

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1510
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Responsible Officer:	Tony Collier
Land to be developed (Address):	Lot 3 DP 1240491, 106 A Wakehurst Parkway ELANORA HEIGHTS NSW 2101
Proposed Development:	Construction of a dwelling house including a swimming pool
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Barray Civil Pty Ltd
Applicant:	Thodey Design

Application Lodged:	20/12/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	23/01/2020 to 06/02/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 612,500.00
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PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent to construct a detached dwelling. The development includes the following:

Ground Floor (RL 9.500)

- Double garage; and
- Lift and stairwell.

Level 1 (RL 12.500)

- Bedroom with ensuite;
- Family/Rumpus Room;

- Stairwell; and
- Balcony south facing).

Level 2 (RL 15.500)

- Lounge room;
- Kitchen and dining room;
- 3 x bedrooms;
- Amenities;
- Lift and stairwell;
- Balcony (south facing);
- Deck (north facing) and swimming pool.

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 - C1.5 Visual Privacy

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

Property Description:	Lot 3 DP 1240491 , 106 A Wakehurst Parkway ELANORA HEIGHTS NSW 2101
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<p>Detailed Site Description:</p>	<p>The subject site consists of one (1) allotment located on the northern side of Wakehurst P</p> <p>The site is a rear battleaxe allotment which is regular in shape with surveyed area of 1,16; accessed via a 4.0m wide driveway which is shared between Nos. 104, 104A, 106 and 10 site).</p> <p>The site is located within the E4 Environmental Living zone pursuant to the pittwater Loca Plan 2014 and accommodates a hardstand parking area and block retaining wall within th (being the area directly accessed by the driveway). The remaining 1,0026m² of the site is topography, which forms the escarpment of Elanora Heights, and dense vegetation.</p> <p>As noted above, the site slopes downward from the northern boundary to the southern bo approximately 38m and consists of steep cliff faces, rock outcrops and large boulders.</p> <p>The site includes a significant range of trees and underlying shrubs although only eight (8 due to the limited footprint of the development.</p> <p>Adjoining and surrounding development is characterised by detached dwellings of similar</p> <p>The figure below shows the site from the existing driveway (the sea container is situated c Wakehurst Parkway and is associated with the construction of the approved dwelling on th</p> 
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Map:



SITE HISTORY

The site has been the subject of the following application:

N0432/04

This application was lodged on 18 June 2004 for the demolition of existing structures, subdivision of 2 lots into 4 lots and shared driveway construction 104 & 106 Wakehurst Parkway.

The application was approved on 31 May 2005.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
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	None applicable.

Section 4.15 Matters for Consideration'	Comments
agreement	
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&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 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental 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.

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 15 November 2019) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection.

The application was also referred to the NSW Rural Fire Service (RFS) for review. No objection was raised subject to conditions relating to:

- Asset Protection Zones;
- Construction standards;
- Water and utility services; and
- Landscaping assessment.

The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The application was referred to Council's Landscape Officer for review. the following comments have been provided:</p> <p><u>Referral Response 1</u></p> <p><i>"The site is located in environmentally sensitive land being within the Zone E4 - Environmental Living.</i></p> <p><i>The plans provided do not adequately indicate that integration into the landscape and preservation of unique environmental features has been achieved, nor that the environmental values of the site have been maintained or enhanced.</i></p> <p><i>No landscape plan was sighted with the application indicating proposed treatments commensurate with the environmental values of the land. Concern is raised regarding the treatment of the soft landscape area designated at the rear of the proposed dwelling and the extent of impact on existing rock features. Protection of local native species and rock outcrops are relevant considerations with regard to development on this site.</i></p> <p><i>Two locally native palms are indicated to be transplanted off the site, however no indication of how they are to be replaced has been provided. The Arborist's Report indicates removal of tree 7 and states</i></p>

Internal Referral Body	Comments
	<p><i>that tree 6 is on an adjoining property. Tree 6 is adjacent to the proposed soft landscape area on the site. It is unclear if Tree 6 can be retained without details of proposed treatments, including level changes, and the reference in the Arborist's Report is confusing</i></p> <p><i>A landscape plan prepared by a qualified landscape consultant and/or ecologist is required to address the above issues to enable proper assessment of the works against the relevant planning controls.</i></p> <p><i>At this stage, the proposal is not supported with regard to landscape issues"</i></p> <p>Landscape Plans were submitted on 5 March 2020 and referred to Council's Landscape Officer for review. The following comments have been provided:</p> <p><u>Referral Response 2</u></p> <p>"The provision of Landscape Plans prepared by a Landscape Architect are noted.</p> <p>Clarity has been provided regarding trees to be removed and proposed planting.</p> <p>The issue of transplanting of two <i>Livistona australis</i> palms as raised previously is still outstanding, and further comment from Council's Bushland and Biodiversity Section is required.</p> <p>If the palms are to be transplanted within the site, the following condition is recommended to be included prior to issue of a construction certificate.</p> <p><i>Palms to be transplanted</i></p> <p><i>a) The following trees or palms must be transplanted and successfully established elsewhere within the development site.</i></p> <p><u><i>Species Location:</i></u> <i>2 x Livistona australis - South western corner of the site</i></p> <p><i>b) The applicant/owner is to pay for all costs associated with the transplanting of the above-mentioned trees to a suitable alternate location on the subject site.</i></p> <p><i>c) The transplantation must be supervised by a qualified Arborist, Horticulturist or Landscape Technician.</i></p> <p><i>d) A Transplantation Method Statement addressing points (i) – (iv) below is to be prepared by a qualified Arborist, Horticulturist or Landscape Architect/Technician and must be submitted for approval by the Certifying Authority prior to the issue of a Construction Certificate.</i></p> <p><i>(i) Pre-transplantation schedule of works.</i></p> <p><i>(ii) Preparation of transplantation site.</i></p>

Internal Referral Body	Comments
	<p>(iii) <i>Transplantation method.</i></p> <p>(iv) <i>Post-transplantation after-care and duration.</i></p> <p><i>Reason: To retain and protect significant planting on the site.</i></p> <p>Subject to conditions as provided and the resolution of the palms as indicated above, no objections are raised to approval.</p>
NECC (Bushland and Biodiversity)	<p>Revised Comments</p> <p>I note the condition regarding transplanting of the two cabbage palms recommended by Councils Landscape staff. I agree with this condition as drafted.</p> <p>The RFS have also provided their terms of approval, and require that the Inner Protection Area is located within the lower section of the site, and therefore all native vegetation on and above the cliff line is to be retained and protected. Additional tree planting conditioned to compensate for the removal of trees 6 and 7.</p> <p>Original Comments</p> <p>The previous subdivision consent required that the vegetation above the cliff line was to remain unaltered. This is in conflict with the submitted Bushfire Hazard Assessment for the current dwelling application, which states that the entire site is to managed as an inner protection area. The same assessment states that no hazard was identified to the north elevation, so the requirement for an IPA above the cliff line needs to be deleted and/or clarified. Referral to the NSW RFS may also be required.</p> <p>There are currently 2 cabbage palms on site, and the proposal seeks approval to move the two off-site. These trees may have been translocated to the current location as part of the subdivision application. The applicant is to clarify this and also consider either:</p> <ul style="list-style-type: none"> a) redesign of the development to retain these trees b) translocate the two cabbage palms to another location within the site, or c) provide additional detail regarding the proposed translocation, including additional justification to translocate offsite and the proposed recipient location. <p>The SEE is to further consider the following Natural Environment controls:</p> <ul style="list-style-type: none"> • Pittwater LEP Clause 7.6 (Biodiversity Protection) • Pittwater DCP Clause B4.4 (Flora and Fauna Habitat Enhancement Category). <p>Finally a Landcape Plan, in accordance with Pittwater 21 DCP Design Criteria for Residential Development control C1.1 Landscaping has</p>

Internal Referral Body	Comments
	not been submitted.
NECC (Coast and Catchments)	This application has been assessed by the Riparian Team. No additional coastal comments are required.
NECC (Development Engineering)	The development/site is located in Geotechnical Hazard H1 Area, an "Acceptable Risk Management" level is achievable in accordance with the geotechnical report. The submitted concept stormwater management plan and vehicular access plan is acceptable subject to conditions.
NECC (Riparian Lands and Creeks)	<p>This application has been assessed under: SEPP Coastal Management 2018 - Coastal Environment Zone and Land in Proximity to Coastal Wetlands Pittwater DCP B5.8 - Water Quality Pittwater DCP B8.2 - Erosion and Sediment Control</p> <p>By developing this site and Increasing the impervious area there will be increased runoff in this sensitive coastal area. The applicant is required to install a sediment control pit prior to discharge of stormwater from the land, to capture coarse sediments and organic matter.</p> <p>Sediment and erosion controls must be installed prior to any soil being disturbed on the site and maintained until all work is complete and groundcover re-established.</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 recommended.
NSW Rural Fire Service – local branch (s79BA EPAA)	<p>The application was referred to the NSW Rural Fire Service (RFS) for review. No objection was raised subject to conditions relating to:</p> <ul style="list-style-type: none"> • Asset Protection Zones; • Construction standards; • Water and utility services; and • Landscaping assessment.

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 vacant for a significant period of time with no prior land uses.

In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1060025S dated 17 December 2019).

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

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	50	50

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) *the carrying out of any of the following:*
 - (i) *earthworks (including the depositing of material on land),*
 - (ii) *constructing a levee,*
 - (iii) *draining the land,*
 - (iv) *environmental protection works,*
 - (d) *any other development.*

Comment

The southern 160m² of the site is located within the Coastal Wetlands area.

This area has been altered such that it now includes a hardstand car parking area and infrastructure works which were subject of the approved subdivision.

The development does not involve any significant alteration of this part of the site such that it would adversely impact upon the items listed under (a) to (d).

The development is considered to satisfy Clause 10.

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment

The remaining part of the site to the north is in proximity of the Coastal Wetlands area.

This part of the site will remain largely unaltered due to its topography. The only area which will be

affected is a minor part of the southern area which forms part of the building footprint. In this respect, the development will involve minor excavation but will not have any adverse impact upon the items listed under (a) and (b).

The development is considered to satisfy Clause 11.

12 Development on land within the coastal vulnerability area

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:

- (a) 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*
- (b) the proposed development:*
 - (i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) 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*
 - (iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.*

Comment

The NSW Department of Planning, Industry and Environment website refers to a Coastal Vulnerability Area as one that is subject to coastal hazards such as coastal erosion and tidal inundation. However, Clause 12 is preceded by a note which states "*at the commencement of this Policy, no Coastal Vulnerability Area Map was adopted and therefore no coastal vulnerability area has been identified*".

Therefore, Clause 12 is not applicable at this time.

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.*
- (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

The site is located within the Coastal Environment area.

As noted above, the part of the site which is the subject of the development is within the southern and the works proposed are such that no impact will occur which adversely affect the matters raised in Points (1)(a) to (g) and (2)(a) to (c).

Appropriate conditions are imposed which address construction activity such as structural adequacy and excavation work, the protection of rock formations and erosion/sediment control to ensure that the development will not adversely affect the matters raised in Points (a) to (g).

The development is considered to satisfy Clause 13.

14 Development on land within the coastal use area

- (1)
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,

- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
- (iv) Aboriginal cultural heritage, practices and places,
- (v) cultural and built environment heritage, and
- (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment

The site is not located within a Coastal Use area.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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 development has been designed to respond to the nature of the site and provide appropriate waste and drainage management systems to avoid any increased risk of coastal hazard.

The development satisfies Clause 15.

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

Principal Development Standards

Standard	Permitted	Proposed	% Variation	Complies
4.3 - Height of Buildings	8.5m (10m variation allowable)	3.1m to 9.7m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 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 1.2m. 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

A portion of the roof structure pitched to maximise solar access and the southern edge of the balcony roof exceed the 8.5m limit. The elements that exceed the height limit vary in height between 9.1m to 9.7m.

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

- 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

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.

The development includes excavation at the rear to accommodate the. The dwelling has been sited and designed to minimise cut and fill.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Permitted	Proposed	% Variation	Complies
Rear building line	6.5m	46.7m	N/A	Yes
Side building line	2.5m	<u>East</u> Garage: 6.0m Level 1: 6.0m Level 2: 1.5m to 4.3m	N/A N/A 40% (1.0m)	Yes Yes No
		<u>South</u> Garage: 2.5m <u>Level 1</u> Deck: 1.0m Building Line: 3.5m <u>Level 2</u> Deck: 1.0m Building Line: 3.5m	N/A N/A N/A N/A N/A	Yes Yes Yes Yes Yes
		<u>West</u> Garage: 1.0m Level 1: 1.0m Level 2: 1.0m	Yes Yes Yes	Yes Yes Yes
	1.0m			
Building envelope	3.5m x 45°	South: 8.1m x 45° East: 7.8m x 45° West: 8.6m x 45°	131.4% (4.6m) 122.8% (4.3m) 145.7% (5.1m)	No No No
Landscaped area	50% (581.3m ²)	71.3% (829m ²)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
B3.2 Bushfire Hazard	Yes	Yes
B3.11 Flood Prone Land	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than 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
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)	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
B6.6 On-Street Parking Facilities	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
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	No	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
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
C5.1 Landscaping	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)	Yes	Yes
D5.2 Scenic protection - General	Yes	Yes
D5.3 Building colours and materials (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

Clause	Compliance with Requirements	Consistency Aims/Objectives
D5.9 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D5.12 Fences - Flora and Fauna Conservation Areas	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 this requirement. Notwithstanding, the dwelling is sufficiently setback from the street so as to not appear prominent in the streetscape when viewed from a public place.

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 9.00am to 3.00pm.

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.

C1.5 Visual Privacy

Clause C1.5 requires private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking *within* 9.0m by building layout, landscaping, screening devices or greater spatial separation (measured from a height of 1.7m above floor level).

Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.

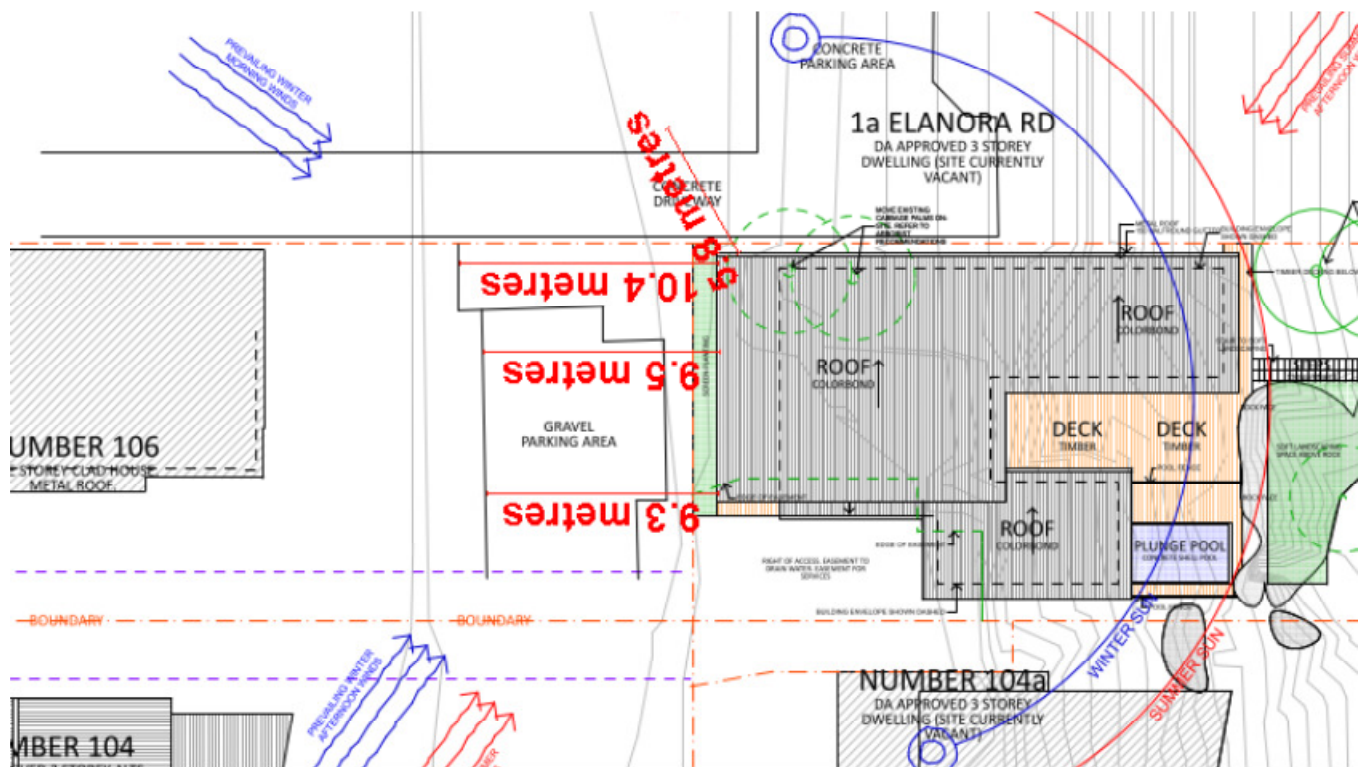
Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

The development includes balconies which are situated at the southern elevation of Levels 1 and 2. The balconies face towards the rear of No. 106 Wakehurst Parkway and are setback 1.0m from the property boundary. Notwithstanding this setback, it is noted that an open parking area associated with 106 Wakehurst Parkway (required as part of the approved subdivision) is located between the property boundary and the fenced private open space area of that property. This effectively creates a separation

of between 9.3m and 10.4m between the proposed balconies and the private open space area of 106 Wakehurst Parkway and therefore, in compliance with the 9.0m separation requirements of Clause C1.5.

The afore-mentioned balconies are also setback approximately 5.0m from the rear private open space area of No. 1 Elanora Road (located to the west). The setback is largely due to the locating of a driveway to service the newly formed rear allotment at No. 1A Elanora Road. The balconies include 1.0m balustrades and are open to the side thereby enabling overlooking into the rear yard. While it is acknowledged that the positioning of the dwelling is due to the constraints of the site and the approved subdivision, this is not compliant with the 9.0m separation requirements of Clause C1.5 and therefore, it is considered appropriate to impose a condition requiring the installation of fixed privacy screens along the western edge of both balconies to mitigate direct overlooking while enabling unobstructed access to the primary view to the south.

The figure below shows the distances to property boundaries and private open space areas of neighbouring properties.



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

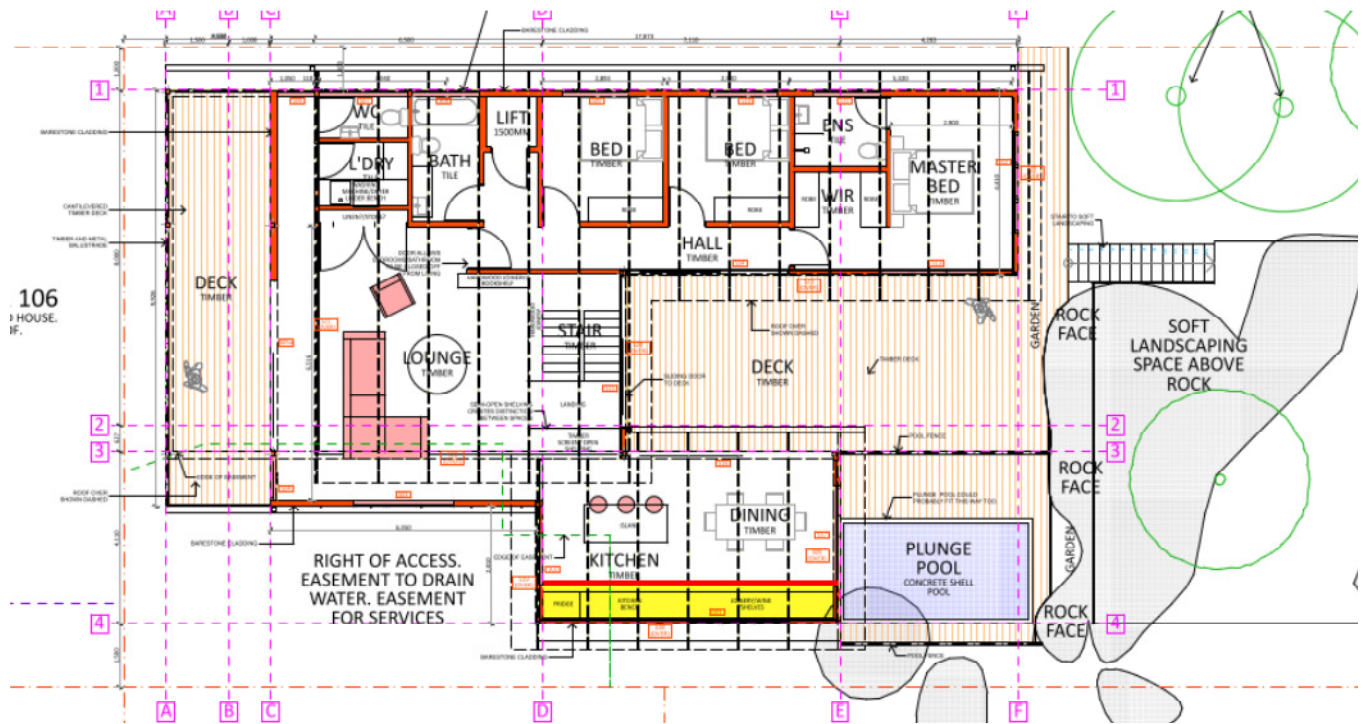
Clause D5.6 permits development to provide a side setback of 2.5m to at least one side and 1.0m for the other side.

Because of the battleaxe configuration, and that the subject site does not have direct frontage to the street and therefore no front setback, the side setbacks are nominated as follows:

- East: 2.5m.
- West: 1.0m.
- South: 1.0m.

The development proposes an eastern side setback of between 1.5m and 6.0m. The non-compliant element is setback at 1.5m and occurs at Level 2 (kitchen and dining room). This represents a variation of 40% (1.0m). The non-compliant element extends for a wall length of 7.2m and is sited towards the rear of the dwelling.

The figure below shows the area of non-compliance (highlighted in yellow).



Merit consideration

With regard to the consideration for a variation, the development is considered against the outcomes of the Control as follows:

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

Comment

The development is consistent with other residential built forms which are located at the base of the escarpment and which are integrated with the landform and landscape.

The development is considered to satisfy this outcome.

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

Comment

The non-compliant element is located at the rear of the building and abuts the southern edge of a steep rock face. Because of the visually imposing landscape and the close proximity of the dwelling to the rock face, the bulk and scale of the non-compliant element is reduced.

The development is considered to satisfy this outcome.

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

Comment

The non-compliant element will not unreasonably reduce view sharing from the neighbouring property at 104A Wakehurst Parkway given the elevated nature of the two sites and the increased 6.0m side setback provided at the southern end of the dwelling as this would enable the provision of a diagonal view corridor from a neighbouring dwelling towards Narrabeen Lake.

The development is considered to satisfy this outcome.

- ***To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.***

Comment

As discussed above, the development will not unreasonably reduce view sharing from the neighbouring property at 104A Wakehurst Parkway (which is located to the east). The dwelling has been designed to site the non-compliant element at the rear of the building thereby enabling the preservation of view sharing from a dwelling located on the neighbouring lot.

The development is considered to satisfy this outcome.

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

Comment

The development is sited at the base of the escarpment which rises significantly to the north. This results in the overshadowing of the subject site and the rear part of Nos. 104 & 106 Wakehurst Parkway and No. 1 Elanora Road. The development does not exacerbate this existing overshadowing.

A review of privacy impact has been conducted under Clause C1.5 where it was found that the south-facing balconies complied with the physical separation requirements of 9.0m to the rear private open space area of No. 106 Wakehurst Parkway and thus did not constitute unreasonable overlooking. However, it is noted that the western edges of the balconies do encroach within the 9.0m separation distance to overlook the rear yard of No. 1 Elanora Road. In this respect, a condition is imposed requiring the installation of privacy screens to the western side of each balcony. No unreasonable privacy impacts are noted for properties to the east (which remains currently vacant).

The development is considered to satisfy this outcome.

- ***Substantial landscaping, a mature tree canopy and an attractive streetscape.***

Comment

The site is currently characterised by a concrete platform (which is a result of the subdivision) towards the front and steeply sloping, and visually imposing, topography mid-way and to the rear (which forms the escarpment of Elanora heights).

The development will not have any adverse impact upon the streetscape as the site is situated approximately 62m from the street alignment and behind an existing dwelling. As noted above, the development is consistent with other residential built forms which are located at the base of the

escarpment and which are integrated with the landform and landscape. In this respect, the development would not conflict with the existing streetscape.

The development is considered to satisfy this outcome.

- ***Flexibility in the siting of buildings and access.***

Comment

The locating of the dwelling on the site is limited by the subdivision pattern and the topography of the site. The development attempts to overcome these constraints by vertically leveling the building incrementally to respond to the rock face which occupies the rear of the site.

Access is gained via a constructed driveway from Wakehurst Parkway as approved by the subdivision of the site.

The development is considered to satisfy this outcome.

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

Comment

The development has been designed to retain and enhance vegetation on the site although the planting of vegetation is limited by the prevalence of rock outcrops which dominate the rear two thirds of the property. Because of the constrained nature of the site, the dwelling is located within the southern one third of the site thereby preserving the vegetation coverage of the remainder of the site.

The development is considered to satisfy this outcome.

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

Comment

As noted above, the development has been designed to preserve and enhance the bushland character of the locality because of the constrained nature of the site which retains over two thirds of the vegetation coverage and natural topographical features of the site.

The development is considered to satisfy this outcome.

- ***To ensure a landscaped buffer between commercial and residential zones is established.***

Comment

The site does not abut a commercial zone.

This outcome is not applicable.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, P21DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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 and built 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

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$6,125 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$612,500.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/1510 for Construction of a dwelling house including a swimming pool on land at Lot 3 DP 1240491, 106 A Wakehurst Parkway, ELANORA HEIGHTS, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan (Revision E)	06/03/2020	Thodey Design
Garage Level (Revision E)	06/03/2020	Thodey Design
Level 1 (Revision E)	06/03/2020	Thodey Design
Level 2 (Revision E)	06/03/2020	Thodey Design
Roof Plan (Revision E)	06/03/2020	Thodey Design
Front Elevation (Revision E)	06/03/2020	Thodey Design
Rear Elevation (Revision E)	06/03/2020	Thodey Design
Side Elevation - East (Revision E)	06/03/2020	Thodey Design

Side Elevation - West (Revision E)	06/03/2020	Thodey Design
Section BB3 & BB4 (Revision E)	06/03/2020	Thodey Design
Section BB6 (Revision E)	06/03/2020	Thodey Design
Section BB7 (Revision E)	06/03/2020	Thodey Design
Section BB8 (Revision E)	06/03/2020	Thodey Design
Finishes Schedule (Revision E)	06/03/2020	Thodey Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Assessment Report (106Wak-01)	25/11/2019	Bushfire Consultancy Australia
Arboricultural Impact Appraisal and Method Statement	19/11/2019	Naturally Trees
Report on Geotechnical Assessment	03/12/2019	Crozier Geotechnical Consultants

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	06/04/2020	Shaun Thodey

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

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

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

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

Other Department, Authority or Service	EDMS Reference	Dated
NSW Rural Fire Service	Referral Response - NSW RFS	11 March 2020

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

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house.

A dwelling house is defined as "a building containing only one dwelling" (development is defined by the Pittwater Local Environment Plan 2011 (as amended) Dictionary).

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

4. **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.

5. 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) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage

system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$6,125.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$612,500.00.

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

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

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

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

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

7. 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).

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

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

8. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Crozier Geotechnical Consultants dated December 2019 are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

9. Amendments to the approved plans

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

Privacy Screens

Fixed privacy screens with a minimum height of 1.5m from the finished floor level of each balcony are to be installed along the western edges of the balconies at levels 1 and 2 respectively. The screens are to be designed to direct viewing away from the rear private open space area of No. 1 Elanora Road.

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.

10. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

11. **Shoring of Council's Road Reserve (Temporary road anchors)**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

12. **Soil and Water Management Program**

A Soil and Water Management Plan prepared in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and implemented on site until the works are completed.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACHPC02)

13. **Transplanting of Palms**

Palms to be transplanted

a) The following trees or palms must be transplanted and successfully established elsewhere within the development site.

Species	Location
2 x Livistona australis	South western corner of the site

b) The applicant/owner is to pay for all costs associated with the transplanting of the above-mentioned trees to a suitable alternate location on the subject site.

c) The transplantation must be supervised by a qualified Arborist, Horticulturist or Landscape Technician.

d) A Transplantation Method Statement addressing points (i) – (iv) below is to be prepared by a qualified Arborist, Horticulturist or Landscape Architect/Technician and must be submitted for approval by the Certifying Authority prior to the issue of a Construction Certificate.

(i) Pre-transplantation schedule of works.

(ii) Preparation of transplantation site.

(iii) Transplantation method.

(iv) Post-transplantation after-care and duration.

Reason: To retain and protect significant planting on the site.

14. **Water Quality Management**

The applicant must install a filtration device (such as a sediment control pit or absorption trench) that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment.

15. **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.

16. **External Finishes to Roof**

The external finish to the roof 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. (DACPLC03)

17. **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 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

18. **Tree protection**

- (a) Existing trees and palms which must be retained
 - i) All trees not indicated for removal on the approved plans or conditioned for transplanting, unless exempt under relevant planning instruments or legislation
 - ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed

otherwise by a qualified Arborist on site.

- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with relevant local planning controls and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

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

19. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

20. 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.

21. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

22. Protection of rock and sites of significance

- a) All rock outcrops outside of and below 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

23. Landscape completion certification

- a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.
- 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 Certifying Authority, certifying that the landscape works have been established and maintained in accordance with the approved landscape plan.

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

24. Condition of retained and transplanted vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an AQF Level 5 Arborist (or equivalent), shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained or transplanted 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. 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.

26. Retaining wall

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Public and Private Safety

27. 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.

28. Works as Executed Drawings - Stormwater Treatment Measures

Works as Executed Drawings for the stormwater treatment measures must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

29. **Tree Planting**

At least two (2) locally native canopy trees are to be planted onsite to replace trees approved for removal.

Canopy tree species are to consistent with locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and native plant species guide available on the Northern Beaches Council website. All native trees are to be retained for the life of the development, or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree. Tree replacement plantings are to be certified by the project arborist.

Reason: Tree replacement.

30. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

31. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)

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

32. **Undesirable Trees**

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

33. **Environmental and priority weed control**

Condition: All weeds are to be removed and controlled in accordance with the Biodiversity Conservation Act 2016.

Reason: Preservation of environmental amenity.

34. **Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

35. **Maintenance of Stormwater Treatment Measures**

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

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

Reason: Protection of the receiving environment.

36. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

37. **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.

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

Signed



Tony Collier, Planner

The application is determined on 14/04/2020, under the delegated authority of:



Anna Williams, Manager Development Assessments