



## Pre-lodgement Meeting Notes

**Application No:** PLM2023/0168  
**Meeting Date:** 18 January 2024  
**Property Address:** 1158 Barrenjoey Road PALM BEACH  
**Proposal:** Construction of a driveway, turning area, car parking and swimming pool  
**Attendees for Council:** Julie Edwards – Planner  
Daniel Milliken - Manager, Development Assessments  
Mia Battisti - Student Planner  
Bruce Wilson - Senior Engineer - Civil Assets  
Joseph Tramonte - Senior Landscape Architect  
Emily Rix - Biodiversity Officer  
Aarti Kalia - Development Engineer

### General Comments/Limitations of these Notes

These notes have been prepared by Council's Development Advisory Services Team 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 advice on the specific issues nominated by the Applicant and the discussions and conclusions reached at the 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 application.

In addition to the comments made within these Notes, it is a requirement of the applicant to address the relevant areas of legislation, including (but not limited to) any State Environmental Planning Policy (SEPP) and any applicable sections of the Pittwater Local Environmental Plan 2014 and Pittwater 21 Development Control Plan, within the supporting documentation including a Statement of Environmental Effects, Modification Report or Review of Determination Report.

You are advised to carefully review these notes and if specific concern have been raised or non-compliances that cannot be supported, you are strongly advised to review your proposal and consider amendments to the design of your development prior to the lodgement of any development application.

### SPECIFIC ISSUES RAISED BY APPLICANT FOR DISCUSSION



### **Response to Matters Raised by the Applicant**

#### **Driveway and parking on Councils Road Reserve**

Comment:

Council does not support the construction of parking or permanent structures such as carports or garages on Council land for private use. Council also does not support the leasing of land on the Road Reserve for structures that cannot be easily removed. Council would be willing to support a driveway and turning area within the Council Road reserve to facilitate access to the site but not a parking area. All parking for the site is to be fully within the property boundaries.

In the meeting, the applicant mentioned that the excavation on the site to accommodate onsite parking would be excessive and not feasible. Before Council can consider any other options, the applicant needs to show Council what a car parking space on the site would look like. This should show the level of excavation required and how this may impact on the natural environment.

If the applicant can demonstrate that providing car parking on the site is not feasible, then Council may look at an alternate option for the site. However, all other options would need to be explored first, including improving the existing informal spaces within the road reserve. It is likely that, even if parking on the site is impossible, Council would still not support permanent parking structures within the road reserve or the leasing of Council land to facilitate car parking for the site.

If any future driveways extend in front of the neighbouring property no. 48A Sunrise Road street frontage, then written consent from the owners of that site is required to be submitted with the Development Application (DA).

#### **Other sites have parking within the Council Road Reserve?**

Comment:

While there are examples of properties with parking areas on Council land within the surrounding area, no current approvals or leases can be found for these properties.

#### **Existing car bay on Barrenjoey Road – Could It be made bigger?**

Comment:

Council would need to see a design on paper to be able to discuss it, however, this may be possible as a last resort.

#### **What is the process for lodgement?**

Comment:

Need to approach TfNSW first to get their approval. Once lodged the application would be referred to TfNSW for concurrence approval.

#### **Concern was raised that excavation was discouraged in a C4 Environmental Living Zone.**

Comment:

While excavation is discouraged in C4 Environmental Living zone, if excavation is the only way to accommodate carparking on the site then Council can consider it, if it can be demonstrated that the excavation is kept to a minimum.



**Swimming pool**

Comment:

Council has several concerns with the location of the swimming pool as it results in several non-compliances with the PDCP (front building line, side building line, building envelope and landscaped area) and likely does not comply with the height requirement of the PLEP of building height.

For Council to consider supporting the swimming pool it would need to be demonstrated that the proposal minimises the non-compliances on the site. The site is located within a C4 Environmental Living zone and is well below the 60% landscaped area requirement of the PDCP, with a landscaped area of approximately 29%. It is recommended that the landscaped area on the site be improved. Council would not support a reduction in the landscaped area to accommodate a swimming pool. The other areas of non-compliance with the PLEP and PDCP will be discussed below in detail.

**PITTWATER LOCAL ENVIRONMENTAL PLAN 2014 (PLEP)**

PLEP can be viewed at <https://www.legislation.nsw.gov.au/view/html/inforce/current/epi-2014-0320>

<b>Part 2 - Zoning and Permissibility</b>	
<b>Definition of proposed development:</b> (ref. PLEP Dictionary)	Construction of a driveway, turning area, parking and swimming pool
<b>Zone:</b>	C4 Environmental Living
<b>Permitted with Consent or Prohibited:</b>	Permitted

**Clause 4.6 - Exceptions to Development Standards**

<b>Part 4 - Principal Development Standards</b>			
<b>Standard</b>	<b>Permitted</b>	<b>Proposed</b>	<b>Compliance</b>
<b>4.3 Height of buildings</b>	Standard - 8.5m  May exceed a height of 8.5m, but not be more than 10m if— the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and	Not provided	Elevations not provided
<u>Comments:</u> It is understood from discussions in the meeting that the swimming pool is proposed to be level with the existing deck and will be raised above an area of land that slopes steeply down towards the front boundary.			



The site is located within a scenic protection zone which requires development to not be visual from the public realm. There is concern that the projection of the swimming pool will result in a development which is visually dominate. The proposed swimming also results in multiple non-compliances with the PDCP which will need to be minimised before Council can support the proposal. These non-compliances are discussed in detail later in the report.

The plans submitted with the application will need to clearly show the height of the proposal above natural ground level. If the works exceed the building height requirement, then a clause 4.6 written variation is required providing justification for the height breach.

Clause 4.6 enables the applicant to request a variation to the applicable Development Standards listed under Part 4 of the LEP pursuant to the objectives of the relevant Standard and zone and in accordance with the principles established by the NSW Land and Environment Court.

A request to vary a development Standard is not a guarantee that the variation would be supported as this needs to be considered by Council in terms of context, impact and public interest and whether the request demonstrates sufficient environmental planning grounds for the variation.

#### **PITTWATER 21 DEVELOPMENT CONTROL PLAN (PDCP)**

P21DCP can be viewed at

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Pages/Plan/Book.aspx?exhibit=PDCP>

The following notes the identified non-compliant areas of the proposal only.

<b>Part D12 Palm Beach Locality</b>		
<b>Control</b>	<b>Permitted</b>	<b>Proposed</b>
<b>D12.2 Scenic protection - General</b>	Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.	The swimming pool is proposed to be the same level as the existing deck and extend over a drop off in the land
The swimming pool should not be visible from the road, waterways or neighbouring properties. This may require the swimming pool to be reduced in size, pulled in from the boundaries and be constructed of colours and materials that blend into the natural environment.		
<b>D12.5 Front building line</b>	10 or established building line, whichever is the greater	4.5m
The proposed swimming pool is approximately 4.5m from the front boundary. The control requires a 10m setback or the prevailing setback, whatever is greater. While the location of the swimming pool is consistent with the setback of properties to the east of the site there are several significant concerns with the encroachment of the swimming pool in the front building line.		



**Part D12 Palm Beach Locality**

The site is located within a scenic protection zone, the swimming pool will need to be designed and positioned to not be visible from the water, street and surrounding properties.

The site has significant rock outcrops within the front building line that may be impacted by the location of the swimming pool. There are known Aboriginal sites in the area. The site is identified as having high potential for unrecorded Aboriginal sites. At this stage no information is required to be provided to Council, it is just something to be aware of. You may need to provide further information once the application has been referred to the Aboriginal Heritage Office.

The site is also significantly deficient in the LOS. The swimming pool may need to be positioned and reduced in size to maintain/enhance the existing landscaped area on the site and minimise the need to remove any additional vegetation.

The proposal should be setback further from the front boundary to comply with the front building line requirements of the PDCP.

<b>D12.6 Side and rear building line</b>	2.5 to at least one side; 1.0 for other side	Nil setback to western boundary
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The deck off the swimming pool would need to be stepped in from the side boundary to comply with the side building line requirement.

<b>D12.8 Building envelope</b>	Planes are to be projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries to the maximum building height	No elevations have been provided.
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The proposed position of the swimming pool is likely to encroach into the side boundary envelope. The swimming pool should be repositioned to minimise any encroachments. Any non-compliance will need to be addressed in the Statement of Environmental Effects (SEE) explaining how it meets the outcomes of the control.

<b>D12.10 Landscaped Area - Environmentally Sensitive Land</b>	total landscaped area shall be 60% of the site area	Approximately 23.05%
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The site currently is deficient in landscaped area with a Landscaped Open Space (LOS) of 29.3%. The proposed swimming pool would reduce this even further to 23.05%. The site is located in C4 Environmental Living Zone and Council is unlikely to support a further reduction of the existing LOS non-compliance to accommodate a swimming pool.

**Specialist Advice**

**Landscape Officer**

The property is located within the C4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment with ecological, scientific or aesthetic values, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the C4 Environmental Living zone.



### **Specialist Advice**

The proposal will remove the majority if not all of existing vegetation within the road reserve unless an alternative crossover location is suggested to minimise the loss of vegetation. Whilst the correspondence notes that there are no alternative locations to site vehicle structures upon the property it is considered that such an arrangement is able to be achieved through excavation within the property boundaries.

The loss of the majority if not all of existing vegetation within the road reserve does alter the streetscape amenity and landscape character. No analysis of the potential for locating vehicle structures upon the property is presented.

The landscape area of the existing property is unknown from the documents presented to date and any additional development works shall not exceed the existing landscape area ratio or otherwise shall satisfy the PDCP requirement for 60%.

The impact of the proposed pool is unknown without an indication as the proposed level (elevated or on ground / excavated) and should the pool be elevated potentially this may expose the structure to the streetscape and beyond including from the water and this is not supported.

Any proposal is required to demonstrate how the development integrates with the natural landscape including existing vegetation and natural rock outcrops/ledges, and is secondary to landscape features.

Any DA shall be accompanied by a Landscape Plan and an Arboricultural Impact Assessment in accordance with Council's DA Lodgement Requirements.

Concerns relative to the presented plans:

- Extensive loss of landscape features (vegetation and rock outcrops/ledges) within the road reserve.
- Resultant landscape area reduction that will eliminate the opportunity for a landscape setting typical of the C4 zone requirements.
- Encroachment of private structures onto public land.

### **Traffic Engineering**

The driveway must be designed with grades, widths and turning bay dimensions that are consistent with AS2890.1 and must facilitate forwards entry and exit from the property. Reversing to or from the State Road into/out of the property will not be acceptable particularly given the proximity to the bend to the west of the site.

Adequate sight lines to oncoming traffic must be demonstrated. I have concerns about the proximity of the driveway to the bend on Barrenjoey Road west of the site and, at times, it will be necessary for a driver to wait for some time before an acceptable gap to turn right into the driveway presents itself. This will lead to a risk of rear end collision. Adequate approach sight distance for travel at the speed limit of 40km/h to a vehicle waiting to turn must be demonstrated. Similarly turning right from the driveway will require adequate sight lines to traffic approaching from both the east and west and must be demonstrated. Given the dense vegetation and steepness of the embankments it may be necessary to cut back and retain the embankment and remove trees/vegetation to ensure adequate sightlines.

In addition, it will not be acceptable for a left turning vehicle to exit the property and encroach into the opposing travel lane. The applicant must design the driveway and demonstrate by swept path



### Specialist Advice

plots that a B99 vehicle can turn left from the driveway in a single movement and remain on the correct side of the road. A B99 vehicle must also be able to turn right into the driveway and proceed up it in a single movement. Swept path plots must be consistent with the requirements as specified in AS2890.1 clause B3 including the 300mm manoeuvring clearance.

### Coastal

#### Issues for Discussion:

1. Use of Transport for NSW Land– we understand that Transport for NSW support will be required for any development to proceed. Previous correspondence with Transport for NSW has been positive and a copy of this is attached for your reference.
2. Location of crossover / shared crossover – Consideration of a shared crossover with neighbours
3. Permissibility of the works in SP2 Infrastructure land – we note that there appear to be parking structures within land zoned SP2 on the opposite side of Barrenjoey Road.
4. Landscape - The proposed driveway would result in the removal of some vegetation. Newly proposed landscaping could be a positive addition to the streetscape, with the existing retaining wall on Council land beginning to fail.

#### Relationship with other documents

- *Pittwater 21 Development Control Plan*
- *Pittwater Local Environmental Plan 2014*
- *Coastal Management Act 2016*
- *State Environmental Planning Policy (Resilience & Hazards) 2021*

#### Coastal Management Act 2016 and State Environmental Planning Policy (Resilience & Hazards) 2021

The proposed development is located within the coastal zone of NSW and is subject to the provisions of the Coastal Management Act 2016 (CM Act) and State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H).

Under the SEPP R&H, the subject site has been included on the Coastal Environment Area Map as well as the Coastal Use Area Map, as such the requirements of section 2.10 and 2.11 apply. The objectives and requirements of both the CM Act and the SEPP (R&H) must be addressed within the SEE Report as they relate to development within these coastal management areas. In addition, the general SEPP (R & H) clause 2.12 relating to an increase in risk of coastal hazards must also be addressed within the SEE report.

No other coastal issues were identified.

#### Reports Required:

- Statement of Environmental Effects (SEE) Report

#### Development Engineering

These comments are only preliminary in nature and a detailed assessment can only be provided upon DA lodgement: -

#### Access:

1. No private permanent structures are allowed on the public land.
2. Written concurrence from TfNSW for design of layback is required.



### Specialist Advice

3. Design plans showing driveway plan, longitudinal section with existing & proposed levels, grades etc.
4. Vehicle should be restricted to forward in and forward out movements
5. As proposal is to use rear frontage of No 48A Sunrise Road Palm Beach for the driveway alignment, hence a written agreement from owners of No 48A Sunrise Road Palm Beach is required

#### Stormwater:

1. The applicant is to demonstrate how stormwater from the proposed development shall be disposed of or in accordance with Northern Beaches Council's Water Management for Development Policy. The policy is available in Council's web page.  
<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/policies-register/water-management/water-management-development-policy/water-management-development-policy-aug2020.pdf>

#### Geotech

1. Site is mapped as Geotechnical Hazard H1, As per Appendix 5, section 3, this requires submission of a Geotechnical Report (Full Risk Assessment), including forms 1 and 1(a) in accordance with Pittwater clause B3.1 PDCP.

### Biodiversity

#### Biodiversity Planning Controls

The following biodiversity related legislation and planning controls apply to the subject lot. Compliance with applicable provisions will need to be demonstrated within the submitted SEE and/or supporting documentation.

- *Biodiversity Conservation Act (BC Act) 2016*
- *Biodiversity Conservation Regulation (BC Reg) 2017*
- *SEPP (Resilience and Hazards) 2021 – clause 2.10 Development on land within the coastal environment area*
- *PLEP clause 7.6 Biodiversity Protection*
- *PDCP clause B4.17 Littoral Rainforest - Endangered Ecological Community*

#### Required Supporting Documentation

On review of the submitted pre-lodgement plans, the following documentation is required to accompany the DA:

- Landscape Plan
- Arboricultural Impact Assessment
- Flora and Fauna Assessment Report

#### General Biodiversity Comments

The main concerns are associated with loss of vegetation and potential impacts on native fauna habitat, especially the rock outcrops on site. From review of plans and documentation submitted with the PLM, it is assumed that the majority of vegetation within the public land will be required to be removed to facilitate the proposed works.

The proposal is to provide evidence of avoiding and minimising impacts to native vegetation and fauna habitat. This can be provided in the form of investigation into design alternatives. Where avoiding and minimising is not possible, robust mitigation measures for rehabilitation of the site will be required should the development application be approved. This would likely include conditioning the preparation of a Biodiversity Management Plan to guide rehabilitation of native vegetation and fauna habitat.





**Specialist Advice**

In accordance with PLEP cl. 7.6 the development must be designed, sited and managed to avoid any significant adverse environmental impact. Development shall result in no significant onsite loss of canopy cover or a net loss in native canopy trees or Littoral Rainforest in accordance with PDCP cl. B4.17. This is to be demonstrated in the Flora and Fauna Assessment Report and Statement of Environmental Effects.

**Flora and Fauna Assessment Report (FFA)**

An FFA report is required for developments that will remove more than four protected (prescribed) native trees. Refer to Guide 1 within the Northern Beaches Council [Biodiversity Guidelines for Applicants](#) for reporting requirements.

The FFA is to be prepared by a suitably qualified Ecologist (refer to guidelines) and will provide assessment of the impacts of the development on native vegetation and fauna habitat including the rock outcrop on site. Assessment is to cover the total impact area, including that on the private lot and public land.

Further information on assessment requirements can be found in Council's [Biodiversity Guidelines for Applicants](#).

Understanding the different levels of assessment required

Is the development subject to the Biodiversity Values Map?	Level of impact from proposed	Assessment required	Relevant Guideline
No	The development <b>will not</b> impact upon any of the following: <ul style="list-style-type: none"> <li>More than four protected (prescribed) native trees*</li> <li>Any threatened species or ecological communities</li> <li>More than 50m<sup>2</sup> of native vegetation</li> <li>Important resources or habitat features for wildlife. This may include features like tree hollows, rock overhangs or wetlands. In many, some residential properties also provide important habitat for endangered perching and landbirds. Please see <a href="#">Guideline 1</a> for more information.</li> </ul>	Compliance with relevant LEP/DCP biodiversity objectives is to be addressed in the <a href="#">Statement of Environmental Effects (SEE)</a> OR as determined by Council at pre-approval meeting  <b>Note:</b> This level of assessment is typical for minor developments with limited impacts such as landscaping works or modification applications.	
No	The development <b>will impact</b> upon any of the following: <ul style="list-style-type: none"> <li>More than four protected (prescribed) native trees*</li> <li>Any threatened species or ecological communities</li> <li>More than 10m<sup>2</sup> of native vegetation, but less than the applicable Biodiversity Offset Scheme (BOS) area clearing threshold</li> <li>Important resources or habitat features for wildlife. This may include features like tree hollows, rock overhangs or wetlands. In many, some residential properties also provide important habitat for endangered perching and landbirds. Please see <a href="#">Guideline 1</a> for more information.</li> </ul>	The application is to be accompanied by a <a href="#">Flora and Fauna Assessment (FFA)</a> prepared by a suitably qualified ecologist.  OR as determined by Council at pre-approval meeting  <b>Note:</b> this level of assessment is typical for small to medium lot subdivisions, construction of a new dwelling, and other medium to large scale developments (such as a Seniors Living development).	Guideline 1 Guideline 4
	The development will result in either of the following: <ul style="list-style-type: none"> <li>A significant impact to a threatened species, population or ecological community as determined by a threatened species test of significance</li> <li>Impacts to an area of native vegetation greater than the applicable Biodiversity Offset Scheme (BOS) area clearing threshold</li> </ul>	The application is to be accompanied by a <a href="#">Biodiversity Development Assessment Report (BDAR)</a> prepared by an accredited assessor in accordance with the NSW Biodiversity Assessment Method (BAM) <a href="#">(NSW Government 2019)</a>  Where developments require a BDAR due to the scale of impacts such as clearing of native vegetation above the Biodiversity Offset Scheme clearing threshold, such developments may also require a <a href="#">Biodiversity Management Plan (BMP)</a> . The requirement for a BMP will be determined by Council.	Guideline 2 Guideline 4 Guideline 5 (if a BMP is required)
Yes	The development will impact upon: <ul style="list-style-type: none"> <li>Areas identified on the NSW Biodiversity Values Map, including the Little Penguin Area of Outstanding Biodiversity Value</li> </ul>	<b>Note:</b> this level of assessment is required when the proposal triggers entry into the NSW Biodiversity Offsets Scheme (BOS)	

**Important Note:** Developments should be designed and sited to avoid environmental impacts in the first instance. Assessment against the objectives of relevant Council LEP and DCP controls must consider direct and indirect impacts of the proposal, including vegetation clearing within the development footprint and clearing required to establish such tree asset protection zones (APZs). The assessment requirements outlined above address biodiversity-related controls only.

\*Additional reports, such as an Aboriginal (Tree) Impact Assessment, may also be required if the proposal is likely to impact upon protected trees. Applicants should consider obtaining detailed technical advice through Council's D&I pre-approval service.

**Figure 1. Triggers for Biodiversity Assessment**

**Landscape Plan**

Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species listed in the appropriate ward of the Native Planting Guide which is available on



### Specialist Advice

the Council [website](#)). Landscaping is to be outside areas of core bushland and not include environmental weeds.

#### Arboricultural Impact Assessment

An Arboricultural Impact Assessment Report, prepared by a qualified AQF5 (or higher) arborist, must be submitted when works are proposed within 5.0m of a tree irrespective of property boundaries. No Arborist Report is required for trees and species within the development site that can be removed without approval under the relevant DCP. The Arborist Report will be essential in identifying native trees that may require removal as a result of the proposed development.

#### Road Reserve

1. TCI has no problem with a graded concrete access driveway from the carriageway to the boundary;
2. The concrete driveway is to be only as large and wide as necessary for any swept paths and to enable a turning process;
3. No private parking spots will be approved on public land
4. No private garage or other structures will be approved on public land
5. The corollary of 3 and 4 is all private parking is to be on private land and any garages are to be on the private land.

### Documentation to accompany the Development Application

- Lodge Application via NSW Planning Portal
- Statement of Environmental Effects
- Scaled and dimensioned plans:
  - Site Plan;
  - Floor Plans;
  - Elevations; and
  - Sections.
- Certified Shadow Diagrams (depicting shadows cast at 9am, Noon and 3pm on 21 June).
- Cost of works estimate/ Quote
- Survey Plan (Boundary Identification Survey)
- Site Analysis Plan
- Demolition Plan
- Excavation and fill Plan
- Waste Management Plan (Construction & Demolition)
- Driveway Design Plan (if any change is proposed to the driveway)
- Erosion and Sediment Control Plan / Soil and Water Management Plan
- Stormwater Management Plan / Stormwater Plans and On-site Stormwater Detention (OSD) Checklist
- Arboricultural Impact Assessment
- Landscape Plan
- Geotechnical Report (Full risk assessment)
- Flora and fauna Assessment Report

#### IMPORTANT NOTE FOR DA LODGEMENT

Please refer to the Development Application Lodgement Requirements on Council's website (link details below) for further detail on the above list of plans, reports, survey and certificates.



<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/development-application-da-modification-or-review-determination/2060-da-modification-lodgement-requirements-mar21.pdf>

The lodgement requirements will be used by Council in the review of the application after it is lodged through the NSW Planning Portal to verify that all requirements have been met for the type of application/development.

### **Concluding Comments**

These notes are in response to a pre-lodgement meeting held on 6 February 2024 to discuss the construction of a driveway, turning bay, car parking and swimming pool at 1158 Barrenjoey Road, Palm Beach. The notes reference the plans prepared by Wray and Cutcliffe Architects dated 15/12/2023.

Council does not support private car parking on Council land. Council can support a driveway and turning area on the road reserve if car parking is provided within the site.

The swimming pool will result in multiple non-compliances with the PLEP and PDCP. For Council to support a swimming pool on the site the proposal will need to comply with the scenic protection requirements of the PDCP, not result in a reduction of the existing LOS on the site, comply with side building line requirements and minimise the non-compliances with the front building line and side boundary envelope.

### **Question on these Notes?**

Should you have any questions or wish to seek clarification of any matters raised in these Notes, please contact the member of the Development Advisory Services Team at Council referred to on the front page of these Notes.