level, such that the overall height of the window is 900mm.

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.

## **6. 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.

## **7. External Finishes to Roof**

The external finish to the roof shall have a medium to dark range 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.

## **8. 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.

### **9. 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 6/11/2020 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

### **10. No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

### **11. On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Horizon Engineers, drawing number 169-W20, Sheet 1 to 4, dated 04/12/2020. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. OSD shall be provided in accordance with Council's Water Management for Development Policy Clause 9.0.
- ii. Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

### **12. 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.

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

### **13. 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 protect native wildlife.

### **14. Temporary Protection Fencing – Exclusion Zones**

Prior to the commencement of any works onsite, temporary tree protection fencing is to be erected surrounding areas of retained trees on the site as mapped in the submitted Arboricultural Impact Assessment (Canopy Consulting 2020).

Details demonstrating compliance must be prepared by the Project Arborist and submitted to the Principal Certifying Authority prior to any commencement.

Reason: To protect native vegetation.

### **15. Tree and vegetation protection**

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation not approved for removal.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with the Arboricultural Impact Assessment dated 17 November 2020 prepared by Canopy Consulting and Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with the Project Arborist,
- iv) 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,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by the Project Arborist,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with the Project Arborist including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, the Project Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) 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 works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,

x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,

xi) the tree protection measures specified in this clause must:

i) be in place before work commences on the site, and

ii) be maintained in good condition during the construction period, and

iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment dated 17 November 2020 prepared by Canopy Consulting.

The Certifying Authority must ensure that:

d) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited.

Reason: tree and vegetation protection.

## **16. Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with THE Arboricultural Impact Assessment dated 17 November 2020 prepared by Canopy Consulting AND Australian Standard 4970-2009 Protection of Trees on Development Sites.

The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

All tree protection measures specified must:

a) be in place before work commences on the site, and

b) be maintained in good condition during the construction period, and

c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.

Reason: tree protection.

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

### **17. Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

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

Reason: To demonstrate the proposal complies with the approved plans.

## **18. Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

## **19. Road Reserve**

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

Reason: Public safety.

## **20. 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**

### **21. Stormwater Drainage Disposal Certification**

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Certifying Authority prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title



demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure satisfactory management of stormwater.

## **22. Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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 bushland management. (DACPLF01)

## **23. Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

## **24. Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

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

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

## **25. Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

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

Reason: To protect wildlife habitat.

## **26. No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified on the NSW WeedWise website) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

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

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/guide-submitting-ldaa-nov19.pdf>

The form for the application can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/4023-legal-documents-authorisation-oct19.pdf>

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

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

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered.

## **28. Geotechnical Certification Prior to Occupation Certificate**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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

**Signed**



**Dean Pattalis, Planner**

The application is determined on 07/05/2021, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**