

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/1384
Responsible Officer:	Hugh Halliwell
Land to be developed (Address):	Lot 100 DP 16682, 14 Kalang Road ELANORA HEIGHTS NSW 2101 Lot 99 DP 16682, 16 Kalang Road ELANORA HEIGHTS NSW 2101
Proposed Development:	Consolidation of two (2) existing lots and subdivision into three (3) lots
Zoning:	E4 Environmental Living E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Clarence Leslie Craft Lorraine Jean Craft Grant Stafford Craft
Applicant:	Grant Stafford Craft
Application lodged:	29/12/2017
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	18/01/2018 to 01/02/2018
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Refusal
Estimated Cost of Works:	\$ 0.00

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 - 4.1 Minimum subdivision lot size

Pittwater 21 Development Control Plan - 2014 - B3.1 Landslip Hazard

Pittwater 21 Development Control Plan - 2014 - B8.1 Construction and Demolition - Excavation and Landfill

Pittwater 21 Development Control Plan - 2014 - C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities

Pittwater 21 Development Control Plan - 2014 - C4.6 Service and delivery vehicle access in subdivisions

Pittwater 21 Development Control Plan - 2014 - C4.7 Subdivision - Amenity and Design

Pittwater 21 Development Control Plan - 2014 - D5.5 Front building line (Excluding Elanora Heights Village Centre)

Pittwater 21 Development Control Plan - 2014 - D5.6 Side and rear building line (Excluding Elanora Heights Village Centre)

Pittwater 21 Development Control Plan - 2014 - D5.7 Building envelope (Excluding Elanora Heights Village Centre)

Pittwater 21 Development Control Plan - 2014 - D5.9 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 100 DP 16682 , 14 Kalang Road ELANORA HEIGHTS NSW 2101 Lot 99 DP 16682 , 16 Kalang Road ELANORA HEIGHTS NSW 2101
Detailed Site Description:	The site is known as 14-16 Kalang Road, Elanora Heights and legally referred to as: • Lot 100 in Deposited Plan 16682, and • Lot 99 in Deposited Plan 16682. The two sites are rectangular in shape with a combined site area of 2229.5m². Vehicular and pedestrian access is gained via the 24.7m wide east facing frontage of 16 Kalang Road. The sites are located on the western side of Kalang Road and adjoins other low-density residential properties on all sides. The site experiences a short fall of 13m from the north-west rear corner of No. 16 towards the south-east front boundary of No. 14, with a slope of 19.4%. The site at No.16

is currently occupied by a single dwelling along with an in-ground swimming pool to the front of the site. There is an existing tennis court across both sites to the eastern frontage. A site inspection was carried out on 8 February 2018.

Map:



SITE HISTORY

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

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

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for the following:

- Consolidation of both existing lots, and
- Subdivide this lot into 3 lots.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Environmental Planning and Assessment Act 1979.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

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 process council is in receipt of 1 submission/s from:

Name:	Address:
Mr James Donald Pike	12 Kalang Road ELANORA HEIGHTS NSW 2101

The following issues were raised in the submissions and each have been addressed below:

- 12 Kalang Road, Elanora Heights

The matters raised within the submissions are addressed as follows:

- **Potential impact on existing pine trees.**
Comment:
See comments below from Council's Natural Environment - Biodiversity Officer.
- **Impact on existing sandstone retaining wall along the front of the property.**
Comment:
The retaining wall referred to in the submission runs the length of the property frontage and would likely need to be partially removed to accommodate any future vehicle access to new lots. At present, the subject application does not seek any modification or removal of this wall, hence would need to be considered under a future application. Although modification and/or removal of this wall is not thought to be a concern should vehicle access be required to any lots.
- **Potential aboriginal rock art**
Comment:
Council's mapping system does not indicate any existing aboriginal heritage item nor any potential for any aboriginal heritage item to exist on the site or nearby.
- **The proposed configuration is uncharacteristic of the area**
Comment:
See further on for discussion regarding proposed lot configuration.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
NECC (Bushland	Given the relatively small proposed lot sizes, the nominated building footprints of the proposed subdivision are likely to require removal of a substantial number of trees on site. In the at

Internal Referral Body	Comments
and Biodiversity)	of arboricultural assessment, it is unclear whether the proposed dwelling locations/design could achieve the DCP Clause B4.3 (Flora and Fauna Habitat Enhancement) control of 'r canopy loss'. Future DAs for construction of any dwellings must be accompanied by an a report and landscape plan which will achieve the objectives of Clause B4.3, should the subdivision be approved. Referral to Council's Landscape Team is also recommended st the subdivision be approved.
NECC (Development Engineering)	The proposed future access to the new lots requires excavation by more than 1.0 metre. Council's Pittwater 21 DCP requires an indicative access proposal and a Geotechnical re this instance. The following additional information is requested in support of the proposec development:- 1. Submission of a preliminary indicative cross-section driveway access for the vaca is required in accordance with Council's C4.2 Pittwater 21 DCP (Access Drivewa Off-street Parking Facilities). A Extra High standard vehicle crossing Profile stand (3330/4). https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/g information/specification-documents/extrahighstandardvehiclecrossingprofile.pdf 2. Submission of a report in accordance with Geotechnical Risk Management Policy Pittwater - 2009 (P21 DCP).
NECC (Stormwater & Floodplain Engineering – Flood risk)	The property is not flood affected.

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 State Transit (Bus stops)	No comments received from NSW State Transit.

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)

Nil

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	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	550sqm	Lot 1: 1051.5sqm	0%	Yes
		Lot 2: 591.3sqm		
		Lot 3: 586.7sqm		

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.6 Subdivision - consent requirements	Yes
4.1 Minimum subdivision lot size	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Detailed Assessment

4.1 Minimum subdivision lot size

While the proposed lots may be able to comply with the minimum lot size requirement (1051.5m², 591.3m², 586.7m²), the appropriateness of the proposed additional lots is questioned, noting that the subdivision lot size is a minimum amount, designed to achieve a range of subdivision sizes in excess of that size. As the subject site is located within an environmentally sensitive area (E4 zoning), adherence with the minimum lot size is not considered an appropriate outcome, in particular when surroundings lots are generally 700m² or above.

Although the proposed subdivision may technically comply by meeting the numerical requirements of the standard, it is not considered that the subdivision proposal, as indicated, can satisfy the objectives of the development standard, particularly with regards to the following:

- *To protect residential character and amenity by providing for subdivision where all resulting lots are consistent with the desired character of the locality, and the pattern, size and configuration of existing lots in the locality.*
- *To ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.*

It is not considered that further subdivision of the property will result in an appropriate planning outcome for the area for the reasons noted above, and therefore cannot be supported.

Pittwater 21 Development Control Plan - 2014

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m, or established building line, whichever is the greater	6.5m (Lot 2) 9.1m (Lot 3)	N/A	No, established building line is greater than 6.5m
Rear building line	6.5m	>6.5m	0%	Yes
Side building line	2.5m	Lot 1 - 1.7m (north)	32%	No
		Lot 2 - 1m (north)	60%	No
		Lot 3 - 1m (north)	60%	No
	1m	Lot 1 - 1.7m (south)	0%	Yes
		Lot 2 - 1m (south)	0%	Yes
		Lot 3 - 1m (south)	0%	Yes
Landscaped area				
Lot 1	60%	46.5%	22.5%	No
Lot 2	60%	59.4%	1%	No
Lot 3	60%	57.9%	3.5%	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
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B2.2 Subdivision - Low Density Residential Areas	Yes	Yes
B3.1 Landslip Hazard	No	No
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	No	No

Clause	Compliance with Requirements	Consistency Aims/Objectives
C4.1 Subdivision - Protection from Hazards	Yes	Yes
C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities	No	No
C4.3 Subdivision - Transport and Traffic Management	Yes	Yes
C4.4 Subdivision - Public Roads, Footpath and Streetscape	Yes	Yes
C4.5 Subdivision - Utility Services	Yes	Yes
C4.6 Service and delivery vehicle access in subdivisions	No	No
C4.7 Subdivision - Amenity and Design	No	No
C4.8 Subdivision - Landscaping on the Existing and proposed public road reserve frontage to subdivision lots	Yes	Yes
D5.2 Scenic protection - General	Yes	Yes
D5.5 Front building line (Excluding Elanora Heights Village Centre)	No	No
D5.6 Side and rear building line (Excluding Elanora Heights Village Centre)	No	No
D5.7 Building envelope (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.9 Landscaped Area - Environmentally Sensitive Land	No	No

Detailed Assessment

B3.1 Landslip Hazard

See development engineer's comments and Clause B8.1 for further detail.

B8.1 Construction and Demolition - Excavation and Landfill

See Development Engineer's comments with regards to excavation required for access to each lot.

C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities

The development has not been able to demonstrate adequate vehicular access to two (2) of the (3) lots, in accordance with Clause C4.2 of P21 DCP. See Development Engineer's comments and Clause C4.7 for further discussion.

C4.6 Service and delivery vehicle access in subdivisions

The development has not been able to demonstrate safe and adequate service, delivery and removal of materials by vehicles within the development as the proposal has adequately demonstrated vehicular access to and from two (2) of the three (3) lots. See Clause C4.2 for comments.

C4.7 Subdivision - Amenity and Design

Due to the irregular configuration of the proposed subdivision layout and location of proposed building envelopes, the subdivision design does not achieve/retain a level of amenity commensurate with the locality and the desired future character of the locality.

The subdivision configuration will result in design constraints, limiting the ability to provide future

development on the proposed lots that is considered to be reasonable and consistent with relevant development controls of PLEP 2014 and P21 DCP. The lot configurations are considered to be inconsistent with the desired outcomes of relevant controls, in particular the front and side setbacks controls for the Elanora Heights locality. Due to the irregularity of the proposed boundaries, future development will be unable to achieve the minimum side setbacks (1m to one side, and 2.5m to the other side) stipulated by Clause D5.6 of P21 DCP. Furthermore, the proposed building envelopes are inconsistent with the established front setback along the western side of Kalang Road resulting in a greater visual impact of the built development when viewed from Kalang Road and impact on the existing streetscape.

As well, the proposed building envelopes, lot configuration and orientation will likely result in extensive overshadowing that will be inconsistent with Clause C1.4 of P21 DCP. Future development will unlikely be able to achieve sufficient levels of solar access consistent with the requirements of Clause C1.4.

The supporting Statement of Environmental Effects, prepared by Fragar Planning has stipulated that side access to the newly created lots can be provided via new driveway crossings from Kalang Road. Whilst this is acknowledged, it is required that vehicular access to future buildings on proposed lots as well as onsite car parking on each lot is demonstrated, albeit an indicative layout. The proposal subdivision is unable to be satisfactorily considered due to insufficient information.

Clause C4.7 requires that a proposed building envelope must have regard for the following:

- Vehicular access; and
- A building which achieves the desired character of the area and is commensurate with the amenity standards of surrounding development, and does not overly impact on the environment, and can be erected within that envelope.

In light of the above, the proposal fails to achieve the outcomes and controls of Clause C4.7 of P21 DCP, and thus, cannot be supported.

D5.5 Front building line (Excluding Elanora Heights Village Centre)

Analysis of the existing context of Kalang Road finds there to be an established building line, in particular along the western side of Kalang Road. The building envelopes for Lots 2 and 3 are proposed to be sited forward of this established building line. The proposed setbacks are considered to be inconsistent with the existing streetscape and lead to an undesirable outcome for the area, in particular along the western side of Kalang Road. On this basis, the building envelopes cannot be supported.

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

The proposed lot configuration results in technical non-compliance's with the minimum side setback requirements:

- 1m to one side, and
- 2.5m to the other side

The proposed setbacks are likely to result in undesirable outcomes and impacts on amenity to adjoining properties, resulting from bulk and scale of the built form within close proximity of proposed boundaries. The building envelopes and setbacks cannot be supported for this reason.

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

Although no elevations of the existing dwelling have been provided, the lot configurations and reduced setbacks are likely to result in a building envelope breach. Whilst this is likely to be the case, this is not a fundamental issue in the assessment, therefore elevations, in particular a southern elevation of the existing dwelling has not been requested. The locations of the building envelopes and reduced setbacks due to the boundary locations are also likely to result in breaches to the prescribed building envelope. The likely building envelope non-compliance's will result in inconsistencies with the stipulated outcomes under Clause 4.1, in particular:

(g) *to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.*

D5.9 Landscaped Area - Environmentally Sensitive Land

As indicated in the built form table earlier in this report, the proposed landscaped area for each newly created lot fail to provide the minimum 60% landscaped area consistent with Clause D5.9 of P21 DCP

Furthermore, the proposed subdivision layout does not accurately reflect the total landscaped area for two (2) of the three (3) lots, being Lot 2 and 3. As there has been no indicative access shown on the subdivision plan, the landscaped area percentage is unable to accurately consider all hard surface areas. The proposal lacks sufficient information to appropriately consider the total landscaped area for these two lots.

A landscaped area calculation of Lot 1, located to the north finds the total landscaped area (without allowable variations) to be approximately 488.7m² or 46.5%. The resulting landscaped area is considered to be inconsistent with the outcomes of clause D5.9 of P21 DCP and the objectives of the E4 Environmental Living zone. The proposal cannot be supported without further increasing the soft surface area.

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.

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, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2017/1384 for the Consolidation of two (2) existing lots and subdivision into three (3) lots on land at Lot 100 DP 16682, 14 Kalang Road, ELANORA HEIGHTS, Lot 99 DP 16682, 16 Kalang Road, ELANORA HEIGHTS, for the reasons outlined as follows:

1. The subdivision configuration is unable to accommodate development consistent with the relevant development controls. The lot configuration and sizes are inconsistent with the pattern, size and configuration of existing lots in the locality. Therefore, the proposal is unable to satisfy the objectives of Clause 4.1 of PLEP 2014.
2. Insufficient information has been provided with the application. Due to the likely excavation required for future access driveways the sites, it is required that a report in accordance with Geotechnical Risk Management Policy for Pittwater - 2009 (P21 DCP) is prepared and submitted.
3. Submission of a preliminary indicative cross-section driveway access for the vacant lots is required in accordance with Council's C4.2 Pittwater 21 DCP (Access Driveways and Off-street Parking Facilities). A Extra High standard vehicle crossing Profile standard. (3330/4). <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/specification-documents/extrahighstandardvehiclecrossingprofile.pdf>
4. The proposed subdivision design cannot achieve/retain a level of amenity commensurate with the locality and desired character of the area. The proposal is unable to provide an appropriate subdivision design that meets the stipulated outcomes and controls of Clause C4.7 of P21 DCP.
5. The proposed building envelopes will be located forward of the established building line, resulting potential future development that is inconsistent with the existing streetscape. In light of this, the proposal will be unable to satisfy the outcomes and controls of clause D5.5.
6. The proposed building envelopes are unable to provide the minimum required setbacks, in accordance with clause D5.6 of P21 DCP. It is not considered that the building envelope

locations will be able to provide adequate separation for future development that is consistent with the controls and outcomes of clause D5.6.

7. All three (3) proposed lots fail to meet the minimum required 60% landscaped area, as required under clause D5.9 of P21 DCP. The plans also fail to indicate required access to the lots, therefore not accurately reflecting the landscaped area. With this considered, the proposal is unable to meet the required outcomes under clause D5.9.

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

Signed



Hugh Halliwell, Planner

The application is determined under the delegated authority of:



Anna Williams, Manager Development Assessments

ATTACHMENT A

Notification Plan	Title	Date
 2018/049672	Plan - Notification	07/12/2017

ATTACHMENT B

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2018/049659	Council Fee Quote	20/11/2017
 2018/049666	Plans - External	07/12/2017
 2018/049667	Plans - Master Set	07/12/2017
 2018/049672	Plan - Notification	07/12/2017
 2018/049668	Plans - Survey	12/12/2017
 2018/049669	Report - Cover Letter	12/12/2017
 2018/049670	Report - Statement of Environmental Effects	12/12/2017
 DA2017/1384	14 Kalang Road ELANORA HEIGHTS NSW 2101 - Development Application - Subdivision	29/12/2017
 2018/014849	DA Acknowledgement Letter - Grant Stafford Craft	05/01/2018
 2018/049662	Development Application Form	12/01/2018
 2018/049664	Fee Form	12/01/2018
 2018/058680	DA Acknowledgement Letter (not integrated) - Grant Stafford Craft	15/01/2018
 2018/058704	Notification Letter - DA	15/01/2018
 2018/082522	Online Submission - Pike	29/01/2018
 2018/107964	Natural Environment Referral Response - Flood	12/02/2018
 2018/200275	Request for Withdrawal of Development Application - Grant Stafford Craft	26/03/2018
 2018/227730	Correspondence between Council and applicant RE: 14 -16 Kalang Rd, Elanora Heights	09/04/2018
 2018/225530	Development Engineering Referral Response	10/04/2018
 2018/231159	Development Engineering Referral Response	12/04/2018
 2018/233459	Natural Environment Referral Response - Biodiversity	12/04/2018
 2018/235695	FILE NOTE - Discussion with owner regarding application	13/04/2018
 2018/244110	Engineering comments re stormwater	18/04/2018
 2018/249456	Assessment Report	20/04/2018