



northern
beaches
council

Application No: PLM2018/0128
Meeting Date: 12 June 2018
Property Address: 346 - 352 Whale Beach Road PALM BEACH
Proposal: Demolition works and construction of a dwelling house with basement parking, swimming pool and associated Landscape works, The proposal also includes the amalgamation of 4 lots into 1
Attendees for Council: Angela Manahan – Acting Development Assessment Manager
Lashta Haidari – Principal Planner
Kristie King – Natural Environment Officer
Attendees for applicant: David Wade
Jennifer Wade
Alec Tzannes
Karina Dorman
Stephen Kerr
James Kingston
Will Dangar
Simon Howard

General Comments/Limitations of these Notes

These notes have been prepared by Council on the basis of information provided by the applicant and a consultation meeting with Council staff. Council provides this service for guidance purposes only. These notes are an account of the specific issues discussed and conclusions reached at the pre-lodgement meeting. These notes are not a complete set of planning and related comments for the proposed development. Matters discussed and comments offered by Council will in no way fetter Council's discretion as the Consent Authority. A determination can only be made following the lodgement and full assessment of the development application.

In addition to the comments made within these notes, it is a requirement of the applicant to address ALL relevant pieces of legislation including (but not limited to) any SEPP and any applicable clauses of Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control Plan within the supporting documentation of a development application including the Statement of Environmental Effects.

You are advised to carefully review these notes. If there is an area of concern or non-compliance that cannot be supported by Council, you are strongly advised to review and reconsider the appropriateness of the design of your development for your site and the adverse impacts that may arise as a result of your development prior to the lodgement of any development application.



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SPECIFIC ISSUES RAISED AT MEETING FOR DISCUSSION

Issue/s Raised	Council Response
<p>Building Height</p> <p>Cl. 4.3 Height of Buildings (Pittwater LEP 2014)</p>	<p>The Plans submitted for the pre-lodgement meeting indicates that the proposed height will exceed the 8.5m height limit for the site.</p> <p>Clause 4.3 of Pittwater LEP 2014 states that development on land that has a maximum building height of <u>8.5 metres</u> shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than <u>10.0 metres</u> if:</p> <ul style="list-style-type: none"> • <i>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</i> • <i>the objectives of this clause are achieved, and</i> • <i>the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and</i> • <i>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.</i> <p>The Statement of Environmental Effects (SEE) is to demonstrate how the development maintains consistency with these assessment criteria. The submitted plans should also be annotated with the 8.5m maximum building height in addition to the 10m height to demonstrate the specific areas of the development that are non-compliant with the control.</p> <p>However, it should be noted any height above the 10m height limit will not be supported by Council.</p> <p>Should a future development application propose a variation to 10m height limit, then a variation would need to be sought pursuant to Clause 4.6 (Exceptions to development standards) of PLEP 2014. Any such written request must address all provisions of clause 4.6 of PLEP 2014 and relevant case law/Land and Environment Court (LEC) planning principles. Further, any written request must demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development</p>



	standard.
Front Building Line Clause D12.5 Front Building Line (Pittwater 21 DCP)	<p>The control requires that the building and associated structures should provide a minimum of 6.5 or established building line, whichever is the greater.</p> <p>The plans submitted at the meeting indicates a non-compliance with the front building line, which relates to outdoor dining deck on Level 1 of the dwelling and the swimming pool with the associated decking, and the retaining wall.</p> <p>Whilst the outdoor terrace area for the proposed dwelling, could be supported subject to the applicant demonstrating compliance with the outcomes of the control. The proposed swimming with associated decking and retaining wall is found to be inconsistent with the outcomes of the control and therefore it is recommended that an alternative location for the swimming pool should be considered.</p>
Overlooking cl. C1.5 Visual Privacy	<p>Potential privacy impacts on the adjoining property to the north west, being No. 354 Whale Beach Road, could arise from the proposed swimming pool and associated decking location.</p> <p>It is recommended that the applicant consider potential relocation of the swimming pool to address the concern of potential overlooking.</p>

PITTWATER LOCAL ENVIRONMENTAL PLAN 2014 (PLEP 2014)

Zoning and Permissibility	
Definition of proposed development: (ref. PLEP 2014 Dictionary)	Dwelling House means a building containing only one dwelling
Zone:	E4 Environmental Management
Permitted with Consent or Prohibited:	Permitted with consent

PITTWATER 21 DEVELOPMENT CONTROL PLAN (P21 DCP)

Section A: Shaping Development in Pittwater
A4 Localities
A4.12 Palm Beach Locality
Comment: <p>The site is located within the Palm Beach Locality, and the desired future character of the Palm Beach Locality is prescribed by Clause A4.12 of P21 DCP. The desired future character statement emphasises that the bulk and scale of new development should be minimised, stepping down the slope with no more than 2 storeys in any one place. Site disturbance and the topography of the land should be maintained, with a balance between the development of the</p>



site and the retention of the natural features.

To ensure consistency with the desired future character statement, the proposed swimming pool and associated decking and retaining wall should be removed from the front setback area. In addition, a detailed landscape plan should be provided to demonstrate the enhancement of native vegetation on the site, to ensure that the built form is secondary to landscaping. The use of dark and earthy tones will also assist in this regard.

Section C: Development Type Controls
C1 Design Criteria for Residential Development
C1.3 (View Sharing) of P21 DCP
<p>Comment:</p> <p>Development is to allow for the reasonable sharing of views. In determining the extent of potential view loss to adjoining and nearby properties, the SEE is to include a View Analysis for adjoining and surrounding properties of the site.</p> <p>The four (4) planning principles outlined within the Land and Environment Court Case of <i>Tenacity Consulting Pty Ltd Vs. Warringah Council (2004) NSWLEC 140</i> must be addressed with the lodgement of the development application.</p> <p>The applicant is required to address how the proposal has been designed to provide for view sharing and address the Planning Principle.</p>
C1.4 (Solar Access) of P21 DCP
<p>Comment:</p> <p>The proposal is required to address this control within the architectural plans, the Statement of Environmental Effects and certified shadow diagrams, including elevational shadow diagrams of the adjoining properties are to be submitted with any development application.</p>
C1.5 (Visual Privacy) of P21 DCP
<p>Comment:</p> <p>The proposal is to demonstrate the areas of private open space and living rooms are designed to maximise privacy for both occupants of the proposed dwelling and adjoining dwellings (particularly upon No.354 Whale Beach Road). The elevated nature of the proposed swimming pool and associated decking is likely to create additional impact in this regard.</p>
Section D: Locality Specific Development Controls
D12 Palm Beach Locality
D12.1 (Character as viewed from a public place) of P21 DCP
<p>Comment:</p> <p>The bulk and scale of the dwelling should be minimised through a reduction of the building height. Landscaping is to be integrated with the building design to screen the visual impact of the built form, as seen from Whale Beach Road and the wider catchment.</p>
D12.3 (Building colours and materials) of P21 DCP
<p>Comment:</p> <p>The proposed colours and materials shall comprise dark and earthy tones, to ensure that the</p>



development is secondary to landscaping and that it blends with surrounding vegetation and the shadows of existing and proposed canopy trees.

D12.6 (Side and Rear Building Line) of P21 DCP

Comment:

You are encouraged to provide the more generous side setback to the northern western boundary, to minimise potential impacts upon the adjoining dwelling at 354 Whale Beach Road, by relocating the proposed swimming pool and associating decking. This will also provide more opportunities for a landscape buffer between the dwellings.

Specialist Advice

Referral Body	Comments
Bushland & Biodiversity	<p>A Flora and Fauna Report incorporating an Assessment of Significance: (AoS) for the Littoral Rainforest Forest Endangered Ecological Community (EEC) in accordance with Section 7.3 of the <i>Biodiversity Conservation Act 2016</i>. The report must include discussion of how the proposal has been designed, scaled and sited to avoid and mitigate impact to the EEC. If the report determines that the proposal is likely to result in a significant impact to the EEC or that vegetation clearing exceeds the relevant BAM threshold, a Biodiversity Development Assessment Report (BDAR) is to be prepared in accordance with Section 6.7 of the BC Act and submitted with the DA.</p> <p>An Arboricultural Impact Statement which identifies the location, species, health and size of all trees within 5m of the proposed development and meets the following requirements:</p> <ul style="list-style-type: none"> – Prepared by a suitably qualified arborist with at least AQF Level 5; – Developed based on the actual plans and documentation submitted in support of the DA; – Take into account all above- and below-ground works and structures that are ancillary to the development; – A tree protection and management plan with general and/or specific tree protection measures to enable safe retention of all trees proposed for retention. <p>A Landscape Plan which complies with the controls of DCP Clauses B4.17 (Littoral Rainforest) and B4.3 (Flora and Fauna Habitat Enhancement Category 2 Land). The Landscape Plan shall include the following components:</p> <ul style="list-style-type: none"> – A planting schedule including stratum, species/common names, species quantities, pot sizes and staking details; – Details of any compensatory plantings to replace locally native canopy trees proposed for removal. New planting shall be consistent with the Littoral Rainforest EEC or the relevant zone in the Native Planting Guide (https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/native-gardening/pittwaternativegardeningbooklet.pdf)
Landscape comments	The architectural package has been reviewed. In terms of the landscape outcome anticipated from the architectural plans, concern is raised that



	<p>the documentation fails to demonstrate the integration of the proposed building into the landscape as required by Controls:</p> <p>C1.1 Landscaping</p> <ul style="list-style-type: none"> • In all development a range of low lying shrubs, medium high shrubs and canopy trees shall be retained or provided to soften the built form. • The front of buildings (between the front boundary and any built structures) shall be landscaped to screen those buildings from the street as follows: <ul style="list-style-type: none"> - 60% of residential development. • Development shall provide for the reasonable retention and protection of existing significant trees, especially near property boundaries, and retention of natural features such as rock outcrops. <p>D12.1 Character as viewed from a Public Place</p> <ul style="list-style-type: none"> • The bulk and scale of buildings must be minimised • Landscaping is to be integrated with the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation. <p>This may be due to the omission of a landscape plan at this preliminary stage.</p> <p>DETAILED LANDSCAPE COMMENTS</p> <p>Specific details to be provided to demonstrate compliance to the DCP Controls include the following:</p> <p>Landscape Plan</p> <p>C1.1 requires the following landscape provisions:</p> <p>All canopy trees, and a majority (more than 50%) of other vegetation, shall be locally native species.</p> <p>In all development a range of low lying shrubs, medium high shrubs and canopy trees shall be retained or provided to soften the built form.</p> <p>At least 2 canopy trees in the front yard and 1 canopy tree in the rear yard are to be provided on site. Variations to this include where canopy trees are retained on a site, planting of additional canopy trees shall be assessed on a merit basis.</p> <p>Each tree planted is to have a minimum area of 3 metres x 3 metres and a minimum 8m³ within this area to ensure growth is not restricted. Canopy</p>
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	<p>trees are to be located a minimum of 5 metres from existing and proposed built structures, or minimum of 3 metres where pier and beam footings are used.</p> <p>The following soil depths are required in order to be counted as landscaping:</p> <ul style="list-style-type: none">• 300mm for lawn• 600mm for shrubs• 1metre for trees <p>The front of buildings (between the front boundary and any built structures) shall be landscaped to screen those buildings from the street as follows:</p> <p>-60% for a single dwelling house, secondary dwelling, rural workers' dwellings, or dual occupancy</p> <p>Development shall provide for the reasonable retention and protection of existing significant trees, especially near property boundaries, and retention of natural features such as rock outcrops.</p> <p>Arboriculture Impact Assessment</p> <p>To satisfy B4.22, an Arboriculture Impact Assessment is required to provide clarification on proposals to retain and/or remove existing trees and vegetation.</p> <ul style="list-style-type: none">• The Arboriculture Impact Assessment report shall indicate the impact of development upon existing trees and vegetation, and for any existing trees and vegetation on adjoining properties located 5 metres from the development.• The report shall be prepared by a qualified Arborist (Minimum AQF Level 5) and shall cover assessment of excavation and construction impacts upon the SRZ and TPZ, tree protection requirements, and recommendations. <p>A tree protection plan shall be included in the Arboriculture Impact Assessment indicating:</p> <ul style="list-style-type: none">-layout of the development;-location of trees and vegetation identified for retention and/or removal;-location of tree trunks and extent of the canopy spread;-suggested construction techniques around existing trees and vegetation;-tree protection measures;-tree protection zones around the trees nominated for retention;-location of tree protection fencing / barriers.
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Development Engineer	<p>The following general pre lodgement comments are provided for the proposed development. These comments are only preliminary in nature and a detail assessment can only be provided upon a DA lodgement:-</p> <ol style="list-style-type: none">1. The site is located within the Geotechnical H1 hazard, a geotechnical engineers report is required for the proposed development.2. Stormwater management is to be in accordance with B5.7 and B5.10 of Pittwater DCP.3. Detail survey of Council drainage system and any stormwater overland affecting the development is to be provided. Detail hydraulic report will need to be submitted with the DA.4. Provision of car spaces in accordance with Clause B6.3 "Off-Street Vehicular Parking Requirements" of Pittwater 21 DCP 2014.5. Proposed parking spaces are to ensure vehicles exit in a forward direction6. Construction Traffic management plan for the proposed demolishing and excavation works are to be provided.
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Relevant Policies

- *Pittwater Local Environment Plan 2014*
- *Pittwater 21 Development Control Plan*
- *Geotechnical Risk Management Policy for Development in Pittwater 2009*
- *State Environmental Planning Policy No.55 – Remediation of Land*

Documentation to accompany the Development Application

- Electronic copies (USB)
- Statement of Environmental Effects
- Cost of works estimate/ Quote
- Site Plan
- Floor Plan
- Elevations and sections
- A4 Notification Plans
- Survey Plan
- Site Analysis Plan
- Waste Management Plan (Construction & Demolition)
- Waste Management Plan Ongoing
- Certified Shadow Diagrams
- BASIX Certificate
- Schedule of colours and materials
- Landscape Plan and Landscape Design Statement
- Arboriculture Impact Assessment Report
- Photo Montage
- Statement of Heritage Impact
- Heritage Management Plan
- Erosion and Sediment Control Plan
- Stormwater Management Plan
- Geotechnical Report
- Bushfire Report

Please refer to Development Application Checklist for further detail.

Concluding Comments

These notes are in response to a prelodgement meeting held on 12 June 2018 to discuss a development application for amalgamation of the site, demolition works and construction of a new dwelling with the associated landscape works, and a swimming pool.

The proposal is not acceptable in its current form due to the height exceedance of 10m and the proposed swimming pool and associated recreation areas. Further consideration is required in relation to these issues. Particularly, clause 4.3 of PLEP 2014 already provides a variation to the maximum height for steeply sloping sites where development can reach a maximum height of 10m for minor portions of the building, provided the objectives and criteria stipulated in clause 4.3(2D) are met. Therefore, it is strongly advised that the proposal be amended to comply with subclause (2D). It is highly unlikely that a variation which exceeds 10m would be supported. The current location of the pool raises concerns with regards to the visual impact, ability to screen the development, and concerns in relation to visual and acoustic privacy. As such relocation of the pool and associated structures is highly recommended.



Concluding Comments
Based upon the above comments you are advised to satisfactorily address the matters raised in these notes prior to lodging a development application.

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