

Development across the Northern Beaches often requires the creation of stormwater drainage and flood protection systems. These systems must be maintained so they work in the way your development application (DA) or Complying Development Certificate (CDC) intended.

Examples of these systems include:

- Onsite stormwater detention systems
- Alternative drainage systems
(e.g. pump drainage systems/ charged drainage systems),
- Alterations to landform, retaining walls and dwelling floor levels which are designed and intended to protect the development and occupants from major overland flows/ flooding, as well as prevent impact neighbouring properties.

Why you need to submit legal documentation to Council

To ensure the maintenance of these systems, Council requires the owner to register a positive covenant and/or a restriction as to use of the system on the title of the property. If a covenant and/or restriction is required, it will appear as a condition of the DA consent. Check your DA consent conditions to determine if these requirements affect you. A solicitor, certifier, builder or surveyor is able to help you check your consent conditions and provide professional assistance with preparing documents for your application. In accordance with Council's Water Management for Development Policy, if there is an on-site detention or on-site absorption system approved under a Complying Development Certificate, a Legal Documents Application is also required.

What is a positive covenant and restriction on the use of land?

A positive covenant and restriction on the use of land are deeds of agreement on the title of the property created under provisions of the Conveyancing Act 1919. The agreement imposes obligations on the owner of the land burdened, in favour of a prescribed authority (Northern Beaches Council). In the case of a stormwater system, the agreement will require the owner of the land to maintain their system, so it can perform as designed, and not allow future development to interfere with the operation of the system. A positive covenant or restriction as to user can apply to all property types: residential, commercial, industrial etc.

What if I require a different type of covenant?

Your DA conditions may require you to register a covenant not related to stormwater systems. Examples of these include Stormwater Treatment Measures (Catchments), Waste Services (Waste), Mechanical Stackers (Transport Network) and Senior Livings (Planning). If you require standard wording for a covenant not available on Council's Website, please contact the relevant team which imposed the condition.

Documents required for submission

Examples of documents can be found in the appendices:

- 13 RPA Form - nswlrs.com.au/getattachment/83ca9905-ab64-4ae8-ba3f-53396952e7e3/attachment.aspx
- 13 PC Form - nswlrs.com.au/getattachment/787fd880-6201-42cb-ac77-04d7d4f8cf77/attachment.aspx
- Councils standard wording - Refer to the Wording for Legal Documents Attachment on Council's Website
- Registered Engineers Certification by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) - Example appendix 1
- Work as executed (WAE) by a registered Surveyor - Example appendix 2
- Photographic evidence of the On-site Detention System - Example appendix 3



What is the process for lodging and registering legal documents?

The forms must be prepared by you or your agent (solicitor, surveyor, builder etc.). Once lodged, along with all of the required documentation, Council staff will assess your application, sign the documents and email you a copy of the Authorised Documents.

1 Complete application form

Council's preference is for the customer to lodge an online application through the Online Forms as it can reduce processing times by up to 2 weeks. Alternatively, A hard copy application form can be obtained at any of Council's customer service centres or online.

2 Complete legal documents forms

Positive Covenant (13PC) and Restriction of Use (13RPA) forms are located at the NSW Land and Property Information website nswlrs.com.au. You must also obtain Council's standard wording (see Council's Website) and input your DA information. Should you wish to lodge the application through an 88B, all relevant forms, plan documents, and admin sheets need to be submitted with the Legal Documents application.

3 Obtain supporting documentation for your application

- Work as executed plan (WAE) must be provided with your authorisation of legal documents application. The WAE is a copy of the approved drainage construction plan, with the finished levels marked up in red, and stamped and signed by a registered surveyor.
- Registered Engineers Certification must be provided to ensure the constructed site drainage system complies with the approved stormwater drainage plan and Council policies. The certificate must be from a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.
- Photographic evidence of the Stormwater System. This may include any of the following: OSD/ Rainwater Tanks, OSD Basin, Orifice Plate, Level Spreader, Absorption Trench, Pits, Pipes, connection to kerb and connection to interallotment easements.

4 Lodge Online or Manual Application

Council's preference is for applicants to apply through the online portal. This can be submitted outside of office hours, paid online and may reduce assessment times by up to 2 weeks as Council's Engineers do not have to wait for the hard copies of documents. However, should you choose to submit a manual application, hard copy documents and the application form must be submitted to Council as well as payment of the application fee. USB's are no longer acceptable as it does not comply with Council's IT Policy. Council accepts applications at our customer service centres.



5 Engineering review



Council's development engineering team will review your application including the plans, a site inspection, and will sign your documents if they are satisfied with the information provided in the application.

6 Receive Authorised Documents



Council's engineer will send an email with an attachment for "Authorised Documents". Soft copies will be sufficient to registering the title of your property as the process is now completed online via a Dealing with Exception. However, should you wish to have a hard copy of the documents, council officers will contact you to organise collection of your signed documents.

7 Submission of documents to NSW land registry service

Arrange for all appropriate third parties (land owner, mortgagee etc.) to sign the documents. In accordance with their guidelines, submit your signed documents to NSW land registry service.



Appendices

1. Sample of a Registered Engineers Certification

Dear Sarah,

Re: Registered Engineers Certification

We wish to certify that we have inspected the stormwater system and reviewed the Works as Executed drawings Ltd, Ref No (date) and dated (insert date) and found the system to be in general accordance with the stormwater hydraulic drawings prepared by us, drawing numbers (insert drawings numbers).

The design and construction of the stormwater system, including the car park drainage, as detailed in the above drawings, is in general accordance with Northern Beaches Council's Development Control Plan (DCP - insert number).

Please feel free to contact the undersigned, should you have any questions relating to this certificate.

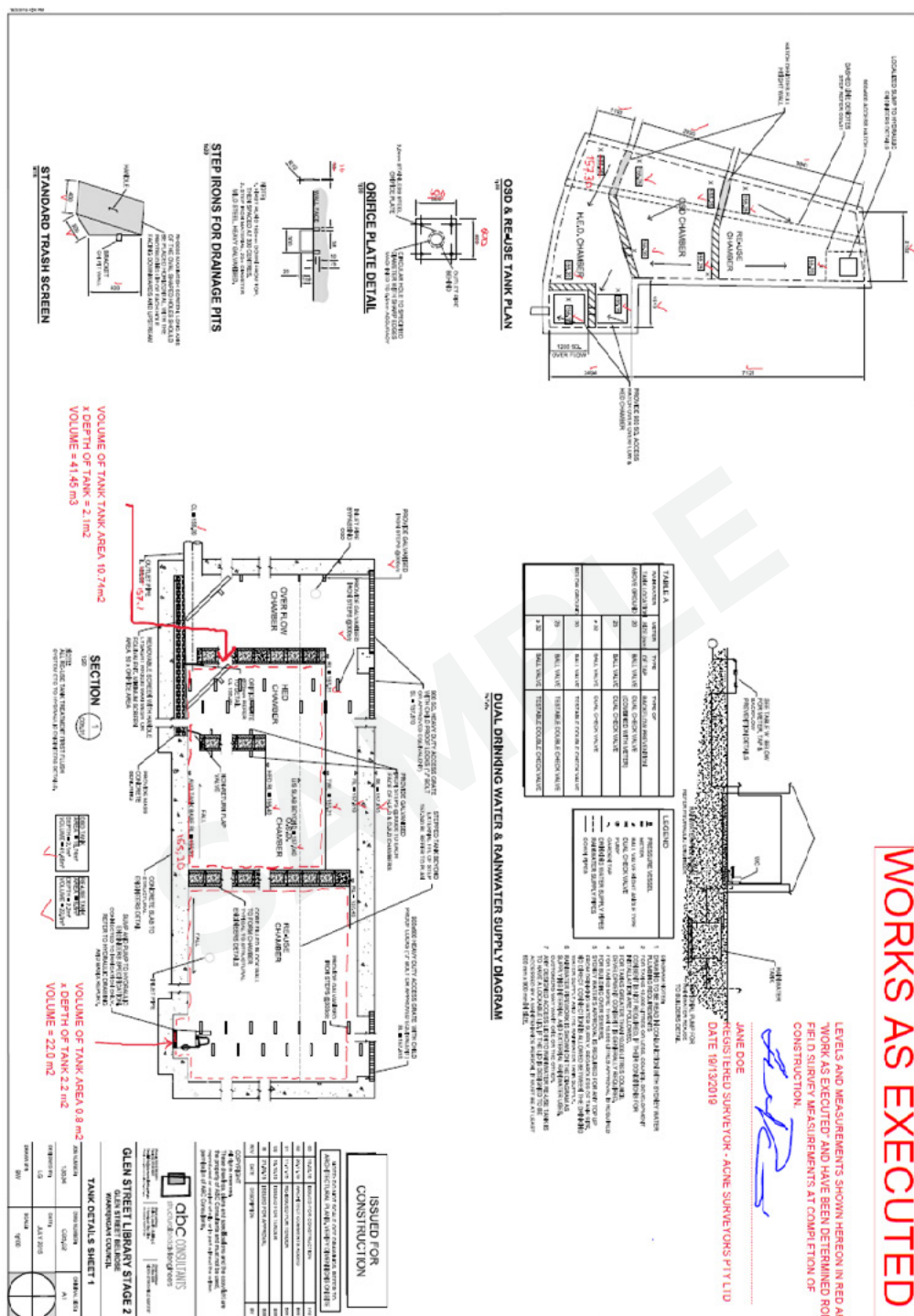
Kind regards

Consulting Engineers

B.E (Hons) MIEAust CPEng NPER

2. Sample of work as executed (WAE) plans

Details need to be overdrawn in red by a registered Surveyor on copy of the Council's approved drainage plan.





3. Photographic Evidence of On-site stormwater detention system

A tape measure shall be placed over the orifice to indicate the diameter



Confined space sign and on-site stormwater detention system plate should be visible



Step Irons should be installed when required





3. Photographic Evidence of On-site stormwater detention system

Orifice Plate Example

The on-site stormwater detention system plate shall be visible



A tape measure shall be placed over the orifice to indicate the diameter





3. Photographic Evidence of On-site stormwater detention system

OSD Tank Example

Above ground tanks



Below ground tanks





3. Photographic Evidence of On-site stormwater detention system

Above Ground Basin

Above Ground Basin



Images of the height of the basin shall be provided at the emergency overflow and various other sections throughout the basin





3. Photographic Evidence of On-site stormwater detention system

Level Spreader Example

A tape measure shall be placed to indicate the distance from the downstream boundary



A photo shall be provided to indicate the spreader in relation to the rear boundary





3. Photographic Evidence of On-site stormwater detention system

Absorption Trench Example

Geotextile fabric, pits, trash screens and Jumbo Trench shall be clearly visible



Note: A photo which indicates the distance from the downstream boundary is also required for absorption trenches



3. Photographic Evidence of On-site stormwater detention system

Kerb outlet example

