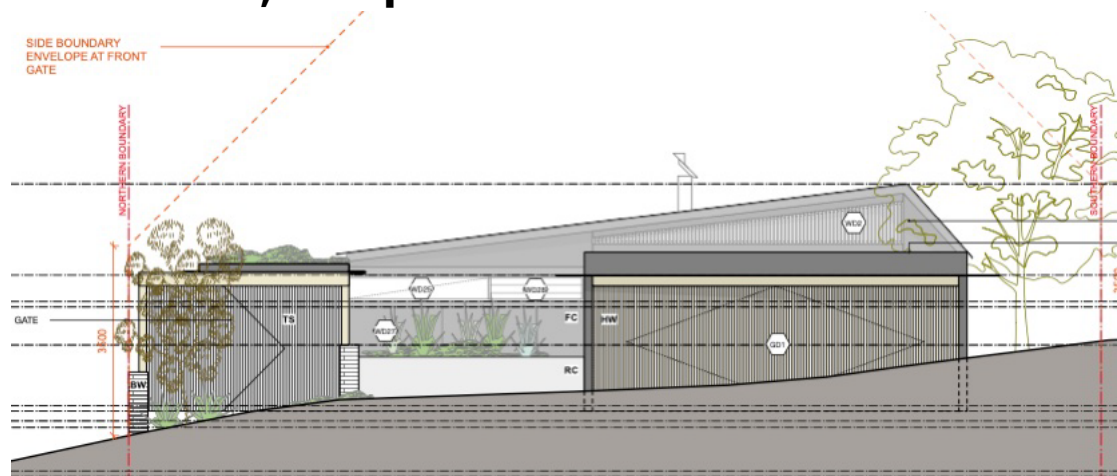


## Statement of Environmental Effects

**For a new two storey and part three storey dwelling house, an integrated tandem garage and a swimming pool and spa and landscaping, at 3A Beach Road, Newport.**



**Prepared for Byron and Sophie Rowe  
and Incidental Architecture.**

**29 August 2025**

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## 1. Introduction

This statement of environmental effects has been prepared as part of a development application for a new two storey and part three storey dwelling house, integrated tandem garage and a swimming pool and spa and landscaping, at 3A Beach Road, Newport.

The purpose of this statement is to describe the proposal and review the relevant planning requirements relating to the proposal. It provides an assessment of the proposed development in terms of the Evaluation Criteria prescribed under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

In the preparation of this Statement of Environmental Effects, the site and locality has been inspected and consideration has been given to the Architectural Drawings prepared by Incidental Architecture, Drawings No.DA1 to DA12, DA Issue, dated August 2025, and the Survey Plan by Stutchbury Jaques Pty Ltd, Reference No.11920/23, dated 25 September 2023.

The merits of the proposal in terms of the design and the particular context of the site have been considered in terms of the relevant State, Regional and Northern Beaches Council planning instruments, codes and policies.



Figure 1: Locality Map.

There has been consultation with owners of 1, 5, 7 and 9 Beach Road to the north and the owners of 3 Beach Road to the south. Survey pegs have been provided on site setting out the south east corners of the initial design of the proposed dwelling and the roof and the south east corner of the permissible H3 envelope area. On 30 September 2024 a telescopic height pole was placed on the site at various locations to assess the views from the house at 3 Beach Road with reference to the height and position of the proposed house. Numerous

photographs were taken by Matt Elkan of Incidental Architecture in the company of the owners of 3 Beach Road. This assessment informed the final design and position of the proposed house and the shape of the roof, to minimise the impact on the north easterly views across the rear half of the site to Bungan Head, from the main living areas and terraces of the adjoining house at (Lot 1) 3 Beach Road.

Consideration has also been given to the siting and positioning of windows and balconies on the north side of the house to minimise the potential impact on the privacy and overall amenity of the adjoining houses at 5, 7 and 9 Beach Road and their various private open space areas.

The owners of 5 Beach Road, 7 Beach Road and 9 Beach Road have also been provided with copies of the final drawings prepared by Incidental Architecture and have provided their written approval to the proposed dwelling including the materials and finishes proposed in accordance with the Terms of the restriction tenthly referred to in DP.1022509.

## **2. The Locality and the Site**

The locality is characterised by mostly two storey dwelling houses of varying styles and sizes on both sides of Beach Road and along the eastern side of Barrenjoey Road.

The site is located on the southern side of Beach Road accessed by a right of carriageway between 1 Beach Road and 5 Beach Road, that also provides shared access to 3 Beach Road, uphill at the end of the driveway, right of carriageway. (listed as (B) on the Survey)

It is a battle axe shaped allotment with a narrow 1.83m frontage to Beach Road and a long access handle of 41.735m in length, beside the access handle to 3 Beach Road. The northern boundary adjoining 5, 7 and 9 Beach Road has a combined length of 54.87m and the rear, eastern boundary adjoining the foreshore reserve has a length of 17.95m. The southern boundary adjoining 3 Beach Road has a length of 56.7m. The site has an area of 1,094m<sup>2</sup>.

The legal property description of the land is Lot 2, Deposited Plan No.1022509, No.3A Beach Road, Newport.

The site falls steeply down from west to east, from the right of way to the foreshore reserve with a total fall of 11m through to the middle of the site. There is a cross fall from south west to north east of approximately 8m where the new house is proposed. The land is presently vacant and overgrown with weeds and shrubs and a number of Banksia trees along the northern and southern sides of the site.

The adjoining properties to the north at 5 and 7 and 9 Beach Road are developed with two storey dwelling houses. The house at 5 Beach Road has painted, rendered brick external walls and a pitched tile roof. The house at 7 Beach Road has recently been demolished. The house at 9 Beach Road is a two storey textured brick and timber clad house with a sloping metal clad roof.

The adjoining property uphill and to the south at 3 Beach Road is developed with a three storey contemporary style dwelling house with lightweight painted



cladding and a curved metal roof. There is an elevated swimming pool on the north east corner of the ground floor.

The houses uphill and to the west fronting Barrenjoey Road are mostly two storey dwelling houses of various styles and sizes, which have an elevated position on the slope, with direct vehicular access from Barrenjoey Road. The house directly behind the site at 198 Barrenjoey Road is a part three storey dwelling house with a detached double garage for parking at the front, close to the street and an elevated swimming pool and timber deck and cabana at the rear.

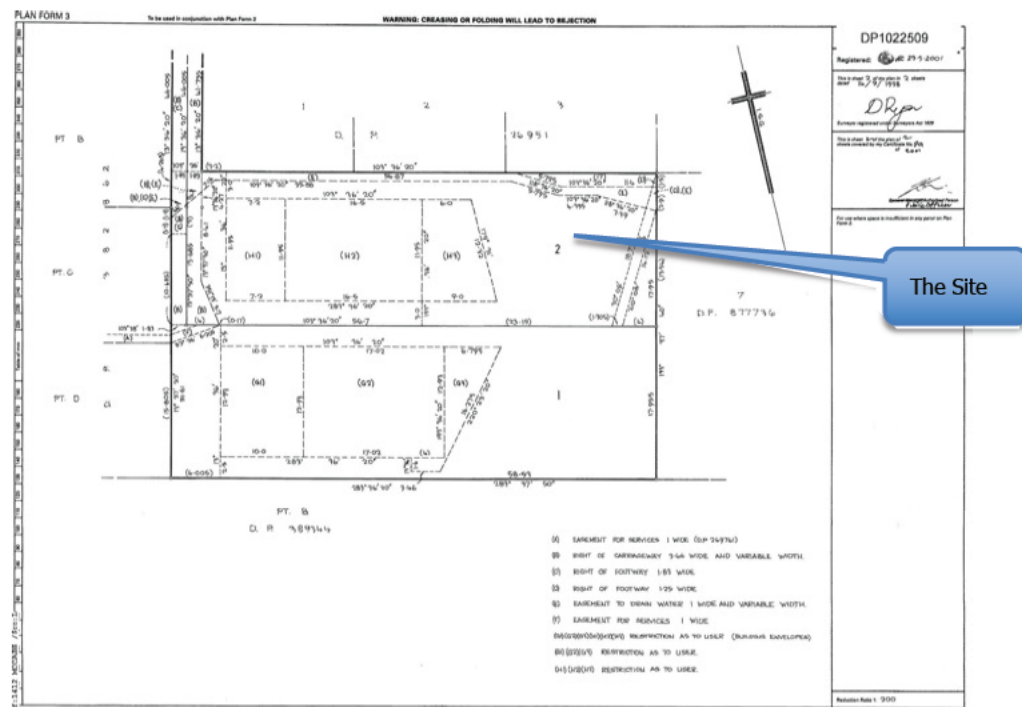


Figure 2: Extract from the Deposited Plan No.1022509 showing the configuration of Lot 1 and Lot 2 and the Restriction as to User on the title (H1, H2 and H3 for Lot 2) and (G1, G2 and G3 for Lot 1) building envelope entitlement areas for each lot shown dashed on the plan.



Figure 3: Aerial Map.





Photograph 1: The overgrown site viewed from in front, from the driveway right of way.



Photograph 2: Looking down Beach Road in an easterly direction from Karloo Parade.





Photograph 3: The two storey house on the north side of Beach Road, known as 5B Karloo Parade opposite the right of carriageway to the subject site.



Photograph 4: The entrance to the two storey house at 5 Beach Road, adjoining the right of carriageway to the subject site visible on the right.





Photograph 5: The right of carriageway to the subject site and 3 Beach Road, running along the western side of 5 Beach Road on the left of the photograph.



Photograph 6: The view and outlook from the right of carriageway showing the back of the house at 5 Beach Road on the left and the curved green metal roof of the house at 7 Beach Road, in the background.





Photograph 7: The adjoining two storey house at 3 Beach Road at the south end of the right of carriageway. The subject site is partly visible on the left of the photograph.



Photograph 8: The driveway to the adjoining two storey house at 7 Beach Road recently demolished.





Photograph 9: The two storey house at 9 Beach Road.



Photograph 10: Looking down the driveway, right of carriageway towards the house at 5 Beach Road.





Photograph 11: The rear of the two storey house on the western side of the right of carriageway opposite the site, at 198 Barrenjoey Road.



Photograph 12: Views to the north east from the rear, eastern end of the subject site.



### 3. The Proposal

This proposal is for a new two storey and part three storey dwelling house on the existing vacant allotment. Access to the site is by a 3.6m wide driveway, which comprises the narrow 1.83m wide access handle of the subject site and same width access handle of 3 Beach Road. Combined, it provides a reciprocal right of carriageway, running uphill between 1 Beach Road and 5 Beach Road, for access to both 3 Beach Road and the subject site.

As previously outlined and referred to in Figure 2 on Page 3, the subject site (Lot 2) and the adjoining property (Lot 1) in Deposited Plan No.1022509, are subject to a building envelope restriction shown dashed on the DP and shown dotted on the Survey.

Of relevance, the Restriction as to User eighthly referred to on the title is as follows for areas designated H1, H2 and H3 applying to Lot 2:

- H1 - single level garage;
- H2 - Two levels of living area;
- H3 – One level of living area with a deck above.

The proposal will be consistent with the building envelope restriction except on the southern side of the garage, Bedroom 3/study and the internal stair that extends into the 3.0m side setback on that side by 550mm. This is compensated by limiting the eastern projection of the new house H3 area extending to the full extent of the permitted envelope, in agreement with No.3 with whom the covenant exists.

The designated building envelope is shown with a blue line on the floor plans.

Note: The building envelope does not include a reference to RL's but rather the starting point of any building at the driveway (ROW) level for the garage level and reference to the number of levels at that level and above.

#### ***Upper Floor - Parking and Entry Deck and Main Bedroom Suite.***

Parking for three cars is proposed at the front of the site, which includes a double garage and tandem parking for two cars on the south side. There is a landscaped pathway on the north end of the frontage leading to a gate and an entry deck and an external stair for access down to a guest bedroom and access to the front entrance to the house at the middle level, living level.

There is an internal access through the back of the tandem garage to a hallway connecting to the main bedroom suite and a study with a deck in the south east corner and an internal stair for access down to the mid level main living level of the house.

The setbacks on the north side will be 8.4m to the wall of the garage and 3.990m to the wall of the Bedroom and the ensuite. On the south side there will be a 2.440m side setback to the garage wall and 2.450m setback to the wall of the stairwell, study and the edge of the deck.

***Middle Floor – Entry, Main Living and Secondary Bedrooms.***

Access to this level is by the external stair and deck through the landscaped side courtyard to the front door of the house. The entry opens to the kitchen and dining room and the sunken living room in the north east corner. There is a walk in pantry off the kitchen and the internal laundry which has access to services court and the north side courtyard garden.

There is a bedroom and a bathroom and the internal stair for access down to the lower level in the south east corner of this level.

The setbacks on the north side will be 3.9m to the wall of the guest bedroom/gym and 4.0m to the wall of the dining room and living room and the deck. On the south side there will be a 3.0m side setback to the laundry, study and pantry wall and 2.450m setback to the wall of the stairwell, bathroom and Bedroom 2.

***Lower Floor - Secondary Living, Bedroom 2 and Pool and Pool Terrace.***

This is the smaller of the two levels above and comprises a bedroom and a store/cellar at the bottom of the stair and a hallway leading to a bathroom and secondary living room with wide openings and sliding doors opening to the north east corner terrace at RL34.85. There is a short flight of steps down to the terraced garden and the pool terrace at RL33.8 and rectangular shaped swimming pool and spa at RL34.2.

There is also a door at the end of the bathroom to the terrace and a sauna and outdoor shower. There is a bathroom store at the back of this level. There is an underground rainwater tank under the rear lawn area.

The setbacks on the north side will be 3.46m to the blade wall to the sauna and 2.5m to the pergola and screen to the terrace and on the south side there will be a 2.450m setback to the wall of the stairwell and the bedroom.

***Materials and Finishes***

The materials and finishes include a combination of face brickwork to the lower level and lightweight construction with painted timber cladding and FC cladding and vertical batten screens to some windows and decks. The roof will be a concrete roof with gravel ballast over the garage and a sloping metal roof to the main part of the house.

A rectangular shaped swimming pool and a spa and paved pool terrace are proposed at the rear, eastern side of the site below the house at RL34.2. The facilities will be well clear of the adjoining properties and will be an integral part of the landscaping and paving proposed on this part of the site.

## 4. Development Controls and Policies

The Pittwater Local Environmental Plan 2014, which commenced on 30 May 2014 and was last amended on 23 February 2024. It is the main planning instrument for the Pittwater area of the Northern Beaches Council area.

It provides for the zoning of the land and establishes the permissibility of the use of the land within the E4 Environmental Living Zone for a dwelling house, and dual occupancies, amongst a range of other uses with development consent.

The Pittwater 21 Development Control Plan (P21DCP) came into force on 21 August 2006. It is a comprehensive Development Control Plan that applies to all land and all types of development in the Pittwater area of the Northern Beaches Council area.

The P21DCP consolidates all of Council's existing development controls into a single document and replaces all of Council's previous Development Control Plans.

The P21DCP includes the detailed guidelines and environmental standards for new development, which need to be considered in preparing a Development Application. It provides a layered approach with some parts being relevant to all development, provisions for specific types of development, and some specific land.

The following State Environmental Planning Policies and Sydney Regional Environmental Plans are applicable to the site and the proposal:

- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Sustainable Buildings) 2022.

## 5. Evaluation Pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979

### 5.1 Environmental Planning Instruments

#### ***State Environmental Planning Policies and Sydney Regional Environmental Plans***

#### ***State Environmental Planning Policy (Resilience and Hazards) 2021***

#### ***Chapter 2 Coastal Management***

In relation to the coastal zone, the aim of Chapter 2 Coastal Management is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area

The subject site is not identified as being within the Coastal Environment Area or Coastal Use Area on the Coastal Environment Area Map and Coastal Use Area Map.

Therefore, the matters for consideration in Section 2.10 and Section 2.11 of the SEPP do not apply.

#### ***Chapter 4 Remediation of Land***

The object of this Chapter is to provide a State-wide approach to the remediation of contaminated land for the primary purpose of reducing the risk of harm to human health or any aspect of the environment.

Section 4.6 of the SEPP is relevant and outlines the matters for consideration by a consent authority in determining a development application.

The land has in the past been used exclusively for residential purposes and there is no history to suggest that any contaminating uses previously occurred on this site or in the vicinity. Council can therefore be satisfied that the land is not contaminated and therefore remediation of the land is not required.

#### ***State Environmental Planning Policy (Biodiversity and Conservation) 2021***

##### ***Chapter 2 Vegetation in non-rural areas.***

The aims of this Chapter are:

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and*
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

*Council may authorise vegetation clearing provided that:*

- the clearing does not exceed the biodiversity offsets scheme threshold pursuant to the Biodiversity Conservation Act 2016;*
- the vegetation is not part of a heritage item or a heritage conservation area, or*
- the vegetation neither is or forms part of an Aboriginal object or that is an Aboriginal place of heritage significance.*

The subject application will not result in the clearing of any native vegetation or clearing that exceeds the biodiversity offsets scheme and does not involve clearing that is or forms part of a heritage item or a heritage conservation area or is or forms part of an Aboriginal object or that is a known Aboriginal place of heritage significance.

#### ***State Environmental Planning Policy (Sustainable Buildings) 2022***

The aims of this policy are:

- (a) to encourage the design and delivery of sustainable buildings,*
- (b) to ensure consistent assessment of the sustainability of buildings,*

- (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored,*
- (d) to monitor the embodied emissions of materials used in construction of buildings,*
- (e) to minimise the consumption of energy,*
- (f) to reduce greenhouse gas emissions,*
- (g) to minimise the consumption of mains-supplied potable water,*
- (h) to ensure good thermal performance of buildings.*

Schedule 1 of the SEPP includes Standards for erection of BASIX buildings and change of use to BASIX buildings.

Schedule 2 of the SEPP includes Standards for alterations of BASIX buildings and BASIX swimming pools and spas.

A BASIX Certificate is submitted with the development application in accordance with Section 27 of the Environmental Planning and Assessment Regulation 2021.

The BASIX assessment confirms that the commitments and targets for energy use and water use and thermal performance and materials will be achieved.

### **Local Environmental Plans**

#### **Pittwater Local Environmental Plan 2014**

##### **Permissibility**

The zoning of the land is established by the Pittwater Local Environmental Plan 2012 (the LEP). The land is located within the E4 Environmental Living Zone of the LEP. Dwelling houses and dual occupancies are permitted uses in the zone with development consent amongst a range of low density residential uses, in accordance with the and Use Table of the LEP.

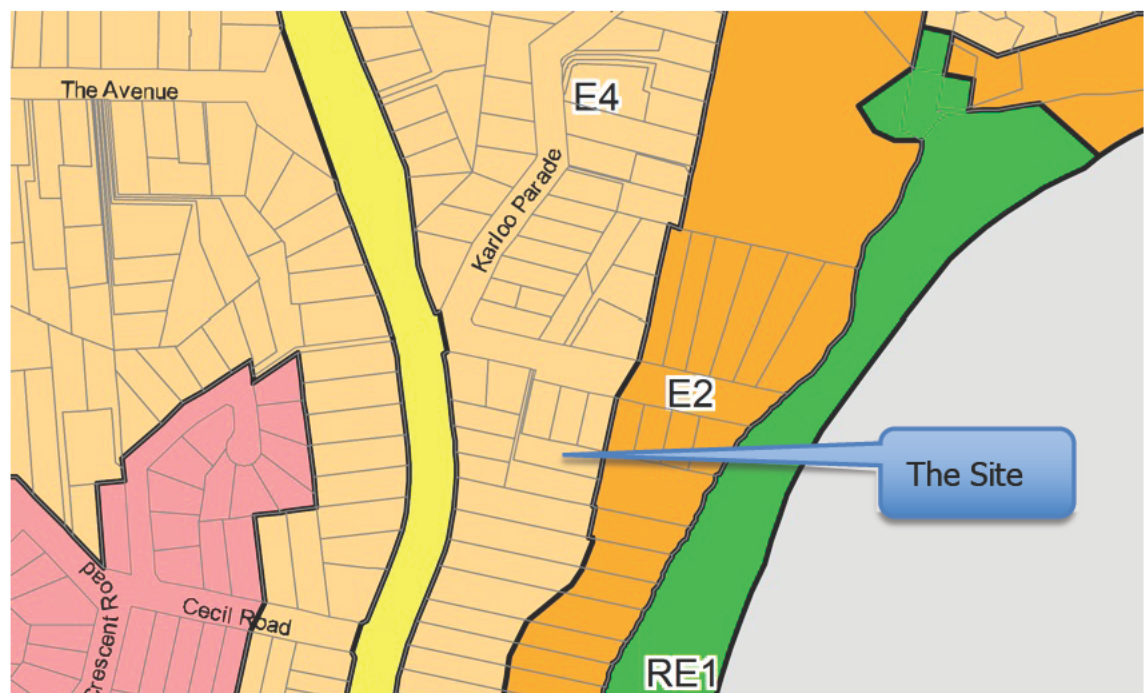


Figure 4: Extract from the Pittwater LEP Land Zoning Map

The following provisions of the LEP are relevant to the proposal:

***Aims of the plan are listed in Clause 1.2(2).***

*(2) The particular aims of this Plan are as follows—*

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to promote development in Pittwater that is economically, environmentally and socially sustainable,*
- (b) to ensure development is consistent with the desired character of Pittwater's localities,*
- (c) to support a range of mixed-use centres that adequately provide for the needs of the Pittwater community,*
- (d) to retain and enhance land used for employment purposes that is needed to meet the economic and employment needs of the community both now and in the future,*
- (e) to improve access throughout Pittwater, facilitate the use of public transport and encourage walking and cycling,*
- (f) to encourage a range of housing in appropriate locations that provides for the needs of the community both now and in the future,*
- (g) to protect and enhance Pittwater's natural environment and recreation areas,*
- (h) to conserve Pittwater's European and Aboriginal heritage,*
- (i) to minimise risks to the community in areas subject to environmental hazards including climate change,*
- (j) to protect and promote the health and well-being of current and future residents of Pittwater.*

The proposed dwelling house will be of an appropriate height and scale in the context of the surrounding two storey and part three storey residential development.

There will be no adverse environmental impacts, and the amenity of the adjoining properties will be maintained to an acceptable degree considering the development potential of the subject site for a low density form of residential development in this environmental living zone.

It will maintain compatibility with the general two storey scale and character of the dwelling houses in the locality.

***E4 Environmental Living Zone***

The objectives of zone are:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- To ensure that residential development does not have an adverse effect on those values.*
- To provide for residential development of a low density and scale integrated with the landform and landscape.*
- To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

The proposal will be consistent with the objectives of the zone particularly in relation to maintaining the scale and character of the locality that comprises a diverse mix of dwelling houses in terms of their height, size and design.

It will also maintain the amenity of adjoining properties in terms of views, privacy and sunlight access.

The proposal will not affect the scenic quality of the area, the landscape quality of the site and the foreshore and will therefore be consistent with the above zone objectives.

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

*(1) The objectives of this clause are as follows:*

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (c) to minimise any overshadowing of neighbouring properties,*
- (d) to allow for the reasonable sharing of views,*
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

*(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The land is located in area 'I' on the height of buildings map and is subject to a maximum height of 8.5m.

Clause 4.3(2D) is a discretionary standard that permits a building subject to an 8.5m maximum building height to exceed 8.5m, but not be more than 10.0m in height, subject to certain criteria (a) to (d) being met.

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

*(2D) Despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map 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*
- (b) the objectives of this clause are achieved, and*
- (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and*
- (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 height of the building will be 7.76m in height on the south east corner at RL44.01 above the corresponding existing ground level at RL36.25 and is



therefore less than 8.5m in height. On the north east corner of the roof of the new house it will be 9.91m in height at RL44.01 above the existing ground level under that corner of the roof, at RL34.10 and therefore complies with the 10m maximum height standard of Clause 4.3(2D) of the LEP.

Council can be satisfied that the breach of the 8.5m height of buildings standard is minor and only occurs on the north eastern corner of the roof, where the ground level is lowest and slopes down and away to the north east corner of the site.

The objectives of the height of building standard are met as outlined as follows:

*(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*

The new house will be compatible with the prevailing height and scale of surrounding development and therefore consistent with the desired character of the locality, which envisages two storey dwelling houses, with wide setbacks to boundaries and nestled into the dense landscaping of the slope.

Also, in this case the desired character is defined by the envelope restriction on the title, and the proposal will be consistent with the envelope restriction and number of levels permitted in the 3 areas.

*(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

The height and two storey form and scale of the house will be compatible with the prevailing two storey height and scale of surrounding development.

*(c) to minimise any overshadowing of neighbouring properties,*

Overshadowing is minimised by the wide setbacks to the south and considering that the proposed dwelling houses will have a lower position on its site compared to the higher elevation of the adjoining house to the south at 3 Beach Road. The wide side setback and number of levels proposed will be consistent with the envelope restriction. The north east corner of the building and roof that exceeds 8.5m in height but is less than 10m in height does not cause any overshadowing of the adjoining property to the south.

*(d) to allow for the reasonable sharing of views,*

The north east corner of the building and roof that exceeds 8.5m in height, but is less than 10m in height and will not impact on views from the adjoining dwelling houses to the north at 5, 7 and 9 Beach Road.

As previously outlined in the introduction to this statement, a view analysis was carried out on 30 September 2024 from the new house at 3 Beach Road, the adjoining Lot 1 in DP1022509. With the kind permission of the owners of 3 Beach Road an assessment was made of the existing views from various locations within the house. Survey pegs depicting the south east corners of the initial design for the house and the eastern most corners of the envelope restriction and entitlement area were provided by the surveyor, as well as telescopic height poles depicting the height of the building on the corners. Photographs were taken to

assist in understanding the existing views and outlook over the presently vacant site.

Whilst there will be a minor impact on the views or the adjoining house to the south at 3 Beach Road, the view sharing achieved is considered to be reasonable and the moderate impact on part of the headland, Bungan Head is acceptable. A detailed assessment of view sharing is provided in Section 5.3 of this statement in the analysis of Section C1.3- View sharing of the DCP.

Positioning the new house back from the south eastern corner of the H3 building envelope entitlement area, will retain the beach and most of the headland and the rock platform at the base on Bungan Head from the main living areas of the house at 3 Beach Road.

*(e) to encourage buildings that are designed to respond sensitively to the natural topography,*

The building will have a stepped form and appearance in response to the slope of the land from west to east and to north east.

*(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

The proposal will maintain a number of existing native trees on the site and includes a landscape design that includes mostly native landscaping including medium sized native trees and shrubs suited to this exposed beach side, coastal environment. The new house will have a subtle presence on the slope in the context of the adjoining dwelling houses and the line of houses upslope at the rear, western side of the site fronting Barrenjoey Road.

There are no heritage conservation areas or heritage items in the vicinity of the site.

The building footprint is situated on a slope of 15° to 17°.

#### **Clause 4.4 Floor space ratio**

The site is not identified as being subject to a floor space ratio standard.

#### **Clause 4.6 Exceptions to development standards**

Whilst the proposal will exceed the 8.5m height of buildings standard of Clause 4.3(2) of the LEP, an exception to a development standard is not required because the proposal will comply with the discretionary development standard of Clause 4.3(2D) of the LEP that permits a building subject to an 8.5m maximum building height to exceed 8.5m, but not be more than 10.0m in height, subject to certain criteria (a) to (d) being met.

#### **Clause 5.9 Preservation of trees or vegetation**

*(1) The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and vegetation.*

The proposal will not result in the loss of any substantial vegetation or trees on the site, except for those trees within the building footprint envelope area on the title.

#### **Clause 7.1 Acid sulfate soils**

*(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.*

The site is located in a Class 5 acid sulfate soil area. The proposal does not involve works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m Australian Height Datum and by which the water table is likely to be lowered below 1m Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

The proposal is therefore not likely to involve the disturbance or potential exposure of Acid Sulfate Soils.

#### **Clause 7.5 Coastal risk planning**

*(1) The objectives of this clause are as follows:*

- (a) to avoid significant adverse impacts from coastal hazards,*
- (b) to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards,*
- (c) to enable the evacuation of land identified as coastal risk in an emergency,*
- (d) to avoid development that increases the severity of coastal hazards.*

The site is shown on the Coastal Hazard Area Map of the LEP coloured brown in area 'R' – Bluff/Cliff instability area.

The proposal will be consistent with the above objectives.

#### **Clause 7.6 Biodiversity**

*(1) The objective of this clause is to maintain terrestrial, riparian and aquatic biodiversity by:*

- (a) protecting native fauna and flora, and*
- (b) protecting the ecological processes necessary for their continued existence, and*
- (c) encouraging the conservation and recovery of native fauna and flora and their habitats.*

The proposal will be consistent with the objectives and will not affect existing flora and fauna or ecological processes along the foreshore.

#### **Clause 7.7 Geotechnical hazards**

*(1) The objectives of this clause are to ensure that development on land susceptible to geotechnical hazards:*

- (a) matches the underlying geotechnical conditions of the land, and*
- (b) is restricted on unsuitable land, and*

*(c) does not endanger life or property.*

*(2) This clause applies to land identified as "Geotechnical Hazard H1" and "Geotechnical Hazard H2" on the Geotechnical Hazard Map.*

*(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks—*

- (a) site layout, including access,*
- (b) the development's design and construction methods,*
- (c) the amount of cut and fill that will be required for the development,*
- (d) waste water management, stormwater and drainage across the land,*
- (e) the geotechnical constraints of the site,*
- (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

*(4) Development consent must not be granted to development on land to which this clause applies unless—*

*(a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and*

*(b) the consent authority is satisfied that—*

*(i) the development is designed, sited and will be managed to avoid any geotechnical risk or significant adverse impact on the development and the land surrounding the development, or*

*(ii) if that risk or impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that risk or impact, or*

*(iii) if that risk or impact cannot be minimised—the development will be managed to mitigate that risk or impact.*

The site is located in area 'W' on the Geotechnical Hazard Map, identified as 'Geotechnical Hazard H1'.

A Geotechnical Assessment Report prepared by ASCENTGEO Geotechnical Consulting dated 25 August 2025 is submitted with the development application. The report provides an assessment of the geological conditions on the site and the area and

The report indicates a maximum excavation depth of 2.5m to 3.0m in depth at the back of the guest/gym room on the middle floor and at the back of the lower floor for the rainwater storage tank and the pool equipment store.

Four hand auger borehole tests within the footprint of the proposed house and pool and eight Dynamic Cone Penetrometer (DCP) tests were carried out to investigate the subsurface geology, depth to bedrock and identification of ground water conditions. Refer to the Site Plan at Appendix B of the report. The report also makes recommendations in relation to excavation method and vibration monitoring.

The proposed earthworks are ancillary to the proposed development of the land for a new dwelling house, which is a permitted use in the zone with development consent. The proposed excavation and earthworks will not be inconsistent or conflict with any of the objectives of this clause. The development is designed to suit the geotechnical conditions of the land, the land is suitable for development of a dwelling house as proposed and there is no likely or potential risk to life and property. Council can also be satisfied in terms of the matters for consideration in Clause 7.7(3) and (4) of the LEP.

**Clause 7.8 Limited development on foreshore area**

*(1) The objectives of this clause are as follows—*

- (a) to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,*
- (b) to ensure continuous public access along the foreshore area and to the waterway.*

*(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes—*

- (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,*
- (b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

*(3) Development consent must not be granted under this clause unless the consent authority is satisfied that—*

- (a) the development will contribute to achieving the objectives for the zone in which the land is located, and*
- (b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- (c) the development will not cause environmental harm such as—*
  - (i) pollution or siltation of the waterway, or*
  - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
  - (iii) an adverse effect on drainage patterns, or*
  - (iv) the removal or disturbance of remnant riparian vegetation, and*

- (d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- (e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- (f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- (g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic*

*appearance of the foreshore, and  
(h) sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change, have been considered.*

*(4) In deciding whether to grant consent for development in the foreshore area, the consent authority must consider whether and to what extent the development would encourage the following—*

- (a) continuous public access to and along the foreshore through or adjacent to the proposed development,*
- (b) public access to link with existing or proposed open space,*
- (c) public access to be secured by appropriate covenants, agreements or other instruments registered on the title to land,*
- (d) public access to be located above mean high water mark,*
- (e) the reinforcing of the foreshore character and respect for existing environmental conditions.*

The site is located in the foreshore area and is subject to a foreshore building line that runs close to and parallel to the rear eastern boundary on the lowest part of the site.



Figure 4: Extract from the Pittwater LEP Foreshore Building Line Map.

The proposal does not involve any works beyond the foreshore building line or within the foreshore area.

## 5.2 Proposed Environmental Planning Instruments

### ***Draft Northern Beaches Local Environmental Plan***

Northern Beaches Council recently resolved at its meeting on 17 June 2024 to endorse a Planning Proposal - Northern Beaches Local Environmental Plan, for submission to the Department of Planning and Public Spaces for a Gateway Determination.

The Planning Proposal has been submitted to the Department of Planning and Public Spaces for a Gateway Determination which is yet to be determined and the planning proposal does not, as yet, have any status as an exhibited draft EPI.

## **5.3 Development Control Plans**

### ***Pittwater 21 Development Control Plan (the P21DCP)***

The following provisions of the P21DCP are relevant to the proposal.

#### ***Section C - Development Type Controls.***

#### ***Section C1 - Design Criteria for Residential Development***

##### ***C1.1 – Landscaping***

The proposal will be consistent with the outcomes for landscaping and will maintain a number of existing native trees on the site that are outside the building envelope restriction area. It also involves the removal of the various weeds on the site and comprehensive re landscaping proposal at the front and rear of the site and internal courtyard area on the north side of the middle level.

An Arboricultural assessment and report is not required because an assessment was carried out as part of the previous subdivision approval and it is envisaged by the envelope restriction area on the title that the existing trees within that area (the approved building footprint) will be removed and the existing trees outside the envelope restriction area will be retained where possible where the proposed house is outside the Critical Root Zone (CRZ) of the trees. The significant native trees on the site that are to be retained will be provided with protective barriers and mulching in accordance with arboricultural standards and best practice.

Landscaping of the site is proposed at the front and rear of the house the side setbacks and side courtyard and a comprehensive and detailed landscape design Drawing reference No. DA1, DA2 and DA3, prepared by Nature Vision Landscapes, dated August 2025 is submitted with the development application.

##### ***C1.2 Safety and Security***

There will be a secure entry to the site at the front on the north side to the entry deck and on the south side through the service court.

The proposal will not alter the safety and security of residents to and from the site and will be consistent with the principles for Crime Prevention through Environmental Design.

##### ***C1.3 View Sharing***

The position and number of levels for the proposed house on the is set by the envelope restriction on the title and shown on the drawings.

There are presently limited views from the properties behind the site at 196, 198 and 200 Barrenjoey Road, due to the height and dense canopy of the vegetation



on the subject site. The proposal does not maximise the envelope restriction and provides only one level of living withing the envelope area H2 on the title above the garage level. This allow for views over the house and the roof from properties above and behind the site in Barrenjoey Road to be retained as the new house and the roof will sit largely within the tree canopy on the existing vacant lot. The following assessment of views and views sharing has been carried with the benefit of photographs sourced from realestate.com forming part of the marketing material for the adjoining and adjacent properties and a more detail assessment from the adjoining house at 3 Beach Road conducted by the design architect Matt Elkan, with the permission owners of the property.



View Photo 1: View from the upper level sunroom of the house at 196 Barrenjoey Road showing the approximate eastern end of the roof of the proposed house at RL44.01 shown by an orange line. The adjoining glass balustrade on the north side of 3 Beach Road, used as a datum, is at RL43.34. Sourced from realestate.com May 2017.



View Photo 2: View from the upper-level living room and dining room of the house at 198 Barrenjoey Road. Sourced from realestate.com August 2020.

The house at 200 Barrenjoey Road is positioned to the north west in relationship to the subject site. It is anticipated that the proposal will maintain a wide view corridor in a downward direction through the 3m setback on the north side of the proposed house and the existing water views, partly obscured by the tree canopy of the subject site, are likely to be retained.

As can be seen from the photographs there will be no adverse impact on water and beach views from the various levels of the house at 3 Beach Road, and only a minor impact on the side view, district view to the north from the living room and upper floor study.

Existing views are essentially retained on the eastern side of pole H3.



View Photo 3: View from the living room terrace showing pole H3.





View Photo 4: Figure Living room taken from near the dining table. Pole H3 is visible to the right of the lamp.



View Photo 5: Figure Showing the pole with eave overhang viewed from the living and dining room.



View Photo 6: View from living room terrace of the SE corner of the proposed upper floor Study with eave.

The analysis confirms that the proposal will involve a minor to moderate but acceptable impact on the existing view from 3 Beach Road over the rear half of the presently vacant lot, the view sharing achieved is reasonable.

#### **C 1.4 Solar Access**

*The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.*

*Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).*

*Solar collectors for hot water or electricity shall receive at least 6 hours of sunshine between 8.00am and 4.00pm during mid winter.*

Shadow diagrams have been prepared for 9am, 12 noon and 3pm on 21 June in plan and are submitted with the development application.

The analysis confirms the proposal will involve a minor increase in overshadowing at 9am and 12 noon on the shortest winter day and the proposal will still maintain 3 hours of sunlight to the main private open space areas and principal living room windows in accordance with the solar access criteria of the DCP.

***C1.5 Visual Privacy******C1.6 Acoustic Privacy***

There are no installations proposed that would give rise to potential acoustic privacy impacts.

There are a number of windows in the southern wall of the house which are high level windows to the upper part of the wall of Bedroom 2 and the stair on the living level and to Bedroom 3 and the stair on the upper level bedroom level. The majority of windows are oriented to the north to maximise sunlight access and to the east to the views of the beach and the ocean.

Visual privacy and amenity of the adjoining house at 3 Beach Road will be maintained to an acceptable degree, considering the site is presently vacant and the new house has been designed to maximise the north aspect and easterly views.

***C1.8 Dual Occupancy Specific Controls***

This section is not applicable to the proposal.

***C1.9 Adaptable Housing and Accessibility***

This section is not applicable to the proposal.

***C1.10 Building Facades***

The building façade outcomes and controls relate to the aesthetics of building facades when viewed from public places such as the street.

The house will not be visible from the street because it does not have a street frontage or presence and is only accessible and visible from the right of carriageway, driveway of the battle axe allotment. Notwithstanding, the single storey facade of the front of the house is acceptable and provides an identifiable entrance to the house and the staggered alignment of the garages and the combination of a sloping metal roof and flat metal roof provide an interesting front façade

***C1.11 Secondary Dwellings and Rural Workers Dwellings***

This section is not applicable to the proposal.

***C1.12 Waste and Recycling Facilities***

The location of the waste and recycling facilities will be consistent with the outcomes of the DCP being located in the service court on the south side of the garage.

***C1.13 Pollution Control***

This section is not applicable to the proposal.

***C1.14 Separately Accessible Structures***

This section is not applicable to the proposal.

***C1.15 Storage Facilities***

This section is not applicable to dwelling houses.

***C1.16 Development Ancillary to Residential Accommodation – Tennis courts.***

This proposal does not include a tennis court.

***C1.17 Swimming Pool Safety***

This proposal includes a rectangular shaped inground swimming pool and a spa at the rear, eastern part of the site below the house.

The swimming pool will be located at the rear of the house a few steps down from the Lower Floor level at RL 34.9 to the pool terrace at RL33.8 and a few more steps up to the pool and spa at RL34.2.

It will comply with the Swimming Pools Act 1992 and related Australian Standard AS1926.1 2007 Swimming Pool Safety Part 1.

***C1.18 Car/Vehicle/Boat Wash Bays***

This section is not applicable to a dwelling house.

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

This section is not applicable as the proposal does not involve an inclinor or a stairway below the house.

***C1.20 Undergrounding of Utility Services***

This section is not applicable to a dwelling house.

***C1.21 Seniors Housing***

This section is not applicable to the proposal for a single dwelling house.

***C1.23 Eaves***

Eave overhangs having a minimum width of 450mm are provided on the sides of the house and the front and rear for solar control and shading.

***C1.24 Public Road Reserve – Landscaping and Infrastructure***

This section applies primarily to the provision of street tree planting and landscaping of the road reserve. The site does not adjoin a road reserve and there is no tree planting or landscaping proposed in the adjoining foreshore reserve, below the site.

***C1.25 Plant, Equipment Boxes –Landscaping and Infrastructure***

The proposal does not involve the installation of any plant or equipment boxes including AC condenser units on the outside of the building.

The swimming pool equipment will be housed in a small plant room under the house on the lower level.

***Section D - Locality Specific Development Controls******D10 Newport Locality******D10.3 Scenic Protection.***

The visual impact of the development is acceptable as demonstrated in the photomontages submitted with the application.

***D10.4 Building colours and materials***

The proposal includes natural colours and finishes including mid-coloured face brickwork and mid-coloured FC clad lightweight walls. Aluminum windows and external doors are proposed to complement the colours of the house, timber batten screens and light coloured metal roofing that will complement the visual character of the townscape.

***D10.7 Front building line***

There is no front building line because the site does not have a direct street frontage but rather has frontage to the access handle and right of carriageway on the western side of the main body of the site.

***D10.8 Side and rear building line***

A side setback of 2.5m applies to one side boundary and a 1.0m setback applies to the other side boundary. Minor encroachments of eaves overhangs are permitted in the side setback.

There are no structures proposed within the 6.5m minimum rear setback of beyond the foreshore building line that traverses the lower part of the site.

***D10.11 Building envelope***

A building envelope normally applies measured from a point 3.5m above the side boundary at any point and projected at 45° to 8.5m (10m as per Clause 4.3(2D) of the LEP, which is the maximum building height.

In this case, as previously outlined, the site is subject to a specific building envelope restriction on the title which was formulated as part of the subdivision to create Lot 1 and Lot 2 in DP.1022509.

The proposal will be largely compliant with the DCP building envelope control as well as the specific building envelope restriction on the title.



The proposed southern wall of the house the easterly projection of the house is setback from the eastern extent of the splayed footprint on that corner.

### ***10.13 Landscaped area – Environmentally Sensitive Land***

A minimum landscaped area of 60% of the site area is required in the E4 Environmental Living zone.

The proposed landscaped area has been calculated to be 60% to 63% of the site and therefore complies as shown on Drawing DA11.

## **5.4 Planning Agreements**

There is no planning agreement of a kind referred to in Section 7.4 of the Environmental Planning and Assessment Act, applicable to the subject development application.

## **5.5 Environmental Planning & Assessment Regulation 2000**

The site is presently vacant land and there are no matters prescribed by the Environmental Planning & Assessment Regulation 2021 that are applicable to the proposed development of the site for a new dwelling house.

## **5.6 The likely environmental, social or economic impacts of the development**

The proposal will not involve an adverse impact on the natural and built environment.

Whilst a number of existing native trees are to be removed from the site this is anticipated by the designated permissible building envelope area formulated for the site and as shown as an entitlement area on the title to the land. There are no visible natural features on the site.

The proposed dwelling house will be located largely within the building envelope entitlement area and is a height and scale that is compatible with the prevailing height and two storey form and appearance when viewed from the adjoining properties and from various vantage points from a distance from Bungan Beach.

It will be acceptable in terms of view sharing and will maintain privacy and will also achieve the solar access criteria of the DCP.

It will not involve any adverse social or economic impacts in the locality.

## **5.7 The suitability of the site for the development.**

The site has a long history of residential use. The use of the land for residential purposes as a dwelling house is an appropriate use of the land consistent with the low density environmental living zoning.

## **5.8 Submissions made in accordance with the Act or Regulations**

The proposal constitutes local development and it will therefore not be necessary for Council to seek comments from any external authorities or approval bodies.

## **5.9 The public interest**

The public interest is considered in terms of compliance and consistency with the relevant planning controls applicable to a proposed development.

The use of the land for residential purposes as a dwelling house is consistent with the objectives for the E4 Environmental Living Zone.

The proposal will be consistent with the objectives and standards of the LEP and Council can be satisfied that the height of the building will be consistent with the matters for consideration in Clause 4.3(2D) of the LEP.

The proposal will also be consistent with the objectives and controls relating to landscaping, view sharing, solar access and privacy of the P21DCP.

The proposed dwelling house has been designed to respond to the site constraints in particular the steep slope of the site from south west to north east. It has also been designed to fit within the envelope restriction area on the title to the land depiction the building footprint and the number of building levels within the three designated areas (H1, H2 and H3) show on DP1022509.

The proposal will maintain the amenity of neighbouring properties in relation to visual and acoustic privacy and solar access to an acceptable degree having regard to the development potential of the site as envisaged by the Northern Beaches Council and Pittwater area planning controls, and the specific building envelope restriction and entitlement applicable to the site. Whilst there will be a moderate but acceptable impact on the existing views from the main living areas of the house at 3 Beach Road, for the reasons previously outlined, the view sharing achieved is reasonable.

In the circumstances, there are no discernible issues relating to the proposal that would be contrary to the public interest.

## **6. Conclusions**

The proposal is for the construction of new three level dwelling house comprising integrated garage with direct access from the existing driveway, right of way at the front western side of the house and a swimming pool and spa and a pool terrace at the rear eastern side of the near the lower floor living and bedroom level.

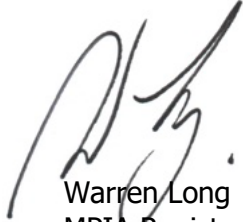
As previously outlined the site is subject to a restriction as to user on the title which includes a building restriction or entitlement area defining the position of any new dwelling on the site and the permitted number of levels in three defined areas (H1, H2 and H3) on the DP. 1022509. The proposal will be largely compliant with the envelope restrictions on the title.

It will be consistent with the objectives and standards for development in E4 Environmental Living Zone of the Pittwater Local Environmental Plan 2014 and the objectives and controls of the Pittwater 21 Development Control Plan,

For these reasons, I support the proposal, and I consider that Council's favourable determination of this development application is warranted.

***Disclosure of political donations and gifts******Environmental Planning and Assessment Act 1979 as amended Section 10.4 –  
Disclosure of political donations and gifts***

I declare that I have made no reportable political donations to a Northern Beaches Councillor and I have provided no gifts of a kind referred to Section 10.4 of the Environmental Planning and Assessment Act to a Northern Beaches Councillor or Council employee in the last 2 years or at any time.



Warren Long  
MPIA Registered Planner  
Principal of Longitude Planning Pty Limited

Dated: 29 August 2025