

STATEMENT OF ENVIRONMENTAL EFFECTS

FOR THE CONSTRUCTION OF A CABANA

LOCATED AT

39B OCEAN ROAD, PALM BEACH

FOR

RUSSELL & CINDY ABOUD



**Prepared
May 2022**

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1.0 Introduction

This Statement of Environmental Effects accompanies architectural plans prepared by Cadence & Co Design on behalf of Russell & Cindy Aboud, DA00 – DA05, Project No. ABO 0518, dated 28 April 2022, detailing the construction of a cabana at **39b Ocean Road, Palm Beach**.

This Statement describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. As a result of this assessment it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

In preparation of this document, consideration has been given to the following:

- *The Environmental Planning and Assessment Act, 1979 as amended*
- *The Environmental Planning and Assessment Regulation 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Pittwater Local Environmental Plan 2014*
- *Pittwater 21 Development Control Plan 2014*

2.0 Property Description

The subject allotment is described as 39B Ocean Road, Palm Beach, being Lot 1 within Deposited Plan 712236 and is zoned C4 Environmental Living under the Pittwater Local Environmental Plan 2014.

The site is identified as Class 5 Acid Sulfate Soils. This matter will be discussed in further detail within this statement.

The land has been identified as 'W Hazard H1' on Council's Geotechnical Hazard Map. A Geotechnical Investigation has been prepared by White Geotechnical Group, Reference No. J4052, dated 18 February 2022. This matter will be discussed in further detail within this statement.

The subject site does not contain any heritage items, nor is it within a conservation area. However, the site is within the vicinity of a number of heritage including Spotted Gums at 38 Florida Road (Item No. 2270345), Spotted Gums and Cabbage Tree Palms at 33-34 and 38 Ocean Road, Hordern Park and Wiltshire Park (Item No. 2270452), amenities at Ocean Beach Reserve (Item No. 2270065) and the Bible Garden at 6A Mitchell Road (Item No. 2270329). The relationship with the nearby heritage items is discussed further within this submission.

The details of the site are outlined in the Survey Plan prepared by CMS Surveyors Pty Limited, Drawing Name 18446A detail Issue 1, dated 9 February 2022.

3.0 Site Description

The irregular shaped site is located with its existing primary driveway and pedestrian frontage from Ocean Road via a right of carriageway driveway access. The site has a secondary access handle shaped frontage to Florida Road to the south.

The land is currently developed with an existing three and four storey rendered brick dwelling with a tile roof. The western portion of the site is occupied by a swimming pool and timber deck.

The land falls steeply to the north, away from Florida Road towards Ocean Road, with a fall of approximately 20.7m over the site's length.

Vehicular and pedestrian access is available via a concrete driveway from the west of the site from Ocean Road.

Stormwater from the site is currently directed to a drainage easement which benefits the site and ultimately discharges to Ocean Road.



Fig 1: Location of Subject Site
(Source: Google Maps)



Fig 2: View of the driveway entry to the subject site from Ocean Road, looking south-west

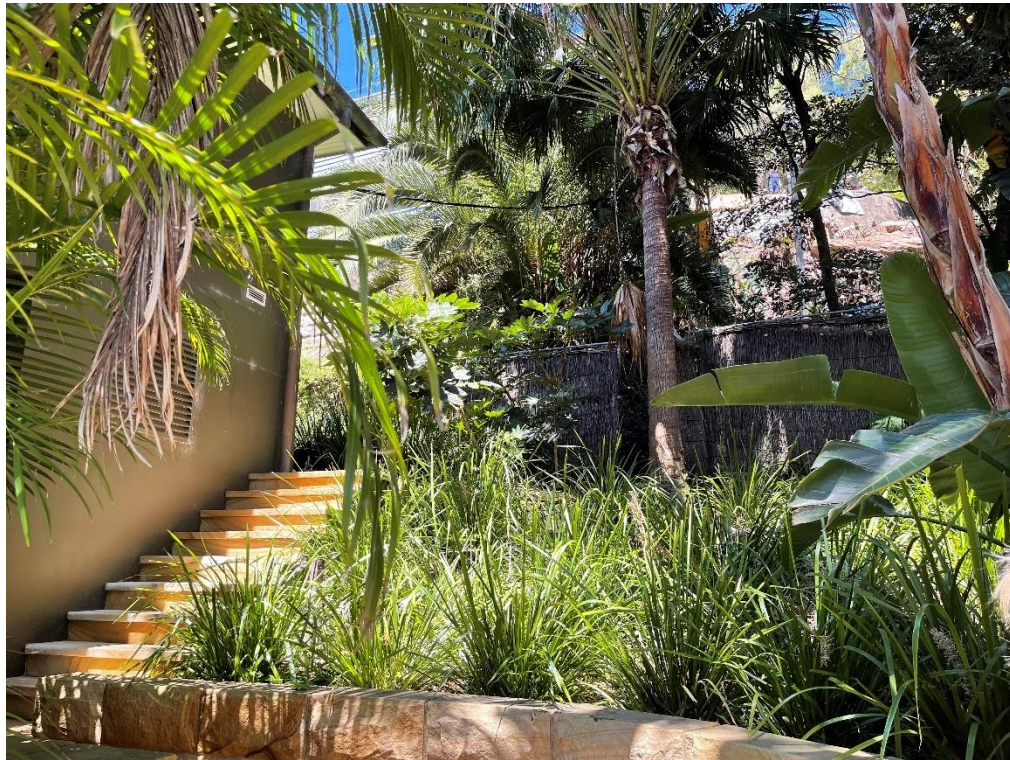


Fig 3: View of the location of the proposed cabana adjacent to the western elevation of the dwelling, looking south-east



Fig 4: View of the location of the proposed cabana, looking south-west



Fig 5: View looking east towards the location of the proposed cabana



Fig 6: View looking west towards the pool and outdoor entertainment area

4.0 The Surrounding Environment

The general vicinity of the site is characterised by two and three storey residential dwellings, of a variety of styles and scales of development.

Properties in this locality enjoy substantial views to the ocean and the Palm Beach locality.

The proposed alterations and additions to provide for a new elevated detached carport, with studio under the carport will not unreasonably restrict views from adjoining properties and adjoining public areas and Palm Beach to the north. It is not uncommon for properties to have parking structures of a similar form due to the steeply sloping topography.



Fig 7: Aerial Photograph
(Source: Google Maps)

5.0 Proposed Development

As detailed within the accompanying plans, the revised proposal seeks to provide for the construction of a cabana and associated works, including stairs.

The proposed new works will comprise the following:

Ground Floor

- Proposed new cabana structure
- Retaining walls
- Pathway and stairs

The external colours and finishes of the new works have been selected to complement the existing development on site, together with the surrounding locality.

The proposed new cabana will present a modest single storey appearance and will not be visible from Florida Road due to the sloping topography of the site and will not dominate the streetscape.

An External Finishes Schedule has been prepared by Cadence and Co-which provides for use of natural earthy materials and tones to blend with the existing site characteristics.

The proposed works will not see the removal of any significant vegetation. An Arboricultural Impact Assessment Report has been prepared by Urban Arbor, under Report Reference No 200526-39b Ocean -AIA, Revision C dated 26 May 2022.

The report addresses ten trees that may be impacted by the development and concludes that two trees will require removal, of which no tree of the higher retention value Category AA is to be removed. The proposed works will see the removal of a Category A tree (Tree #4) which has been noted as a Cabbage Tree Palm (*Livistona australis*) with a Category Z (low retention value) tree – Tree 3 – Kentia Plan (*Howea forsteriana*) also to be removed.

The design of the works has been carried out the cause of the recommendations of the Arborist to ensure that an existing significant Cheese Tree (Tree #9) can be suitably retained. Given the relatively large size of the site, a number of significant trees surrounding the dwelling and at the perimeter of the site will be retained.

A Landscape Design has been prepared by Adam Robinson Design which provides for supplementary planting in the vicinity of the proposed cabana.

Additionally, the location of the cabana has been determined to ensure that the requirements of Sydney Water in relation to their assets have been observed.

The indices for the development are as follows:

Site Area	2097m ²
Required Landscaped Area	60% or 1258.2m ²
Proposed Landscaped Area	57.89% or 1216m ² (excl. 6% allowance)

6.0 Zoning and Development Controls

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

The proposal provides for a cabana, and a BASIX certificate is therefore not required in this instance.

6.2 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 – Coastal management

The subject site is identified as being within the coastal zone and therefore Chapter 2 is applicable to the proposed development.

The stated Aim of the Policy under Clause 2.1 is to:

The aim of this Policy 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, by:

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

The Coastal Management Act 2016 states within **Clause 3**:

The **objects** set out in **Clause 3** of the Coastal Management Act 2016 are:

- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and*
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and*
- (c) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and*
- (d) to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and*
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*
- (f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and*
- (g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and*
- (h) to promote integrated and co-ordinated coastal planning, management and reporting, and*
- (i) to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and*
- (j) to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and*

- (k) to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and*
- (l) to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and*
- (m) to support the objects of the Marine Estate Management Act 2016.*

It is submitted that the assessment detailed under the Statement of Environmental Effects suggests that the proposed development is consistent with the objects of the SEPP (Resilience and Hazards) 2021, as set out in Clause 3 of the Coastal Management Act 2016.

The relevant provisions of this clause are addressed as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) coastal environmental values and natural coastal processes,*
 - (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) Aboriginal cultural heritage, practices and places,*
 - (g) the use of the surf zone.*
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*
- (3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

Comment:

The proposal provides for the construction of a cabana structure. The proposed works will be carried out in accordance with the recommendations of the consulting Structural & Geotechnical Engineer, which will ensure that appropriate structural integrity of the site will be maintained.

The collected stormwater will be directed to the existing easement within the site in keeping with the existing arrangements. The proposed stormwater management system will comply with Council's Water Management Policy.

Sediment and erosion control measures will be carried out to minimise the impact of the works on the waterway.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- (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.*
- (2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

Comment

The proposal will not result in the removal of any existing public access along the foreshore.

The structure is single storey and located sufficiently away from adjacent dwellings which demonstrate that the proposal will not result in any significant overshadowing to the neighbouring properties and the foreshore area.

The proposed new development will not be visible when viewed from Florida Road due to its location and slope of land, and will not result in any loss of views to the foreshore area. By being centrally located and away from adjoining development, the proposal will protect the visual amenity of the locality.

When viewed from the north, looking towards Florida Road, the new building being single storey will compare favourably with the height and scale of the adjacent dwellings which share their primary frontage to Florida Road (No 18 & 26 Florida Road).

The site does not contain any heritage items, nor is it within a conservation area. The site is within the vicinity of a number of heritage items, and will not detract from their significance. The site has been previously cleared, and it is not anticipated that any items of Aboriginal heritage will be encountered.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

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

Comment

The proposal provides for the construction of a cabana. The proposed new works are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment: No coastal management programs have been identified.

2.14 Other development controls not affected

Subject to clause 7, for the avoidance of doubt, nothing in this Part:

- (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or*
- (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.*

Comment: Noted

2.15 Hierarchy of development controls if overlapping

If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency:

- (a) the coastal wetlands and littoral rainforests area,*
- (b) the coastal vulnerability area,*
- (c) the coastal environment area,*
- (d) the coastal use area.*

Comment

Noted

Chapter 4 – Remediation of Land

Chapter 4 of SEPP (Resilience and Hazards) 2021 and in particular Clause 4.6(1) suggests that a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

6.3 Pittwater Local Environmental Plan 2014

Clause 2.2 Zone objectives and Land Use Table

The site is zoned C4 Environmental Living under the provisions of the PLEP 2014.



Fig 8: Extract of Pittwater Local Environmental Plan 2014 Zoning Map

The proposal for the construction of a cabana is considered to be permissible with the consent of Council.

The development of and use of the land for residential purposes within the C4 Environmental Living Zone is consistent with the zone objectives, which are noted as:

- 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.

It is considered that the construction of the cabana will be consistent with the desired future character of the surrounding locality for the following reasons:

- The proposal will be consistent with and complement the existing detached style housing within the locality.
- The proposed development respects the scale and form of other new development in the vicinity and therefore complements the locality.
- The setbacks are compatible with the existing surrounding development.
- The proposal does not have any adverse impact on long distance views for the adjoining dwellings at No's 18 & 26 Florida Road and for the existing dwellings on the southern side of

Florida Road.

Clause 4.3 – Height of Buildings

The new works will see the construction of a new cabana, which measures approximately 4.48m from existing ground level.

Clause 5.10 – Heritage conservation

The subject site does not contain any heritage items, nor is it within a conservation area. However, the site is within the vicinity of a number of heritage including Spotted Gums at 38 Florida Road (Item No. 2270345), Spotted Gums and Cabbage Tree Palms at 33-34 and 38 Ocean Road, Hordern Park and Wiltshire Park (Item No. 2270452), amenities at Ocean Beach Reserve (Item No. 2270065) and the Bible Garden at 6A Mitchell Road (Item No. 2270329).

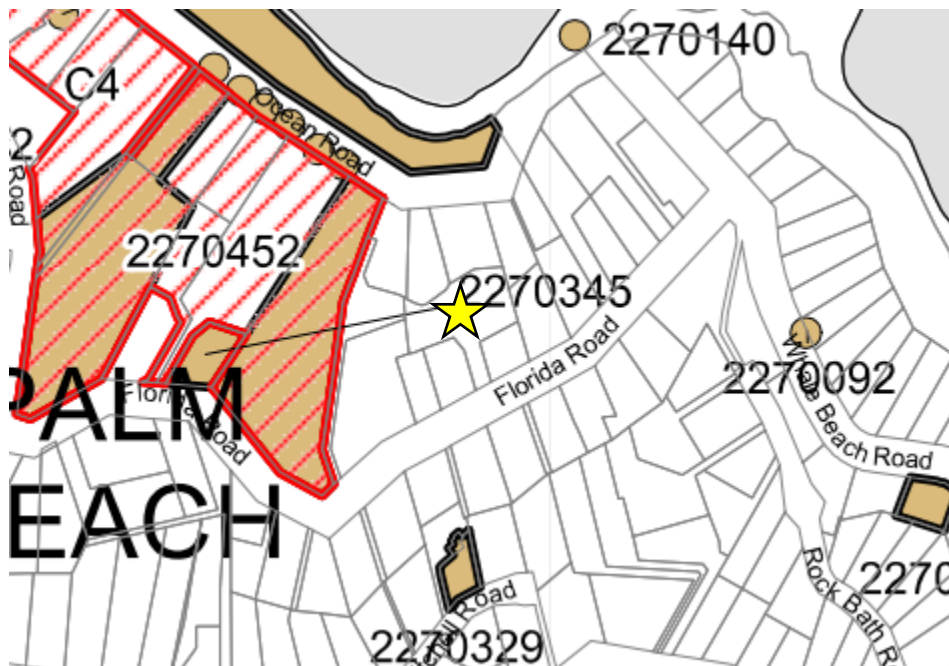


Fig 9: Extract of Pittwater Local Environmental Plan 2014 Heritage Map

It is suggested that the nature of the works, being built predominantly centrally within the site are well removed from the natural and built heritage items, will not present a significant impact to the integrity of the heritage items.

In terms of nearby natural items that are identified as having heritage significance, being the Norfolk Island Pines in the vicinity, the works will not have any direct impact.

Given the subject site's separation from the heritage items, the views to and from the heritage items from the public domain will not be directly impacted by the proposed works nor will the proposed works visually compete with the heritage items in the vicinity.

Clause 7.1 – Acid Sulfate Soils

The site is identified as being within an area affected by Acid Sulfate Soils (Class 5). The proposal will see some minor excavation; however, it is not anticipated that any acid sulfate soils will be disturbed.

Clause 7.2 – Earthworks

The proposal will require minor excavation of the site to accommodate the new works. The works will be carried out in accordance with the recommendations of a qualified structural engineer, and therefore meet the provisions of this clause.

Clause 7.7 Geotechnical Hazards

The land has been identified as 'W Hazard H1' on Council's Geotechnical Hazard Map. Accordingly, a Geotechnical Investigation has been prepared by White Geotechnical Group, Reference No. J4052, dated 18 February 2022. The report concludes the following:

The proposed development is suitable for the site. No geotechnical hazards will be created by the completion of the proposed development provided it is carried out in accordance with the requirements of this report and good engineering and building practice.

The proposal is therefore considered to satisfy the provisions of this clause.

There are no other clauses of the PLEP 2014 that are considered to be relevant to the proposed development.

6.4 Pittwater 21 Development Control Plan

Council's Pittwater 21 DCP and Section D12 Palm Beach Locality Statement provide a range of outcomes and controls which form the primary criteria control for development within the subject locality.

6.4.1 Section A Introduction

A4.12 Palm Beach Locality Desired Character

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.

It is considered that the proposal is consistent with the desired character of the locality by providing for a single storey cabana structure to provide the residents with additional amenity within the site.

The carport will appear as a modest single storey form and will retain access to views of Palm Beach to the north and north east.

The development will be compatible with the scale of development in the area, and with the proposed recessive colours and finishes, will not be visually prominent within the Palm Beach locality.

The works will not see the removal of any major trees or vegetation.

6.4.2 Section B General Controls

The General Controls applicable to the proposed development are summarised as:

B1.2 Heritage Conservation

The controls seek to achieve the outcomes:

Conservation of the environmental heritage of Pittwater LGA in accordance with the principles contained in the Burra Charter.

Enhancement of the identified heritage values and significant character of the heritage conservation areas and encourage contemporary design that responds appropriately to their character.

Development respectful of environmental heritage, undertaken in a manner that is sympathetic to, and does not detract from, any heritage significance.

The subject site does not contain any heritage items, nor is it within a conservation area. However, the site is within the vicinity of a number of heritage including Spotted Gums at 38 Florida Road (Item No. 2270345), Spotted Gums and Cabbage Tree Palms at 33-34 and 38 Ocean Road, Hordern Park and Wiltshire Park (Item No. 2270452), amenities at Ocean Beach Reserve (Item No. 2270065) and the Bible Garden at 6A Mitchell Road (Item No. 2270329).

As it is suggested that the nature of the works, being predominantly centrally within the site are well removed for the natural and built heritage items, will not present a significant impact to the integrity of the heritage items.

In terms of nearby natural items that are identified as having heritage significance, being the Norfolk Island Pines in the vicinity, the works will not have any direct impact.

Given the subject site's separation from the heritage items, the views to and from the heritage items from the public domain will not be directly impacted by the proposed works nor will the proposed works visually compete with the heritage items in the vicinity.

B3.1 Landslip Hazard

The controls seek to achieve the outcomes:

Protection of people. (S)

Protection of the natural environment. (En)

Protection of private and public infrastructure and assets. (S)

The land has been identified as 'W Hazard H1' on Council's Geotechnical Hazard Map. Accordingly, a Geotechnical Investigation has been prepared by White Geotechnical Group, Reference No. J4052, dated 18 February 2022. The report concludes the following:

The proposed development is suitable for the site. No geotechnical hazards will be created by the completion of the proposed development provided it is carried out in accordance with the requirements of this report and good engineering and building practice.

The proposal is therefore considered to satisfy the provisions of this clause.

B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land

The controls seek to achieve the outcomes:

The long-term viability and enhancement of locally native flora and fauna and their habitats. (En)

The proposal will not require the removal of any significant native vegetation, and a generous area of soft landscaping is maintained throughout the site.

A Landscape Plan has been prepared by Adam Robinson Design, Plan No 71.21 LP dated 2 May 2022 which provides for the enhancement of the screen planting to the perimeter of the new structures.

B5.15 Stormwater

The controls seek to achieve the outcomes:

Improve the quality of water discharged to our natural areas to protect and improve the ecological and recreational condition of our beaches, waterways, riparian areas and bushland;

Minimise the risk to public health and safety;

Reduce the risk to life and property from any flooding and groundwater damage;

Integrate Water Sensitive Urban Design measures in new developments to address stormwater and floodplain management issues, maximise liveability and reduce the impacts of climate change.

Mimic natural stormwater flows by minimising impervious areas, reusing rainwater and stormwater and providing treatment measures that replicate the natural water cycle

Reduce the consumption of potable water by encouraging water efficiency, the reuse of water and use of alternative water sources

Protect Council's stormwater drainage assets during development works and to ensure

Council's drainage rights are not compromised by development activities.

The new cabana roof will be connected to existing on site stormwater arrangements. A Stormwater Drainage Plan has been prepared by NB Consulting Engineers, Job No 190313, Drawings DA D101-D06, dated May 22.

The proposed stormwater design provides for an additional 3000 L rainwater tank to supplement an existing 6000L rainwater for on-site detention.

As the stormwater is direct runoff from the roof, there will not be any significant issue in terms of water quality.

B6.1 Access Driveways and Works on the Public Road Reserve – Low Density Residential

This control seeks to achieve the outcomes:

- Safe and convenient access. (S)*
- Adverse visual impact of driveways is reduced. (En)*
- Pedestrian safety. (S)*
- An effective road drainage system. (En, S)*
- Maximise the retention of trees and native vegetation in the road reserve. (En, S)*

The proposal will see the construction of a new cabana with the existing access driveway being retained and vehicular access continuing to be safe and convenient access and will not require the removal of any significant native trees.

B6.2 Internal Driveway

This control seeks to achieve the outcomes:

- Safe and convenient access. (S)*
- Reduce visual impact of driveways. (S)*
- Pedestrian safety. (S)*
- An effective road drainage system. (En, S)*
- Maximise the retention of trees and native vegetation.*
- Reduce contaminate run-off from driveways.*

The proposal will see the construction of a new cabana and will not alter the existing driveway with the driveway crossing and access levels continuing to comply with Council access standards.

B6.3 Off-Street Vehicle Parking Requirements – Low Density Residential

This control seeks to achieve the outcomes:

- Safe and convenient parking. (S)*

The proposal will see no change to the existing off-street parking.

B8.1 Construction & Demolition – Excavation and Landfill

The controls seek to achieve the outcomes:

Site disturbance is minimised. (En)

Excavation, landfill and construction not to have an adverse impact. (En)

Excavation and landfill operations not to cause damage on the development or adjoining property. (S)

The proposal will require some excavation to accommodate the proposed works. The proposed works will be carried out in accordance with the recommendations of the consulting Structural and Geotechnical Engineers, and therefore satisfy the provisions of this clause.

B8.2 Construction and Demolition – Erosion and Sediment Management

The controls seek to achieve the outcomes:

Waterways, coastal areas, watercourses, drainage systems and the public domain are protected from the transportation of sedimentation from development sites. (En)

Reduction of waste throughout all phases of development. (En)

Public safety is ensured. (S)

Protection of the public domain. (S, En)

This clause requires that erosion and sediment controls are installed on site to prevent the migration of sediment to adjoining properties, roads or waterways. Appropriate sediment and erosion control measures will be employed throughout the construction process.

B8.3 Construction and Demolition – Waste Minimisation

The controls seek to achieve the outcomes:

Reduction management of demolition, excavation and construction works is to be minimised by reuse on-site, recycling, or disposal at an appropriate waste facility. (En)

Any demolition material will be removed and recycled off site where possible or taken to an approved waste disposal facility.

6.4.3 Section C Development Type Controls

The Development Controls applicable to the proposed cabana are summarised as:

C1.1 Landscaping

The controls seek to achieve the outcomes:

- A built form softened and complemented by landscaping. (En)*
- Landscaping reflects the scale and form of development. (En)*
- Retention of canopy trees by encouraging the use of pier and beam footings. (En)*
- Development results in retention of existing native vegetation. (En)*
- Landscaping results in the long-term retention of Pittwater's locally native tree canopy. (En)*
- Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species (En)*
- Landscaping enhances habitat and amenity value. (En, S)*
- Landscaping results in reduced risk of landslip. (En, Ec)*
- Landscaping results in low watering requirement. (En)*

The required controls to achieve the outcomes are to ensure that the development will provide for the reasonable retention and protection of the existing significant trees and to provide for locally occurring species within any proposed replanting of the site. Land zoned C4 must provide for 60% soft landscaped area.

The proposal will provide for a soft landscaped area of 52.6% which whilst marginally less than the requirement in the locality, the site will continue to retain a substantial area of planting to support the larger trees and provide for a generous landscaped area.

C1.2 Safety and Security

The controls seek to achieve the outcomes:

- On-going safety and security of the Pittwater community. (S)*
- Opportunities for vandalism are minimised. (S, Ec)*
- Inform applicants of Council's requirements for crime and safety management for new development. (S)*
- Improve community awareness in relation to Crime Prevention through Environmental Design (CPTED), its principle strategies and legislative requirements (S)*
- Identify crime and safety priority areas in Pittwater LGA (S, Ec)*
- Improve community safety and reduce the fear of crime in the Pittwater LGA (S)*
- Develop and sustain partnerships with key stakeholders in the local area who are involved in community safety. (S)*

The works will retain the opportunity for the casual surveillance of persons entering the site and therefore comply with this control.

C1.3 View Sharing

The controls seek to achieve the outcomes:

A reasonable sharing of views from public places and living areas. (S)
Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced. (S)
Canopy trees take priority over views (En, S)

The required controls to achieve the outcomes are to ensure that building sight lines and building positioning and height maintain reasonable view sharing for neighbouring properties. The modest single storey appearance of the new cabana and open nature of the structure will see the retention of views from neighbouring properties and the streetscape.

Views from the public domain will be suitably retained as given the modest height and form of the carport and view corridors will be maintained to the north towards Palm Beach.

C1.4 Solar Access

The controls seek to achieve the outcomes:

Residential development is sited and designed to maximise solar access during mid-winter. (En)
A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En)
Reduce usage and/dependence for artificial lighting. (En)

The required controls to achieve the outcomes are to ensure that private open spaces of the subject and adjoining dwellings maintain a minimum of 3 hours of solar access in mid-winter.

As the subject and neighbouring sites enjoy excellent solar access due to the elevated northerly aspect, the development site and adjoining sites will retain sufficient solar access.

C1.5 Visual Privacy

The controls seek to achieve the outcomes:

Habitable rooms and outdoor living areas of dwellings shall achieve and maintain visual privacy through good design. (S)
A sense of territory and safety is provided for residents. (S)

The required controls to achieve the outcomes are to ensure that the private open space, recreation areas and living rooms within 9m of a development are suitable protected to limit the effects of direct overlooking.

The proposed cabana is located in an area which will have a low frequency of use and accordingly, no adverse privacy impacts are anticipated.

C1.6 Acoustic Privacy

The controls seek to achieve the outcomes:

Noise is substantially contained within each dwelling and noise from any communal or private open space areas are limited. (S)

Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or private open space areas (S)

The required controls to achieve the outcomes are to ensure that noise sensitive living areas and bedrooms are located away from major noise sources.

Given the residential nature of the works, it is suggested that there will not be any significant change to the existing site conditions.

C1.7 Private Open Space

The controls seek to achieve the outcomes:

Dwellings are provided with a private, usable and well-located area of private open space for the use and enjoyment of the occupants. (S)

Private open space is integrated with, and directly accessible from, the living areas of dwellings. (S)

Private open space receives sufficient solar access and privacy (En, S).

The required controls to achieve the outcomes are to ensure that dwellings are provided suitable private open space with an area and at a grade which will facilitate outdoor private recreation.

The proposed works will maintain the extensive areas of existing private open space area within the site.

C 1.12 Waste and Recycling Facilities

The controls seek to achieve the outcomes:

Waste and recycling facilities are accessible and convenient and integrate with the development. (En)

Waste and recycling facilities are located such that they do not adversely impact upon amenity of the adjoining development or natural environment. (En, S)

The required controls to achieve the outcomes are to ensure that adequate area remains for the storage of waste and recyclable materials.

The primary waste storage areas for the dwelling will be unchanged. The site will retain adequate area for the on-site storage of waste and recyclables, with the waste removed by Council contractors via the household garbage service.

6.4.4 Section D Locality Specific Development Controls

The **D12 Palm Beach Locality Statement** contains a number of outcomes for development. The proposal has been assessed in regard to the Locality Statement and is summarised in the following table.

In support of the proposal, it is considered that this proposal is well designed, comprehensive and consistent with the community's vision for development in Pittwater in that it is:

- Proposing a form of development which is compatible with the existing residential character of the area by maintaining an appropriate development scale which is compatible with the vicinity.
- There will be no changes to the existing stormwater management system.
- There will not be any adverse siltation or water pollution impacts on the general drainage system of the area or to local waterways.
- The development will not place additional demands on local infrastructure or on the sewage disposal system for the site.

A summary of the DCP controls for the **D12 Palm Beach Locality** is provided below:

D12.1 Character as Viewed from a Public Place

The control seeks to achieve the outcomes:

To achieve the desired future character of the Locality.

To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment. (En, S, Ec)

To enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment.

The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation. (En, S, Ec)

High quality buildings designed and built for the natural context and any natural hazards. (En, S)

Buildings do not dominate the streetscape and are at 'human scale'.

To preserve and enhance district and local views which reinforce and protect the Pittwater's natural context.

To enhance the bushland vista of Pittwater as the predominant feature of the landscape with built form, including parking structures, being a secondary component.

To ensure that development adjacent to public domain elements such as waterways, streets, parks, bushland reserves and other public open spaces, compliments the landscape character, public use and enjoyment of that land. (En, S)

The required controls to achieve the outcomes are to ensure that the building maintains a compatibility with the locality through appropriate design relief including roof forms textures, materials, the arrangement of windows modulation, spatial separation, landscaping etc.

The proposal will provide for the construction of a new cabana to provide for additional areas of residential amenity and function open space for residents.

The proposal will not be visible from the Florida Road streetscape, with views to be retained for the neighbouring dwellings which are located uphill of the proposal.

The setbacks provided reflect the setbacks of the adjoining properties.

The existing landscape plantings will ensure that the proposed works will be interspersed with the natural landscape setting.

D12.3 Building colours and materials

The controls seek to achieve the outcomes:

Achieve the desired future character of the Locality.

The development enhances the visual quality and identity of the streetscape. (S)

To provide attractive building facades which establish identity and contribute to the streetscape.

To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater.

The colours and materials of the development harmonise with the natural environment. (En, S)

The visual prominence of the development is minimised. (S)

Damage to existing native vegetation and habitat is minimised. (En)

The required controls to achieve the outcomes are to ensure that the external colours and materials shall be dark and earthy tones as indicated within the DCP.

It is considered that the development is appropriate as it is intended to utilise recessive tones and finishes to match the existing dwelling and the surrounding development.

D12.5 Front Building Line

The controls seek to achieve the outcomes:

Achieve the desired future character of the Locality.

Equitable preservation of views and vistas to and/or from public/private places. (S)

The amenity of residential development adjoining a main road is maintained. (S)

Vegetation is retained and enhanced to visually reduce the built form. (En)

Vehicle manoeuvring in a forward direction is facilitated. (S)

To preserve and enhance the rural and bushland character of the locality. (En, S)

To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.

To encourage attractive street frontages and improve pedestrian amenity.

To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.

The new cabana is located beyond the carport adjacent to Florida Road, and therefore well in excess of the minimum 6.5m front setback control. The cabana will not unreasonably impact on the streetscape character of Florida Road with the topography of the land ensuring the structure will not be visible from the public domain. It is considered that the proposal satisfies the outcomes

of the control.

D12.6 Side and rear building line

The controls seek to achieve the outcomes:

- To achieve the desired future character of the Locality. (S)*
- The bulk and scale of the built form is minimised. (En, S)*
- Equitable preservation of views and vistas to and/or from public/private places. (S)*
- To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*
- To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*
- Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*
- Flexibility in the siting of buildings and access. (En, S)*
- Vegetation is retained and enhanced to visually reduce the built form. (En)*
- To ensure a landscaped buffer between commercial and residential zones is achieved.*

The new cabana will be located 0.9m from the south-west boundary, presenting a minor encroachment into the side setback. Notwithstanding, the cabana will be a single storey appearance and provide sufficient distance from adjacent dwellings and areas of private open space will not result in any adverse impacts on residential amenity, including privacy and solar access. The built form is not uncharacteristic with many other ancillary structures within vicinity of the development site, while vegetation will remain largely unaffected. Views from adjoining properties will not be affected by the minor non-compliance. Based on the above, the proposed variation is considered warranted in this case and worthy of Council's support.

D12.8 Building Envelope

The controls seek to achieve the outcomes:

- To achieve the desired future character of the Locality. (S)*
- 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. (En, S)*
- Equitable preservation of views and vistas to and/or from public/private places. (S)*
- To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties. (En, S)*
- Vegetation is retained and enhanced to visually reduce the built form. (En)*

The required controls to achieve the outcomes are to maintain the development within a height envelope which provides for a height of 3.5m with an angle projected at 45°.

The new cabana will be located within the prescribed envelope control. The new works will not have any adverse impact on solar access or privacy onto adjoining properties resulting from the generous setbacks.

D2.10 Landscaped Area – Environmentally Sensitive Land

The controls seek to achieve the outcomes:

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

The required controls to achieve the outcomes are to ensure that residential development maintains a minimum of 60% of the site as landscaped area.

The proposed new soft landscaped area is 52.6%, which was marginally less than the 60% requirement of the locality, is considered to suitably sustain area for screen planting of the existing and proposed development, together with retention of the larger tree planting within the site.

Residential amenity within the development site and to adjoining sites will not be adversely affected by the proposal ensuring a sufficient level of solar access and privacy is maintained. The landscaped setting and desired character will not be compromised by the marginally reduced landscaped area. The bulk and scale presented by the cabana is not inconsistent with the surrounding character with other similar structures evident in the wider area.

The proposal is considered to satisfy the outcomes of the control, therefore worthy of Council's support.

D12.14 Scenic Protection Category One Areas

The controls seek to achieve the outcomes:

To achieve the desired future character of the Locality.
To preserve and enhance the visual significance of district and local views of Pittwater's natural topographical features such as, ridges, upper slopes and the waterfront. (En, S).
Maintenance and enhancement of the tree canopy. (En, S)
Colours and materials recede into a well vegetated natural environment. (En, S)
To maintain and enhance the natural environment of Pittwater as the predominant feature of the landscape with built form being a secondary component (En, S)
To preserve and enhance district and local views which reinforce and protect the Pittwater's bushland landscape and urban form to enhance legibility.
To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.
To ensure sites are designed in scale with Pittwater's bushland setting and encourages visual integration and connectivity to natural environment.
Development shall minimise any visual impact on the natural environment when viewed

from any waterway, road or public reserve.

The required controls to achieve the outcomes are to ensure that the development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.

As discussed, the proposed works are not considered to be bulky or overbearing when viewed from the foreshore area. The built form is not prominently visible from the waterway. The new carport will not be visually dominating along the streetscape.

The recessive tones of the new works will further minimise the visual bulk of the building.

The existing landscaping on the site will appropriately screen the new works.

7.0 Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979

7.1 The provisions of any environmental planning instrument

The proposal is subject to the provisions of State Environmental Planning Policy (Resilience and Hazards) 2021 and the Pittwater Local Environmental Plan 2014 and the relevant supporting Council policies. It is considered that the provisions of this environmental planning instrument have been satisfactorily addressed within this report and that the proposal achieves compliance with its provisions.

There are no other environmental planning instruments applying to the site.

7.2 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

There are no draft instruments applying to the land.

7.3 Any development control plan

The development has been designed to comply with the requirements of Council's Pittwater 21 Development Control Plan 2014.

The application has been prepared having regard to the requirements of Section B, Section C and Section D of the Pittwater 21 DCP.

It is considered that the proposed design respects the aims and objectives of the DCP however we note that the Environmental Planning and Assessment Amendment Act 2012 No 93 (Amendment Act) which received assent on 21 November 2012 commenced on 1 March 2013.

Key amongst the amendments are requirements to interpret DCPs flexibly and to allow reasonable alternative solutions to achieve the objectives of DCP standards.

The new section 3.42 provides that the 'principal purpose' of DCPs is to 'provide guidance' on:-

- giving effect to the aims of any applicable environmental planning instrument
- facilitating permissible development
- achieving the objectives of the relevant land zones.

The key amendment is the insertion of section 4.15(3A) which:

- prevents the consent authority requiring more onerous standards than a DCP provides,
- requires the consent authority to be 'flexible' and allow 'reasonable alternative solutions' in applying DCP provisions with which a development application does not comply,
- limits the consent authority's consideration of the DCP to the development application (preventing consideration of previous or future applications of the DCP).

We request that Council applies considered flexibility where the application seeks variations to numerical development controls in the DCP as justified in this report. In particular we consider that the variation to the side boundary line and landscaped area, which largely exists as a result of the existing site conditions, is reasonable alternative solution to compliance where the site conditions results in a challenge to designing for new development which fully respects the setback criteria.

It is considered that the proposed design respects the desired character objectives of the DCP in that it reinforces the existing residential character of the area and is compatible with the existing uses in the vicinity.

7.4 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.

No matters of relevance are raised in regard to the proposed development.

7.5 The regulations (to the extent that they prescribe matters for the purposes of this paragraph),

No matters of relevance are raised in regard to the proposed development.

7.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

It is considered that the proposal, which seeks consent for the construction of a cabana and associated works will not unreasonably impact upon the amenity of adjoining properties or upon the character of the surrounding area.

The proposal is considered to be well designed having regard to the relevant provisions of the Council's PLEP 2014 & the Pittwater 21 DCP and the Palm Beach Locality Statement.

7.7 The suitability of the site for the development

The subject land is currently C4 Environmental Living under the Pittwater Local Environmental Plan 2014 and is considered suitable for the proposed development.

7.8 Submissions made in accordance with this Act or the regulations

This is a matter for Council in the consideration of this proposal.

7.9 The public interest

The proposal will not unreasonably impact upon the environment, the character of the locality or upon the amenity of adjoining properties and is therefore considered not to be contrary to the public interest.

8.0 Conclusion

The principal objective of this development is to provide for consent for the construction of a new cabana.

It is considered that the proposed works satisfy the stated objectives of Council's Development Controls and reinforce the residential character of the area.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

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