

**STATEMENT OF  
ENVIRONMENTAL EFFECTS**

Demolition and construction of a new  
dwelling house

**14 Ocean Road  
Palm Beach**



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# **Statement of Environmental Effects**

**Demolition and the construction of a new dwelling house, swimming pool and landscaping**

**14 Ocean Road, Palm Beach**

**Greg Boston**  
B Urb & Reg Plan (UNE) MPIA

**Boston Blyth Fleming Pty Ltd**  
Town Planners  
Suite 1/9 Narabang Way  
Belrose NSW 2085  
Tel: (02) 99862535

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## **TABLE OF CONTENTS**

### **1.0 INTRODUCTION**

### **2.0 SITE DESCRIPTION AND LOCATION**

2.1 The Site

2.2 The Locality

### **3.0 PROPOSED DEVELOPMENT**

### **4.0 STATUTORY PLANNING FRAMEWORK**

4.1 Pittwater Local Environmental Plan 2014

4.1.1 Zone and zone objectives

4.1.2 Height of buildings

4.1.3 Acid Sulphate Soils

4.1.4 Earthworks

4.1.5 Acid Sulphate Spoils

4.1.6 Flood Planning

4.2 Pittwater 21 Development Control Plan

4.2.1 Palm Beach and Bayview Locality

4.2.2 General controls

4.2.3 Development type controls

4.2.4 Locality specific development controls

4.2.5 Compliance table

4.3 State Environmental Planning Policy (Coastal Management) 2018

4.4 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

4.5 Matters for Consideration Pursuant to Section 4.15 of the EP&A Act

**5.0 CONCLUSION**

## 1.0 INTRODUCTION

This document has been prepared in support of a development application proposing the demolition of the existing dwelling house and the construction of a new contemporary dwelling house with integrated car parking accommodation, swimming pool and an enhanced site landscape regime.

The architect has responded to the client brief to provide a site-specific design response which takes advantage of the properties superior locational attributes whilst respecting the environmental characteristics of the site and the amenity of adjoining development. The outcome is a dwelling of exceptional design quality which displays a highly modulated and articulated form consistent with that established by other recently constructed dwelling houses along this section of Ocean Road.

Consideration has also been given to the minutes arising from formal pre-DA discussions with Council (PLM2021/0195) with the final design detailing representing a considered response to the issues raised. In this regard, the accompanying plans incorporate the following design amendments:

- Further articulation of the eastern wall to the lower ground floor of the dwelling house,
- Increased northern and southern side building lines to achieve compliance with the respective side building line requirement with the general exception of retaining walls required for the retention of land,
- A reduction in the extent of the terrace, lower terrace and sunken courtyard to reduce potential overlooking into the adjoining properties at No's. 13 and 15 Ocean Road,
- A reduction in the extent of the breach to the prescribed building envelope on the southern elevation, and
- An increase in landscaped area to achieve compliance with the 60% requirement when including the permitted variations.

This report demonstrates that the proposed development provides for a contextually appropriate built form outcome on this particular site which will not give rise to any inappropriate or jarring streetscape or residential amenity consequences. The development has been designed to step down the site in response to topography and utilises natural materials, tones and colours ensuring the development will blend into the vegetated escarpment which forms a backdrop to the site.

In the preparation of this document consideration has been given to the following statutory planning considerations:

- The Environmental Planning and Assessment Act, 1979 as amended (the Act).
- Pittwater Local Environmental Plan 2014 (the LEP).
- Pittwater 21 Development Control Plan (the DCP).
- State Environmental Planning Policy (Coastal Management) 2018
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

This application is accompanied by Architectural drawings including a site analysis, floor plans, elevations and shadow diagrams, a boundary survey, landscape plan, Coastline Risk Management Report, Geotechnical Investigation and Stability Assessment, building services report, waste management plan, arborist report, concept drainage plans, construction management plan, schedule of finishes, BASIX certificate and montage image.

This report demonstrates that the proposed new dwelling and ancillary structures are permissible with consent and consistent with the legislative framework as it relates to this form of development on this particular site. The accompanying Coastline Risk Management Report confirms that the dwelling has been designed to be safe from coastal hazards.

The identified non-compliance with the side setback, building envelope and landscape area controls have been acknowledged and appropriately justified having regard to the associated objectives. Such variations succeed pursuant to section 4.15 of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.

The proposal succeeds when assessed against the Heads of Consideration pursuant to 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document, succeeds on merit and is appropriate for the granting of consent.

## 2.0 SITE DESCRIPTION AND LOCATION

### 2.1 The Site

The subject site is legally described as Lot 1, DP 412086, No. 14 Ocean Road, Palm Beach. The site is irregular in shape with irregular frontage and address to Ocean Road of 17.735 metres, variable depth of between 36.28 and 40.775 metres, which narrows centrally through the block, and a width along the rear boundary of 20.985 metres. The site has an area of 700.2 m<sup>2</sup> and is relatively steep rising approximately 18 metres across its surface in a westerly direction. The site does not contain any significant trees or vegetation. An aerial location photograph and site survey are at Figures 1 and 2 below and over the page



**Figure 1** - Aerial location photograph

The subject property is occupied by a 2 storey rendered and clad house with metal roof with terracing over a garage accessed via a driveway from the property frontage. The majority of the frontage is hard paved for informal car parking and manoeuvring with 1.5 metre high fencing and access gates delineating the front boundary of the property. A detached cabana structure is located at the rear of the dwelling house with a series of rough stone walls creating terracing at the rear of the property.

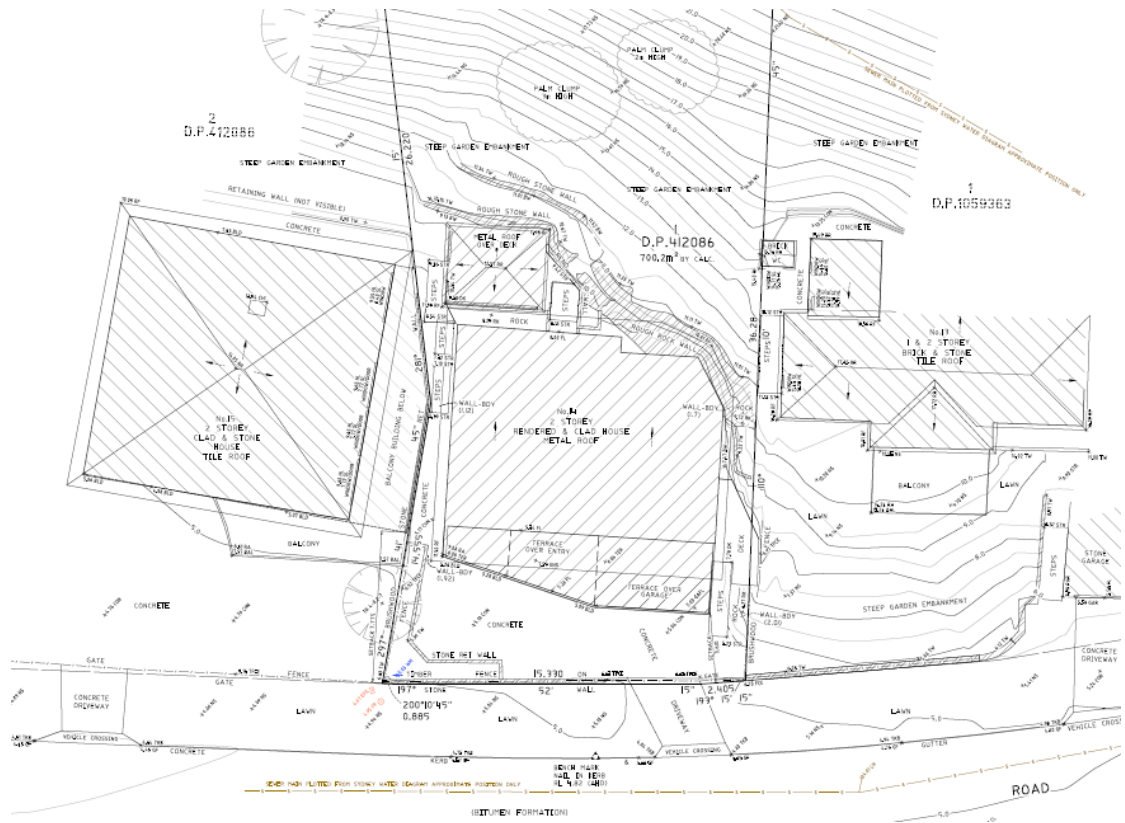


Figure 2 - Site survey



Figure 3 - Subject property and its immediate visual catchment as viewed from Ocean Road



## 2.2 The Locality

The Palm Beach Locality is described in detail at Clause A4.12 of Pittwater 21 DCP as follows:

*Until the early 1900s, the locality remained a tiny settlement of isolated farms and fishermen's cottages. In 1912, land was subdivided and Palm Beach became a popular holiday destination, its popularity increasing with the development of the Palm Beach Golf Course in 1920. The Barrenjoey peninsula remained a popular camping area until it was closed in the 1960s. Residential development and permanent occupation of dwellings increased from the 1960s, although the area still remains a secluded peninsula at the northern point of Pittwater. Barrenjoey Headland at the northernmost point of Pittwater was host to a Customs House from 1843, and Barrenjoey Lighthouse from 1881, which remains today.*

*Since that time, the locality has developed into a predominantly low-density residential area, with dwellings built along the ridges, slopes and lowlands. The locality is characterised mainly by two-storey dwelling houses on 750-1,400 square metre allotments, with allotments of 550-650 square metres (some smaller blocks may exist) adjoining the waterfront to the west. The residential areas are of a diverse style and architecture, a common thread being the landscaped, treed frontages and subdued external finishes. In the vicinity of Ocean Rd, the informal and casual nature of the parking carriageway and pedestrian pathway adds to the relaxed beach character of the locality and should be retained. Medium density housing concentrates around the Palm Beach neighbourhood retail centre on Barrenjoey Road.*

*Residents and visitors are attracted to the Palm Beach Locality by its natural beauty, by the relatively unspoilt nature of the region and by the relaxed seaside atmosphere of the locality. To the west is the Pittwater waterway, to the east the ocean beaches and headlands, with a spur running north south ending in a bluff at the sand isthmus that ties Barrenjoey Headland to the mainland. Here it is an easy walk over the sand dunes from the protected water of Pittwater to the ocean beach. Due to the topography, significant views can be obtained through all points of the compass. Conversely, the slopes and ridge tops of the locality are visually prominent.*

*The locality is serviced by two neighbourhood retail centres at the intersect of Barrenjoey Road and Iluka Avenue, opposite the public wharf, Ocean Road; and the intersection of Whale Beach Road and Surf Road, where the bus service terminates. The public wharf provides a vital link for the Upper Western Foreshore communities, as well as a regular ferry service to these communities and further afield including Patonga and Gosford. The locality also contains Barrenjoey Lighthouse, Palm Beach RSL, Palm Beach SLSC, and recreational facilities including Palm Beach Golf Course, rock baths, beaches, Governor Phillip Park, McKay Reserve and other reserves.*

*Barrenjoey Lighthouse, remnants of Customs House, houses, vegetation, and other structures in the vicinity of Barrenjoey Headland, Barrenjoey Road, Bynya Road, Florida Road, Ocean Road, Northview Road, Palm Beach Road, Pacific Road, Sunrise Road, and beach and waterfront reserves, indicative of early settlement in the locality, have been identified as heritage items. Land in Florida Road, Ocean Road, and Sunrise Road, indicative of early subdivision patterns and built form, have been identified as heritage conservation areas.*

*The Palm Beach locality gives the impression that much of the native vegetation has been retained. Bushland reserves predominate. Native plants proliferate in private gardens. The natural fall of the land has been preserved in most cases with retaining walls and terracing kept to a minimum. A few poor exceptions to this are located at the northern end of Ocean Road. The retention of the natural features and native plants within private gardens should be encouraged, and help to reinforce the natural beauty of the area the main characteristic of the locality.*

*The natural features of the locality result in a high risk of bushfire, landslip, flood, coastal (bluff) hazard, and estuary wave action and tidal inundation.*

*The major roads within the locality are Barrenjoey Road, Florida Road, Ocean Road, and Whale Beach Road. Barrenjoey Road is the primary access road from the south. Several pedestrian links and pathways exist within the locality.*

The property to the south, No. 15 Ocean Road, is occupied by a 2 storey clad and stone dwelling house with pitched and tile roof with integrated garage accommodation and a paved forecourt area with the dwelling to the north, No. 13 Ocean Road, occupied by a 1 and 2 storey brick and stone dwelling house with pitched and tile roof and a single garage accessed from the property frontage.

The properties to the rear of the site are occupied by detached dwelling houses located at a much higher elevation than the subject property with frontage and address to Sunrise Road. The subject property is located immediately opposite Palm Beach.

### 3.0 DEVELOPMENT PROPOSAL

This document has been prepared in support of a development application proposing the demolition of the existing dwelling house and the construction of a new contemporary dwelling house with integrated car parking accommodation, swimming pool and an enhanced site landscape regime. The proposed development is depicted on plans DA.01 to DA.19 prepared by Mathieson. Specifically, the development provides for the following floor plate and design outcomes:

#### Lower Ground/ Garage Level (RL5.05m AHD)

- Formal dwelling entrance
- Integrated garage accommodation for 2 vehicles accessed via a driveway from Ocean Road
- Cellar, bin storage, plant room and laundry
- A 1.2 metre high solid front fence to prevent wave inundation
- Internal stair and lift access to the levels above

#### Ground Level (RL9.75m AHD)

- An open plan kitchen, dining and living room opening onto an east facing terrace
- A swimming pool located over the alignment of the garaging below
- Internal stair and lift access to the levels above and below

#### Level 1 (RL13.28m AHD)

- 4 bedrooms, 2 with ensuites
- Rumpus room opening onto a rear facing courtyard
- Study
- Bathroom
- Internal stair and lift access to the levels above and below

#### Level 2 (RL16.51m AHD)

- The master bedroom with robe and ensuite opening onto an east facing terrace

The development has been designed to step down the site in response to topography and utilises natural materials, tones and colours ensuring the development will blend into the vegetated escarpment which forms a backdrop to the site.

The application proposes the removal of 2 clumps of *Strelitzia Nicholai* at the rear of the property with no other tree removal required. Such tree removal is appropriately compensated for through the implementation of the enhanced site landscape regime as detailed on the accompanying landscape plan prepared by Fifth Season Landscapes with such landscaping including at-grade and on-slab planting treatments to ensure that the dwelling sits within a landscaped setting.

The acceptability the proposed excavation is detailed in the accompanying Geotechnical Investigation and Stability Assessment prepared by JK Geotechnics with all stormwater gravity drained to Ocean Road as detailed on the accompanying stormwater management plan prepared by Intrax.

## **4.0 STATUTORY PLANNING FRAMEWORK**

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

#### **4.1.1 Zone and zone objectives**

The subject property is zoned E4 Environmental Living pursuant to the provisions of Pittwater Local Environmental Plan 2014 ("PLEP 2014"). The stated objectives of the zone are as follows:

- *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.*

Dwelling houses and ancillary structures are permissible in the zone with the consent of the consent authority.

We have formed the considered opinion that the proposed development is consistent with the zone objectives as it provides for a low impact residential use on the site which does not give rise to unacceptable ecological, scientific or aesthetic impacts. The development does not require excessive levels of excavation, integrates with the landform and will sit within a landscaped setting. The existing escarpment vegetation is retained as a component of the enhanced site landscape regime proposed.

Accordingly, there is no statutory impediment to the granting of consent.

#### **4.1.2 Height of buildings**

Pursuant to clause 4.3(2) PLEP 2014 the height of a building on any land is not to exceed 8.5 metres. Clause 4.3(2D) states that 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 stated objectives of such control 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.*

**Building height (or height of building)** means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like

**ground level (existing)** means the existing level of a site at any point.

The leading case authority which considers the definition of “ground level (existing)” is *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 which was followed in the recent decision of *Stamford Property Services Pty Ltd v City of Sydney & Anor* [2015] NSWLEC 1189.

In *Stamford Property Services*, the Court followed the reasoning adopted in *Bettar* and confirmed that “ground level (existing)” must relate to the levels of the site, and not to the building presently located on the site. In this regard the Court preferred the Council’s method to determining the “ground floor (existing)” from which building height should be measured.

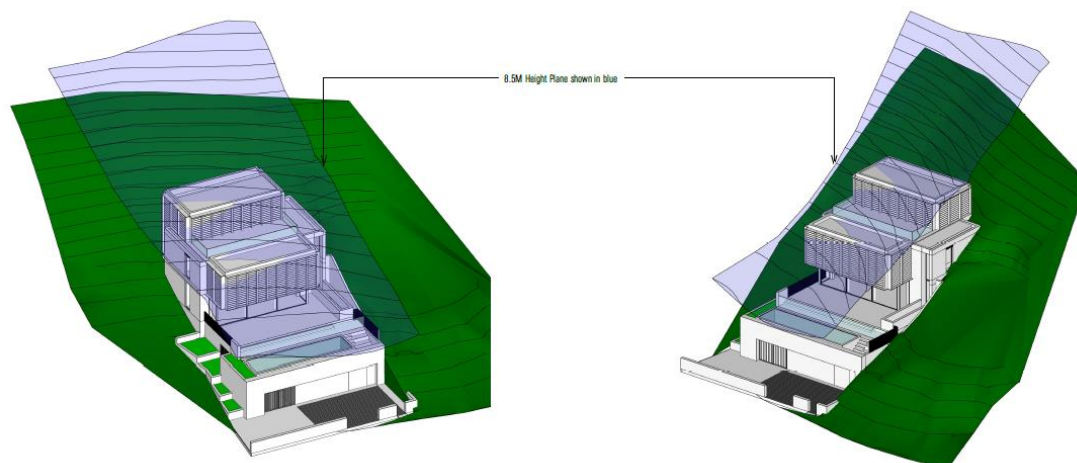
Council’s approach required that the proposed height be measured from the ground level of the site where known and from the footpath level at the site boundaries extrapolated across the site, as this would reflect the sloping topography of the land, consistent with the approach adopted in *Bettar*.

In these proceedings the Court was satisfied that even though there was limited survey information available for the site, there was enough information to determine the “ground level (existing)” for the site based on actual and surveyed levels in the public domain (footpaths) which could be extrapolated across the site. In summary, the Court has confirmed that the definition of “ground level (existing)” from which building height should be measured:

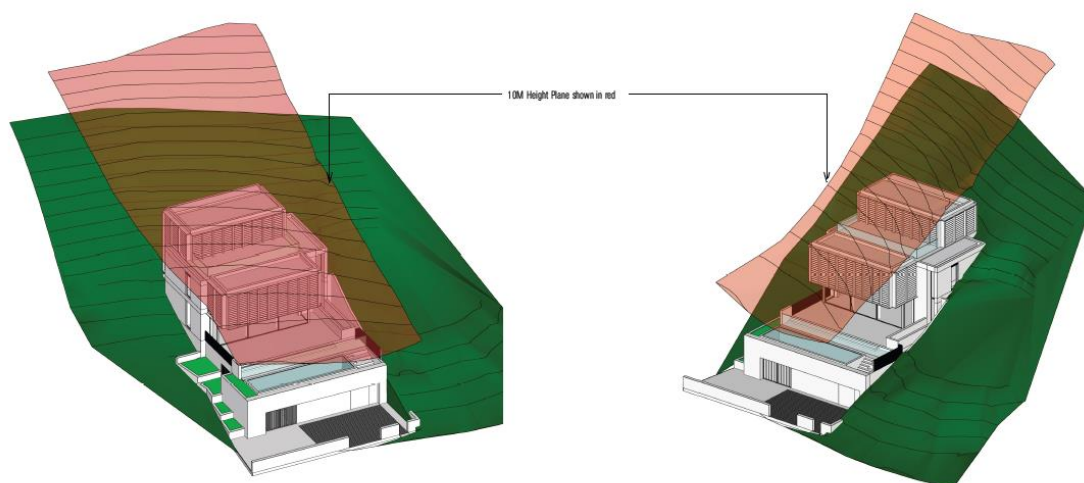
- is not to be based on the floor levels of an existing building located on a site. This includes the entrance steps of an existing building.
- is not to include the basement floor or the soil beneath the basement following construction of the building.
- is to be based on the existing surveyed surface of the ground. For sites where access to the ground surface is restricted by an existing building, natural ground levels should be determined with regard to known boundary levels based on actual and surveyed levels in the public domain (footpaths).

As indicated on plan DA.10(B) the majority of the proposed dwelling sits comfortably below the 8.5 metre height standard with the exception of the south-eastern corner of Levels 1 and 2 which extend to a maximum height of 9.9 metres. Such building height remains below the 10 metre concessional height standard as depicted on plan DA.11(B) with extracts of these plans at Figures 4 and 5 over page.





**Figure 4** – Relationship of dwelling to 8.5 metre height plane



**Figure 5** – Relationship of dwelling to 10 metre concessional height plane

Having regard to the acceptability of the 8.5 metre height breaching elements and the applicable 10 metre concessional height variation considerations we advise as follows:

- (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*

Response: We have formed the considered opinion that the areas of the building in breach of the 8.5 metre height standard remain below the 10 metre concessional height standard and are both quantitatively and qualitatively described as minor. This consideration is satisfied.

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

Response: An assessment against the objectives is as follows:

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

Response: In accordance with the Palm Beach desired future character statement the building has been designed to achieve a 2 storey stepped building form which steps down the site in response to topography consistent with other recently approved and constructed development located along this section of Ocean Road. The resultant height and scale are entirely commensurate with that of development located along this section of Ocean Road and within the Palm Beach Locality generally.

The development strikes a balance between keeping the building low into the site to reduce its visual prominence and excavation with the resultant stepped 2 storey building form and height ensuring the development will sit below the height of surrounding tree canopy level. The contemporary and highly articulated building design incorporates a palette of natural materials and finishes which will enable the development to blend into the vegetated escarpment which forms a backdrop to the site.

Accordingly, Council can be satisfied that the development, by virtue of its height and scale, is consistent with the desired future character of the Church Point and Bayview Locality.

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

Response: As depicted in Figure 6 over page, and the northern and southern elevations, the height and scale of the building is entirely complimentary and compatible with that established by both immediately adjoining properties and development generally within the site's visual catchment.



**Figure 6** – Photomontage demonstrating that the proposed dwelling will be compatible with the height and scale of surrounding and nearby development

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

Response: The accompanying shadow diagrams demonstrate that the portion of the development located above the 8.5 metre height standard will not result in any additional overshadowing to the east facing living room windows of the adjoining property on 21<sup>st</sup> June.

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

Response: having inspected the site and its immediate surrounds to identify potential view corridors across the site we are of the opinion that the proposal, in particular the elements of the development exceeding the 8.5 metre height standard, will not give rise to any adverse public or private view affectation.

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

Response: As previously indicated the building has been designed to maintain a 2 storey stepped building form which responds appropriately to the topography of the site. The resultant height and scale are entirely commensurate with that of development located on the western side of Ocean Road.

The development strikes a balance between keeping the building low into the site to reduce its visual prominence and excavation with the resultant stepped 2 storey building form and height ensuring the development will sit below the height of surrounding tree canopy level. The contemporary and highly articulated building design incorporates a palette of natural materials and finishes which will enable the development to blend into the vegetated escarpment which forms a backdrop to the site.

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

Response: The site is not heritage listed, is not located within vicinity of a heritage item and is not located within a conservation area. Particular attention has been given to ensuring that the development does not require excessive levels of excavation or vegetation removal.

Again, the building has been designed to maintain a 2 storey stepped building form which responds appropriately to the topography of the site. The resultant height and scale are entirely commensurate with that of development located on the western side of Ocean Road.

The contemporary and highly articulated building design incorporates a palette of natural materials and finishes which will enable the development to blend into the vegetated escarpment which forms a backdrop to the site.

Accordingly, Council can be satisfied that the building heights proposed satisfy the objectives of the height of buildings standard as identified.

*(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and*

Response: The building footprint is situated on a slope of approximately 42% when measured along the northern edge of the building footprint and in any event is greater than 30%.

- (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.*

Response: This has been comprehensively demonstrated in response to the previous considerations.

Council can be satisfied that the minor portion of the building which exceeds the 8.5 metre height control satisfies the clause 4.3(2D) PLEP 2014 considerations and accordingly there is no statutory impediment to the granting of consent.

#### **4.1.3 Acid Sulfate Soils**

The subject site is mapped as being Class 5 acid sulfate soils with the LEP. As the proposed works are not within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land no further acid sulfate soil investigation is warranted.

#### **4.1.4 Earthworks**

Pursuant to the clause 7.2 PLEP 2014 provisions we have formed the considered opinion that the proposed excavation will not give rise to any adverse environmental or residential amenity impacts.

In this regard, the application is accompanied by a geotechnical report prepared by Geotechnical Investigation and Stability Assessment prepared by JKGeotechnics which confirms that subject to compliance with the recommendations contained within the report the level of excavation proposed will not give rise to any adverse environmental or residential amenity impacts.

Accordingly, no objection is raised to the imposition of appropriately worded conditions requiring compliance with the recommendations contained within the geotechnical report and Construction Management Plan. Subject to the installation of erosion and sediment controls measures these provisions have been satisfied.

#### **4.1.5 Geotechnical hazards**

In accordance with these provisions the application is accompanied by a geotechnical report prepared by Geotechnical Investigation and Stability Assessment prepared by JKGeotechnics which confirms that subject to compliance with the recommendations contained within the report the level of excavation proposed will not give rise to any adverse environmental or residential amenity impacts.

These provisions are satisfied.

#### **4.1.6 Flood planning**

Pursuant to clause 7.3 PLEP 2014 the site is identified as being affected by tidal inundation and to that extent is at or below the flood planning level. In this regard, the application is accompanied by Coastal Risk Management Report prepared by Horton Coastal Engineering which confirms that the flood mitigation measures incorporated into the dwelling design will ensure that the dwelling house will be safe from flooding hazard namely:

- *A 1.2m high solid front fence, except at the driveway and a pedestrian entry path, to reduce the risk of wave runup and coastal inundation entering the dwelling,*
- *The driveway gate or garage door is to be designed to resist wave forces as advised by a coastal engineer, and*
- *The pedestrian gate is to be designed to resist wave forces as advised by a coastal engineer.*

This report demonstrates that the proposal appropriately managed the risk to property and life with regard to potential flood impacts.

## 4.2 Pittwater 21 Development Control Plan

This policy document came into effect on 1<sup>st</sup> February 2004 and has been amended numerous times since. Pittwater 21 DCP contains development controls for the design and construction of buildings and the development of land in Pittwater. The proposed development has been assessed against the relevant provisions of Pittwater 21 DCP as outlined in the following sections of this report.

### 4.2.1 Palm Beach Locality

The property is located within the Palm Beach and Bayview Locality. The desired future character of the locality is identified as being:

*The Palm Beach locality will remain primarily a low-density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancy dwellings will be located on the lowlands and lower slopes that have less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, community and recreational facilities will serve the community.*

*Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.*

*Future development will maintain a building height limit below the tree canopy and minimise bulk and scale whilst ensuring that future development respects the horizontal massing of the existing built form. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.*

*The design, scale and treatment of future development within the commercial centres will reflect a 'seaside-village' character through building design, signage and landscaping, and will reflect principles of good urban design. Landscaping will be incorporated into building design. Outdoor cafe seating will be encouraged.*

*A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.*

*Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.*

*Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.*

*Palm Beach will remain an important link to the offshore communities.*

In accordance with the Palm Beach desired future character statement the building has been designed to present a 2 storey stepped built form which appropriately responds to the topographical characteristics of the site.

The proposal is however compliant with 10 metre concessional building height for steeply sloping sites which reflects the appropriate scale of the dwelling and will ensure that the building sits down below the level of surrounding tree canopy.

The development strikes a balance between keeping the building low into the site to reduce its visual prominence and excavation with the resultant stepped 2 storey building form and height ensuring the development will sit below the height of surrounding tree canopy level. The contemporary and highly articulated building design incorporates a palette of natural materials and finishes which will enable the development to blend into the vegetated escarpment which forms a backdrop to the site.



The proposal provides for the implementation of an enhanced site landscape regime where the dwelling will sit within a landscaped setting. To that extent the proposed dwelling will not be perceived as inappropriate or jarring in a streetscape or suburban context. The dwelling has been designed to respects the natural features on the site consistent with the desired future character statement for the Palm Beach Locality.

#### **4.2.2 General Controls**

##### **Contaminated Land and Potentially Contaminated Land**

The likelihood of encountering contaminated soils on the subject site is extremely low given the following:

- Council's records indicate that the site has been continuously used for residential purposes.
- The subject site and surrounding properties have not been previously used by any potentially contaminating land uses involving activities that may have posed the threat of contamination, i.e. the properties have not been used for the purposes listed under Table 1 of the contaminated land planning guidelines of SEPP 55.
- The subject site and surrounding land were not previously zoned to allow for any uses or activities listed in Table 1 of the contaminated land planning guidelines of SEPP 55.
- The subject site and surrounding land are not currently zoned to allow for any uses or activities listed in Table 1 of the contaminated land planning guidelines of SEPP 55.
- The subject site does not constitute land declared to be an investigation area by a declaration of force under Division 2 of Part 3 of the Contaminated Land Management Act 1997.

Given the above factors no further investigation as to potential land contamination is warranted. The site is suitable in its present state for the proposed residential development. Therefore, pursuant to the provisions of SEPP 55, Council can consent to the carrying out of development on the land.

### **Preservation of Trees**

The application proposes the removal of 2 clumps of *Strelitzia Nicholai* at the rear of the property with no other tree removal required. Such tree removal is appropriately compensated for through the implementation of the enhanced site landscape regime as detailed on the accompanying landscape plan prepared by Fifth Season Landscapes with such landscaping including at-grade and on-slab planting treatments to ensure that the dwelling sits within a landscaped setting.

### **Stormwater Management**

All stormwater will be collected and gravity drained to Ocean Road as detailed on the accompanying stormwater management plan prepared by Intrax.

### **Off-street Vehicular Parking Requirements**

Pursuant to Clause B6.4 a minimum of two (2) parking spaces are to be provided for a single dwelling. The proposal provides formalised off-street parking for 2 vehicles. Additional informal visitor parking is available within the front driveway area with such circumstance highly desirable given the paucity of available on street parking for visitors and the absence of unacceptable streetscape consequences.

### **Site Works Management**

In accordance with Part B8 appropriate measures are to be undertaken to address the issues of construction and demolition impacts, erosion and sedimentation management, waste minimisation, site fencing and security, works in the public domain and traffic management where required.

Normal site management practices will be adopted to prevent public access during demolition and construction of the new building and to prevent erosion and sedimentation. As the majority of works and within the established building footprint and as the site is of adequate size, it is envisaged that all construction materials will be stored on site throughout the demolition and construction processes.

### **4.2.3 Development Type Controls**

#### **Design Criteria for Residential Development**

##### **Landscaping**

Pursuant to clause C1.1 all canopy trees and a majority of other vegetation shall be locally native species. A range of low lying shrubs and canopy trees shall be provided to soften the built form. Development shall provide for the reasonable retention and protection of existing significant trees, especially near property boundaries, and natural features such as rock outcrops.

As previously indicated, no significant trees are proposed to be removed as a consequence of the development. Any necessary site disturbance is compensated for through the implementation of the enhanced site landscape regime proposed as detailed on the plans prepared by Fifth Season Landscapes with such landscaping including at-grade and on-slab planting treatments to ensure that the dwelling sits within a landscaped setting.

The dwelling has been designed to be integrated into the natural landform and respects the natural features on the site consistent with the desired future character statement.

##### **Safety and Security**

In accordance with clause C1.2 building design should allow visitors who approach the front door to be seen without the need to open the door. Buildings and the public domain are to be designed to allow occupants to overlook public places and communal areas to maximise casual surveillance. Building entrances are to be clearly visible from the street, easily identifiable and appropriately lit.

The proposed dwelling has been designed such that the main entrance is well defined and clearly visible from the street with casual surveillance opportunities to the adjacent public domain available from each level of the development.

##### **View Sharing**

Having inspected the subject site and its immediate surrounds to identify potential view corridors across the site where satisfied that the proposed development will not give rise to unacceptable public or private view affectation.

Council can be satisfied that a view sharing outcome is achieved in accordance with the view sharing principles established in the matter of *Tenacity Consulting Pty Ltd v Warringah Council* [2004] NSWLEC140.

### **Solar Access**

The accompanying shadow diagrams demonstrate that the proposed development will not result in any additional overshadowing to the east facing living room window and adjacent private open space balcony of the southern adjoining property on 21<sup>st</sup> June.

### **Visual Privacy**

Pursuant to clause C1.5 private open space, recreation areas and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9m by building layout, landscaping, screening devices or greater spatial separation. Elevated decks, verandas and balconies should incorporate privacy screens where necessary and should, where possible, be located at the front or rear of the building. Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

The development has been carefully designed through detailed site analysis to ensure that appropriate levels of visual privacy are maintained between properties. The appropriate use and location of fenestration and the use of integrated horizontal battened privacy screens ensures that scenic views can be obtained without unreasonably compromising privacy.

The proposal maintains appropriate visual and aural privacy between adjoining development in strict accordance with the control.

### **Private Open Space**

Pursuant to Clause C1.7, a minimum area of 80 square metres is to be provided at ground level with no dimension less than 3 metres. No more than 75% of this private open space is to be provided in the front yard. Within the private open space area, a minimum principal area of 16sq metres with a minimum dimension of 4m and a grade no steeper than 1 in 20.

The open space areas proposed are of compliant size and dimension and will cater for a range of passive and active recreational opportunities with the juxtaposition of such areas affording passive surveillance opportunities from the principle living areas of the dwelling.

It is considered that there are more than adequate private open space areas provided on site to cater for a range of amenity needs including full and partial privacy.

### **Waste and Recycling Facilities**

Clause C1.12 states that all waste and recycling receptacles are to be stored within the property boundaries. These are to be provided at or behind the front, side and rear setback requirements.

The waste receptacles will be stored within the garage area with waste management addressed in the accompanying Waste Management Plan.

### **4.2.4 Locality Specific Development Controls**

#### **Character as Viewed from Public Place**

The three dimensional form of the dwelling house, and its relationship with adjoining development, has been dictated through detailed site and view loss analysis and compliance with the applicable built form controls as reasonably applied to the construction of dwellings on steeply sloping sites within the Palm Beach Locality. Such design response will ensure that the new dwelling house will not be perceived as inappropriate, jarring or antipathetic and will reflect the desired future character of the Locality. The proposal integrates with the natural landform and will sit within a landscaped setting.

#### **Building Colours, Materials and Construction**

The architectural form incorporates a combination of timber and sandstone elements including natural materials, tones and colours ensuring the development will blend into the vegetated escarpment which forms a backdrop to the site.

#### **Front Building Line**

In accordance with clause D12.5, the minimum front building line shall be 6.5 metres or established whichever is the greater. The proposed development has a variable front setback with all proposed building elements, with the exception of the front fencing, compliant with the 6.5 metre front building line control.

#### **Side and Rear Building Line**

Pursuant to clause D12.6 the minimum side building line shall be 2.5m to at least one side and 1.0 metres for the other side.

The desired outcomes of these controls are to reduce the bulk and scale of the built form, maintain equitable view sharing, maintain a reasonable level of privacy, amenity and solar access and the retention and planting of additional landscaping.

The development proposes a minimum setback to the northern boundary, excluding required retaining elements, of 1 metre with the majority of the buildings southern façade, with the exception of a small area of ground floor terrace, compliant with the 2.5 metre setback control. The minor breaching element is more than appropriately compensated for through the provision of setbacks well in excess of those required for the balance of this building façade.

In this regard, whilst the proposed southern setback does not strictly comply with the “deemed to comply” setback control, it certainly satisfies the outcomes associated with the control been to reduce the bulk and scale of the built form, maintain equitable sharing of views, maintain a reasonable level of privacy, amenity and solar access and the retention and planting of additional landscaping.

The dwelling presents a highly articulated built form with no continuous walls presented to the side boundary. The side setbacks proposed facilitate significant landscaping treatments that will soften and screen the built form. The development does not give rise to any adverse impacts to amenity with regard to privacy, overshadowing or view loss.

As such the consent authority must be flexible in applying the setback provisions of the DCP and allow reasonable alternatives that achieve the objectives of the control. The detail of the application clearly demonstrates that the objectives/ outcomes are not defeated by the side boundary setbacks proposed.

Such variations succeed pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of controls/ standards for dealing with that aspect of the development.

The side boundary setbacks proposed respond positively to site circumstance including its geometry and context, provide for an appropriate spatial relationship between adjoining properties and achieves the desired outcomes associated with the setback control.

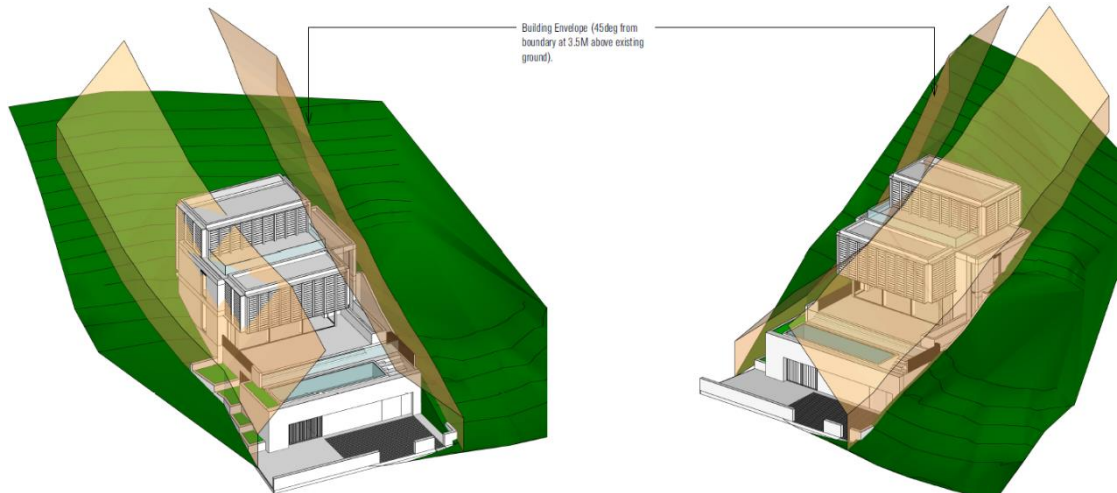
## Building Envelope

Control D12.8 requires all development to be sited within a building envelope, which is determined by projecting planes at 45 degrees from a height of 3.5 metres above natural ground level at the side boundaries or in this case above the FPL/ EPL. The stated outcomes of the control are as follows:

- *To achieve the desired future character of the Locality.*
- *To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*
- *To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*
- *The bulk and scale of the built form is minimised.*
- *Equitable preservation of views and vistas to and/or from public/private places.*
- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.*
- *Vegetation is retained and enhanced to visually reduce the built form.*

We note that roof eaves and gutters are permissible encroaching elements having regard to these provisions.

In this regard, we confirm that the northern façade of the building complies with the building envelope control with the south-eastern corner of Level 1 and 2 breaching the building envelope to varying degrees as depicted in Figure 7 over page.



**Figure 7 - Building envelope breach diagram**

Having regard to the performance of the development when assessed against the objectives of the control we consider strict compliance to be unreasonable and necessary as follows:

- The breaching elements are confined to relatively small areas of building façade and result from a combination of the irregular southern boundary alignment and the topography of the site.
- The breaching elements do not prevent the development from achieving the desired future character of the Palm Beach locality as previously outlined.
- Notwithstanding the breaching elements, the development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.
- Notwithstanding the breach element, the highly articulated and modulated building façades minimise the bulk and scale of development.
- The breaching elements do not give rise to any public or private view affectation.
- The breaching elements do not give rise to any adverse privacy, amenity or unacceptable solar access implications.
- The breaching elements do not compromise the landscape quality of the development.

Given the developments ability to satisfy the objectives of the building envelope control, notwithstanding the minor building envelope breaches proposed, strict compliance has been found to be both unreasonable and unnecessary under the circumstances.



Such variation succeeds pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of controls/ standards for dealing with that aspect of the development.

### **Landscaped Area**

Pursuant to clause D10.13 the total landscaped area on land zoned E4 Environmental Living shall be 60% of the site area. Landscaped area is defined as follows:

*Landscaped area means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.*

The stated outcomes of such control are as follows:

- *Achieve the desired future character of the Locality.*
- *The bulk and scale of the built form is minimised.*
- *A reasonable level of amenity and solar access is provided and maintained.*
- *Vegetation is retained and enhanced to visually reduce the built form.*
- *Conservation of natural vegetation and biodiversity.*
- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*
- *To preserve and enhance the rural and bushland character of the area.*
- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*

The applicable variation provisions state that provided the outcomes of this control are achieved; the following may be permitted on the landscaped proportion of the site:

- *Impervious areas less than 1 metre in width (e.g. pathways and the like);*
- *For single dwellings on land zoned R2 Low Density Residential or E4 Environmental Living, up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios,*

*pathways and uncovered decks no higher than 1m above ground level (existing).*

The application is accompanied by Landscaped Calculation Plan DA.15(C) which demonstrates that the proposal provides for a landscaped area, as defined, of 379 m<sup>2</sup> representing 54% of the site area which includes the 6% allowance for hardscaping within landscaped areas.

Whilst not strictly in accordance with the 60% control, the established landscape outcome on the site is both quantitatively and qualitatively enhanced with the site landscaping contributing to the biodiversity of the local area is detailed on the accompanying landscape plan.

The landscaped area proposed will also ensure the development will sit within a landscaped setting and is consistent with the desired future character of the Palm Beach Locality.

Such variations succeed pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of controls/ standards for dealing with that aspect of the development.

#### 4.2.5 Compliance Table

Site Area 700.2m <sup>2</sup>	Control	Proposed	Compliance
<b>PALM BEACH AND BAYVIEW LOCALITY - BUILT FORM CONTROLS</b>			
<b>Height</b>	8.5/10m for steeply sloping sites	9.9m	Yes
<b>Front Building Line</b>	6.5 metres	Min 6.5 metres	Yes
<b>Side Building Line</b>	Min 2.5m one side and 1.0m other side	Min 1.0 and 2.3m respectively	No Satisfies outcomes
<b>Building Envelope</b>	3.5m at boundary in 45 degrees	Minor breach southern façade	No Satisfies outcomes
<b>Landscaped Area</b>	60%	54%	No Satisfies outcomes
<b>RESIDENTIAL DEVELOPMENT CONTROLS</b>			
<b>Private Open Space</b>	Min 80sqm	Rear landscaped area > 80sqm	Yes
<b>Car parking</b>	Min 2 spaces	2 spaces	Yes

### 4.3 State Environmental Planning Policy (Coastal Management) 2018

The site is identified on the SEPP Coastal Management map as being within the Coastal Environmental Area Map and Coastal Use Area Map.

Clause 13 (1) of the SEPP, coastal environmental area, states the following:

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

The proposed development will have no impact on the natural coastal processes and environment, marine flora and fauna, public access to the beach and is not within the surf zone.

Clause 14 (1) of the SEPP, Coastal Use Area, states the following:

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
  - (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
    - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*

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

The proposed development does not impact on the foreshore processes, access or the amenity of the foreshore area. The dwelling has been demonstrated to be consistent with the desired future character and with the scale of development along the foreshore area.

Clause 15 of the SEPP states:

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

The consent authority can be satisfied that proposed works will not risk coastal hazards on the site or in the local area. This application is accompanied by a geotechnical report which states the risk associated with the development is acceptable. Further, the application is accompanied by Coastal Risk Management Report prepared by Horton Coastal Engineering which confirms that the flood mitigation measures incorporated into the dwelling design will ensure that the dwelling house will be safe from flooding hazard namely:

- *A 1.2m high solid front fence, except at the driveway and a pedestrian entry path, to reduce the risk of wave runup and coastal inundation entering the dwelling,*

- *The driveway gate or garage door is to be designed to resist wave forces as advised by a coastal engineer, and*
- *The pedestrian gate is to be designed to resist wave forces as advised by a coastal engineer.*

This report demonstrates that the proposal appropriately managed the risk to property and life with regard to potential flood impacts.

#### **4.4 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the development and aims to encourage sustainable residential development.

A BASIX certificate accompanies the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

#### **4.5 Matters for Consideration Pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 as amended**

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979(as amended). Guidelines (*in italic*) to help identify the issues to be considered have been prepared by the Department of Urban Affairs and Planning. The relevant issues are:

##### **(i) The provision of any planning instrument**

The proposal is permissible and generally in conformity with the General, Development Type and Locality Specific Controls contained within Pittwater 21 Development Control Plan.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent.

**(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and**

N/A

**(iii) Any development control plan**

N/A

**(iiia) Any Planning Agreement that has been entered into under section 7.4 or any draft planning agreement that a developer has offered to enter into under Section 7.4, and**

N/A

**(iv) The Regulations (to the extent that they prescribe matters for the purposes of this paragraph), and**

N/A

**(v) Any Coastal Zone Management Plan (within the meaning of the Coastal Protection Act 1979)**

N/A

**(b) The likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality,**

N/A

*Context and Setting*

*i. What is the relationship to the region and local context in terms of:*

- *The scenic qualities and features of the landscape*
- *The character and amenity of the locality and streetscape*
- *The scale, bulk, height, mass, form, character, density and design of development in the locality*
- *The previous and existing land uses and activities in the locality*

The proposed works are entirely commensurate with that established by adjoining development and development generally within the site's visual catchment with no adverse residential amenity impacts in terms of views, privacy or overshadowing.

*ii. What are the potential impacts on adjacent properties in terms of:*

- *Relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)*
- *visual and acoustic privacy*

- *views and vistas*
- *edge conditions such as boundary treatments and fencing*

These matters have been discussed in detail earlier in this report. The works have been designed such that potential impacts are minimal and within the scope of the built form controls.

*Access, transport and traffic:*

*Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:*

- *Travel Demand*
- *dependency on motor vehicles*
- *traffic generation and the capacity of the local and arterial road network*
- *public transport availability and use (including freight rail where relevant)*
- *conflicts within and between transport modes*
- *Traffic management schemes*
- *Vehicular parking spaces*

New driveway access and parking arrangements are proposed. The proposal will result in an improved driveway arrangement to ensure the safe access and egress of cars from the site.

*Public Domain*

The proposed development will have no adverse impact on the public domain.

*Utilities*

Existing utility services will continue to service the dwelling house.

*Flora and Fauna*

The application is accompanied by a landscape plan and an arborist report. The proposal will not give rise to any unacceptable flora and fauna impacts.

*Waste Collection*

Normal domestic waste collection applies to the existing dwelling house.



### *Natural hazards*

The subject property is identified as potentially affected by wave inundation and geotechnical hazards. These matters have been addressed in detail in the accompanying expert reports with the proposed development identified as being safe from natural hazards.

### *Economic Impact in the locality*

The proposed development will not have any significant impact on economic factors within the area notwithstanding that it will generate additional employment opportunities through the construction period with respect to the proposed works.

### *Site Design and Internal Design*

*i) Is the development design sensitive to environmental considerations and site attributes including:*

- *size, shape and design of allotments*
- *The proportion of site covered by buildings*
- *the position of buildings*
- *the size (bulk, height, mass), form, appearance and design of buildings*
- *the amount, location, design, use and management of private and communal open space*
- *Landscaping*

These matters have been discussed in detail earlier in this report. The potential impacts are minimal and within the scope of the general principles, desired future character and built form controls.

*ii) How would the development affect the health and safety of the occupants in terms of:*

- *lighting, ventilation and insulation*
- *building fire risk – prevention and suppression*
- *building materials and finishes*
- *a common wall structure and design*
- *access and facilities for the disabled*
- *likely compliance with the Building Code of Australia*

The proposed development will comply with the provisions of the Building Code of Australia as required by Clause 98 of the Environmental Planning and Assessment Regulation 2000. There will be no detrimental effects on the occupants through the building design which will achieve the relevant standards pertaining to health and safety.

### *Construction*

*i) What would be the impacts of construction activities in terms of:  
The environmental planning issues listed above  
Site safety*

The development will be carried out in accordance with the provisions of the Protection of the Environment Operations Act 1997. Normal site safety measures and procedures will ensure that no site safety or environmental impacts will arise during construction.

### ***(c) The suitability of the site for the development***

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development prohibitive*
- *Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*
- *Are utilities and services available to the site adequate for the development*
- *Are the site attributes conducive to development*

The site is located in an established residential area. The adjacent development does not impose any unusual or impossible development constraints. The proposed development will not cause excessive or unmanageable levels of transport demand.

The site being of moderate grade, adequate area, and having no special physical or engineering constraints is suitable for the proposed works.

### ***(d) Any submissions received in accordance with this act or regulations***

It is envisaged that Council will appropriately consider any submissions received during the notification period.

### ***(e) The public interest***

The architect has responded to the client brief to provide for a dwelling of design merit that provides a high level of amenity for the future occupants whilst appropriately addressing the sites setting and maintaining the amenity of the nearby residential properties. The development will provide a quality built form outcome on the site.

It is considered that the public interest is best served in providing certainty in the planning process through encouraging development of good design that satisfies the outcomes and controls contained within the adopted legislative framework. Accordingly, approval of the development would be in the public interest.

## 5.0 CONCLUSION

This report clearly and comprehensively addresses the statutory regime applicable to the application and demonstrates that the proposed development is complimentary and compatible with the desired future character of the Palm Beach Locality. The development is permissible in the zone and in conformity with the desired outcomes contained within Pittwater 21 Development Control Plan as they relate to this form of development on this particular site. The accompanying Coastal Risk Management Report confirms that the dwelling has been designed to be safe from flooding hazards.

The architect has responded to the client brief to provide a site-specific design response which takes advantage of the properties superior locational attributes whilst respecting the environmental characteristics of the site and the amenity of adjoining development. The outcome is a dwelling of exceptional design quality which displays a highly modulated and articulated form consistent with that established by other recently constructed dwelling houses along this section of Ocean Road.

Consideration has also been given to the minutes arising from formal pre-DA discussions with Council (PLM2021/0195) with the final design detailing representing a considered response to the issues raised. In this regard, the accompanying plans incorporate the following design amendments:

- Further articulation of the eastern wall to the lower ground floor of the dwelling house,
- Increased northern and southern side building lines to achieve compliance with the respective side building line requirement with the general exception of retaining walls required for the retention of land,
- A reduction in the extent of the terrace, lower terrace and sunken courtyard to reduce potential overlooking into the adjoining properties at No's. 13 and 15 Ocean Road,
- A reduction in the extent of the breach to the prescribed building envelope on the southern elevation, and
- An increase in landscaped area to achieve compliance with the 60% requirement when including the permitted variations.

This report demonstrates that the proposed development provides for a contextually appropriate built form outcome on this particular site which will not give rise to any inappropriate or jarring streetscape or residential amenity consequences. The development has been designed to step down the site in response to topography and utilises natural materials, tones and colours ensuring the development will blend into the vegetated escarpment which forms a backdrop to the site.

The identified non-compliance with the side setback, building envelope and landscape area controls have been acknowledged and appropriately justified having regard to the associated objectives. Such variations succeed pursuant to section 4.15 of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.

Having given due consideration to the relevant considerations pursuant to 4.15 of the Environmental Planning & Assessment Act 1979 (as amended) it has been demonstrated that the proposed development is appropriate for approval.



Greg Boston  
Director