



*statement of environmental effects*



## **NEW DWELLING HOUSE**

18 ROCK BATH ROAD  
PALM BEACH NSW 2108

July 2023

**Prepared by Rebecca Englund**  
B Arch Studies | M Plan | MPIA

**Director | Northern Beaches Planning**

**Phone:** 0472 65 74 74

**Web:** [www.northernbeachesplanning.com.au](http://www.northernbeachesplanning.com.au)

**Email:** [rebecca@northernbeachesplanning.com.au](mailto:rebecca@northernbeachesplanning.com.au)



### **Disclaimer**

This report has been prepared on the basis of information available at the date of publication. Whilst attempts have been made to ensure the accuracy of the information in this document, Northern Beaches Planning accepts no responsibility or liability for any errors, omissions or resultant consequences including any loss or damage arising from reliance on information in this publication or referenced in this publication. Reproduction of this report (or part thereof) is not permitted without prior permission from Northern Beaches Planning.

## *introduction*

---

This statement of environmental effects has been prepared by Northern Beaches Planning on behalf of Bridget & Drew Hall to accompany the lodgement of a development application for the construction of a new dwelling house at 18 Rock Bath Road, Palm Beach.

This statement is informed and accompanied by the following documentation:

- Detail and Boundary Survey by CMS Surveyors
- Architectural Plans by Richard Cole Architecture
- Landscape Plan by Volker Klemm Landscape Design
- Arboricultural Impact Assessment and Management Plan by Botanics Tree Wise People
- Geotechnical Report by Crozier Geotechnical Consultants
- Coastal Report by Horton Coastal Engineering
- Stormwater Management Plans by ITM Design
- Traffic and Parking Certification by TEF Consulting
- Construction Management Plan by Lawson & Lovell
- BASIX and NatHERS Certificates by Certified Energy 1
- Waste Management Plan

## *site details*

---

The site is legally identified as Lot 292 in Deposited Plan 16362, and is commonly referred to as 18 Rock Bath Road, Palm Beach. The site is irregular in shape, with a 42.67m wide frontage to Rock Bath Road (unmade) to the south-west, a 39.435m wide boundary shared with the adjacent property at 16 Rock Bath Road to the south-east, and a total area of 1147.5m<sup>2</sup>.

A two storey dwelling is situated in the southern corner of the site. Access to the site is limited to pedestrian access only, with a public pathway extending the length of Rock Bath Road. Whilst the land immediately surrounding the dwelling has been levelled or terraced, the site falls steeply towards the north and north-west, with dense vegetation covering the majority of the site.

Dwelling houses adjoin the site to the south-east, stepping up the slope in response to the fall of the land. Dwelling houses are also located to the south-west of the site, on the opposite side of the unmade road. Surrounding and nearby dwelling houses are typically three storeys in height, are of varying age and character, and are oriented towards available views to Palm Beach, Barrenjoey Headland and the ocean. A rock shelf that is zoned for environmental conservation bounds the site to the north, separating the site from the ocean beyond. The site is in close proximity to the Palm Beach Rock Pool and the southern end of Palm Beach, otherwise known as Kiddies Corner.

The Rock Bath Road public road reserve comprises existing driveways servicing the properties at 12-14 and 16 Rock Bath Road and a public pathway connecting Florida Road to the beach reserve, with links to individual dwellings. The road reserve contains a number of existing canopy trees, as identified in the accompanying Arborist Report.



Aerial images of the site and its surrounds is provided in Figures 1 and 2. Images of the site, the existing dwelling and the streetscape are also provided on the following pages (Figure 3-9).

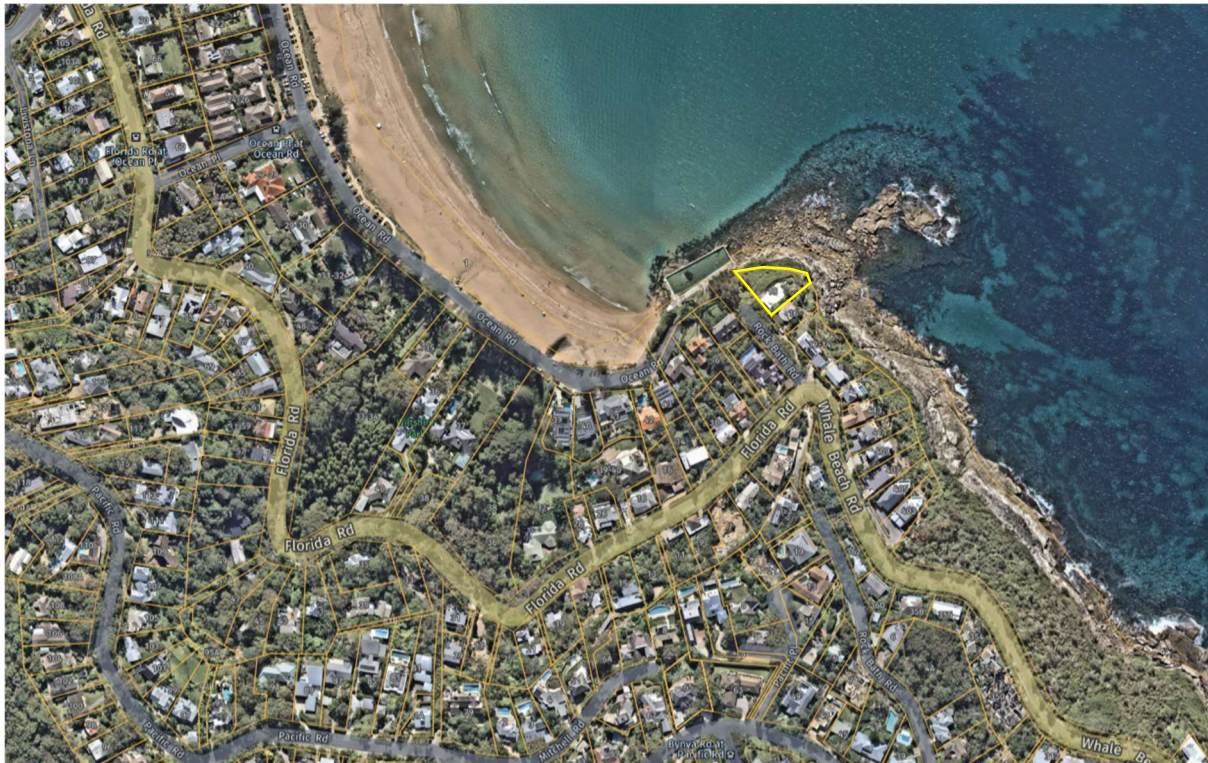
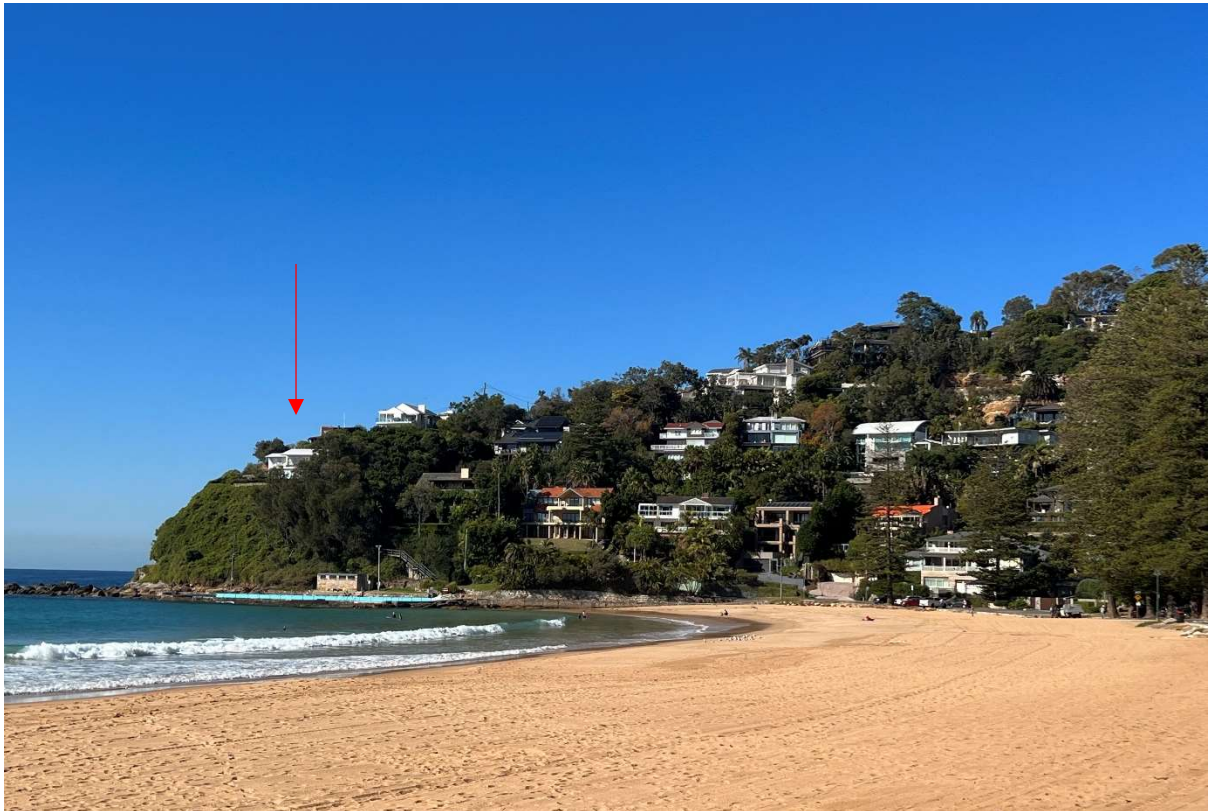


Figure 1 – Aerial image with site bordered in yellow  
Source: Nearmap



Figure 2 – Aerial image (zoom) with site bordered in yellow  
Source: Nearmap





**Figure 3 – The subject site as seen from Palm Beach**  
**Source: NBP**



**Figure 4 – The entrance to Rock Bath Road from Florida Road**  
**Source: NBP**





**Figure 5 – The existing driveway to 16 Rock Bath Road (within the Rock Bath Road public road reserve)**  
**Source: NBP**



**Figure 6 – The existing access pathway to the subject site (within the Rock Bath Road public road reserve)**  
**Source: NBP**





**Figure 7 – The entrance porch of the existing dwelling, with the existing south-east boundary retaining wall to the right**  
Source: NBP



**Figure 8 – Tree 1, a Paperbark, located adjacent to the eastern corner of the existing dwelling**  
Source: NBP



**Figure 9 – Views from the site in a north-easterly direction**  
Source: NBP

## *proposed development*

---

The application seeks consent for the construction of a new dwelling house at 18 Rock Bath Road, Palm Beach. Specifically, the works include:

- Demolition of the existing dwelling,
- Construction of a new dwelling comprising:
  - Ground Floor: open plan kitchen/living/dining, pantry, laundry, bathroom, internal stair, lift, verandah, and sunken terrace,
  - First Floor: double garage with integrated turntable, entrance foyer, rumpus room, master bedroom with ensuite and balcony, four bedrooms with balconies, three bathrooms, internal stair and lift,
- Swimming pool and associated store,
- Internal driveway,
- Landscaping, and
- Stormwater infrastructure.

To facilitate vehicular access, the application also details a proposed new driveway within the Rock Bath Road public road reserve, which seeks to replace and extend the existing driveway servicing 16 Rock Bath Road, as follows:

- Demolition of the existing driveway servicing 16 Rock Bath Road,
- Tree removal,
- Construction of a new shared driveway servicing 16 and 18 Rock Bath Road, including a hard stand parking area associated with 16 Rock Bath Road,
- Stormwater infrastructure, and
- Landscaping.

Whilst it is appreciated that separate consent is required for the proposed driveway under the provisions of the *Roads Act 1993*, sufficient detail is provided to confirm that the driveway will provide suitable vehicular access to the site (and 16 Rock Bath Road) and that the likely impacts associated with the construction and use of the driveway are reasonable and acceptable.



## *legislation, plans and policies*

---

The following relevant state and local policies are applicable to the proposed development:

- Environmental Planning and Assessment Act (**EP&A Act**)
- Environmental Planning and Assessment Regulation 2021 (**EP&A Regulation**)
- Roads Act 1993 (**Roads Act**)
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Resilience and Hazards) 2021
  - Coastal Use Area
  - Coastal Environment Area
- Pittwater Local Environmental Plan 2014 (**PLEP 2014**):
  - Acid Sulfate Soils Map: Class 5
  - Lot Size Map: 700m<sup>2</sup>
  - Land Zoning Map: C4 Environmental Living
  - Height of Buildings Map: 8.5m
  - Geotechnical Hazard Map: H1
  - Coastal Risk Planning Map: Bluff/Cliff Instability
  - Biodiversity Map: Biodiversity
  - Foreshore Building Line Map: Foreshore Building Line
- Pittwater 21 Development Control Plan (**P21 DCP**)
  - Palm Beach Locality
  - Landscaped Area 1

## *environmental planning and assessment act*

---

The matters prescribed by section 4.15(1) of the EP&A Act are considered, as follows:

| Clause | Provision  | Comment   |
|--------|--|---|
| (a)    | <p><i>the provisions of—</i></p> <ul style="list-style-type: none"><li><i>i. any environmental planning instrument, and</i></li><li><i>ii. any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</i></li><li><i>iii. any development control plan, and</i></li><li><i>iv. any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and</i></li><li><i>v. the regulations (to the extent that they prescribe matters for the purposes of this paragraph),</i></li></ul> <p><i>that apply to the land to which the development application relates,</i></p> | <p>The relevant provisions of PLEP 2014, all relevant SEPPs, and P21 DCP have been considered and addressed in this statement.</p>  |
| (b)    | <p><i>the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</i></p>   | <p>The likely impacts of the proposed development have been addressed with respect to relevant plans and policies in this statement. The proposed development will not result in any unacceptable impacts upon the natural or built environment, or any social or economic impacts in the locality.</p> |
| (c)    | <p><i>the suitability of the site for the development,</i></p>   | <p>The subject site is suitable for the proposed development.</p>   |
| (d)    | <p><i>any submissions made in accordance with this Act or the regulations,</i></p>   | <p>The application will be notified to all neighbouring properties, with any submissions received to be considered by Council.</p>  |
| (e)    | <p><i>the public interest.</i></p>   | <p>The proposed development is in the public interest, in so far as it is consistent with the objectives and outcomes of PLEP 2014 and P21 DCP.</p>   |



## *state environmental planning policy (resilience and hazards)*

---

### **Coastal Hazard**

The site is identified as land in the:

- coastal environment area on the Coastal Environment Area Map, and
- coastal use area on the Coastal Use Area Map,

The provisions of chapter 2 of SEPP (Resilience and Hazards) are applicable in relation to the site and this proposal. The application is supported by a Geotechnical Report by Crozier Geotechnical Consultants and a Coastal Report by Horton Coastal Engineering, which confirms that the proposed development can be undertaken safely with respect to the geotechnical and coastal hazards that apply in relation to the site.

#### Development on land in the coastal environment area

The application is supported by Stormwater Management Plans by ITM Design that demonstrate the management of stormwater in accordance with Council's Water Management Policy. Further, the supporting Geotechnical and Coastal Reports confirm that the proposed dwelling will not have an adverse impact upon the geology of the site or upon coastal processes.

The proposed dwelling is sited to maximise existing vegetation on the escarpment and is wholly maintained within private property, avoiding impacts to the surf zone, rock platforms and public access along the foreshore.

The consent authority can be satisfied that the proposed development has been designed, sited and will be managed to avoid adverse impacts upon the relevant matters identified in section 2.10(1) of this policy.

#### Development on land in the coastal use area

The proposed new dwelling will not impede upon access along the foreshore, will not overshadow the adjacent rock platforms and will not result in the loss of views from public places to foreshores. The dwelling is of superior architectural design and is nestled into the site to ensure that the visual amenity and scenic quality of the coastline is preserved. When viewed from Palm Beach, the dwelling will be entirely compatible with the bulk and scale of surrounding and nearby dwellings, most of which are at least 3 storeys in height (as evident in Figure 3).

The consent authority can be satisfied that the proposed development has been designed, sited and will be managed to avoid adverse impacts upon the relevant matters identified in section 2.11(1)(a) of this policy, and that the surrounding coastal and built environment has been taken into account with regard to the bulk, scale and size of the proposed development.

#### Coastal Zone

The proposed development is not likely to cause increased risk of coastal hazards on the land or other land, and the consent authority can be satisfied with respect to section 2.12 of this policy.

## Remediation of Land

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. The existing site has been used for residential purposes for an extended period of time, with no known prior land uses. The site is not identified on the public register of contaminated sites and is not located in the vicinity of any. Council can be reasonably satisfied that there is no contamination risk, subject to the imposition of suitable conditions relating to demolition.

Overall, the proposed development is consistent with the relevant provisions of SEPP (Resilience and Hazards).

*state environmental planning policy  
(biodiversity and conservation)*

---

## Vegetation in Non-Rural Areas

The provisions of Chapter 2 of this policy are applicable to all non-rural land across the state and aim to protect the biodiversity values of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural areas through the preservation of trees and other vegetation.

The application seeks the removal of eight trees to accommodate the proposed development, being Trees 2, 3, 4, 5, 6, 7, 8 and 17, as identified in the accompanying Arboricultural Impact Assessment Report by Botanics Ree Wise People. One of the trees proposed for removal (Tree 2) is located within the subject site and is of low retention value and the other seven trees proposed for removal are located within the adjacent road reserve and are exempt species.

The proposed tree removal will be appropriately offset by replacement plantings, with a significant enhancement to the quality and quantity of landscaping across the site and the adjacent road reserve, as demonstrated on the Landscape Plan by Volker Klemm Landscape Design.

The proposed development is consistent with the requirements and objectives of SEPP (Biodiversity and Conservation).

*state environmental planning policy  
(building sustainability index: basix)*

---

The proposed works constitute 'BASIX affected development', as defined by the EP&A Regulation. The application is accompanied by a BASIX Certificate demonstrating that the proposed development can meet relevant performance criteria.



## local environmental plan

---

The site is identified on the Land Application Map of PLEP 2014 and the provisions of this policy are applicable in relation to the site and the proposed development.

The relevant provisions of PLEP 2014 are considered, as follows:

| Clause   | Standard | Proposal | Compliance            |
|--|----------|----------|-----------------------|
| Clause 2.7 Demolition requires development consent |          |          | Yes                   |
| Zone C4 Environmental Living                       |          |          | Yes<br>See discussion |
| 4.3 Height of buildings                            | 8.5m     | 8.4m     | Yes<br>See discussion |
| 7.1 Acid sulfate soils                             | Class 5  |          | Yes                   |
| 7.2 Earthworks                                     |          |          | Yes                   |
| 7.5 Coastal Hazard                                 |          |          | Yes<br>See discussion |
| 7.6 Biodiversity                                   |          |          | Yes                   |
| 7.7 Geotechnical hazards                           |          |          | Yes<br>See discussion |
| 7.8 Limited development on foreshore area          |          |          | Yes<br>See discussion |
| 7.10 Essential services                            |          |          | Yes                   |

### Zone C4 Environmental Living

The site and the adjacent road reserve is zoned C4 Environmental Living (**C4 zone**) under the provisions of PLEP 2014. Pursuant to the land use table in Part 2 of this instrument, dwelling houses (and associated ancillary development) are permissible with consent.

Clause 2.3 of PLEP 2014 prescribes that the consent authority must have regard to the C4 zone objectives determining an application within the C4 zone. The objectives of the C4 zone are considered, as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment: The proposed new dwelling is generally maintained within the footprint of the existing dwelling, minimising site disturbance across the site. The two storey dwelling is highly articulated and respects the horizontal massing of existing built form. Varied materiality that reflects the coastal seaside location and harmonises with the natural environment is incorporated into the design, to further assist in reducing the bulk and scale of the development and to achieve consistency with the desired future character prescribed for the Palm Beach locality.

The proposed development has been designed and sited to minimise impacts on existing trees, with tree removal limited to exempt species. A superior landscaped solution is proposed to screen and soften the built form and to ensure that the development is appropriately integrated into the landscape.

Whilst the site is not specifically identified as having any special ecological, scientific or aesthetic values, Council can be satisfied that the proposed development is of low impact.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment: As above, the site is not identified as having any specific ecological, scientific or aesthetic values. Nonetheless, the proposed development does not result in adverse impacts upon the natural environment, the visual quality of the site or the amenity of adjoining properties.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

Comment: The proposed new dwelling is limited to two storeys in height and is wholly maintained well below the 8.5m maximum height plane. Limited excavation is proposed, with the new dwelling largely maintained within the excavated footprint of the existing dwelling and integrated into the slope of the site.

The proposed new driveway will be elevated above ground in part, with the maximum height occurring at the approach to the proposed garage. However, elevated driveways are not uncommon along the slopes of the Palm Beach locality, with sufficient landscaping retained and enhanced within the road reserve to ensure that the visual impact of the driveway is minimised.

Council can be satisfied that the proposal is of a low scale, integrated with the landform and landscape, particularly when considered in the context of the Palm Beach locality.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment: Tree removal necessitated by the development is limited to exempt species, with the significant enhancement of landscaping across both the site and the Rock Bath Road public road reserve proposed in the accompanying Landscape Plans by Volker Klemm Landscape Design.



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

The site is identified within Area I of the Height of Buildings Map of PLEP 2014. Pursuant to the provisions of 4.3(2) of PLEP 2014, the height of buildings within this area shall not exceed 8.5m. The proposed new dwelling is wholly maintained below the 8.5m building height plane, as demonstrated the 3D Height Plan Diagram on DA21, with a maximum height of approximately 8.4m.

### **Clause 7.5 Coastal hazard**

The site is identified within the Cliff/Bluff Instability area on the Coastal Risk Planning Map of PLEP 2014. The application is supported by a Geotechnical Report by Crozier Geotechnical Consultants, inclusive of a Coastal Report by Horton Coastal Engineering, that addresses the matters prescribed by 7.5(3) of PLEP 2014.

Council can be satisfied of the matters prescribed by clause 7.5(3) of PLEP 2014 in that the development –

- a. is not likely to cause detrimental increases in coastal risks to other development or properties, and
- b. is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and
- c. incorporates appropriate measures to manage risk to life from coastal risks, and
- d. is likely to avoid or minimise adverse effects from the impact of coastal processes and the exposure to coastal hazards, particularly if the development is located seaward of the immediate hazard line, and
- e. provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes and coastal hazards, and
- f. has regard to the impacts of sea level rise, and
- g. will have an acceptable level of risk to both property and life, in relation to all identifiable coastline hazards.

### **Clause 7.7 Geotechnical hazards**

The site is identified within Area H1 on the Geotechnical Hazard Map of PLEP 2014. The application is supported by a Geotechnical Report by Crozier Geotechnical Consultants that addresses the matters prescribed by clause 7.7(3) of PLEP 2014. Further, the application is supported by Stormwater Management Plans by ITM Design to confirm that a suitable stormwater management solution has been achieved.

Council can be satisfied that the development will appropriately manage wastewater, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and that the development is designed, sited and will be managed to avoid any geotechnical risk or significant adverse impact on the development and the land surrounding the development, consistent with the provisions of clause 7.7(4) of PLEP 2014.

### **Clause 7.8 Limited development on foreshore area**

The foreshore building line bisects the site at a distance of approximately 6.0m from the northern boundary, as shown on the Foreshore Building Line Map of PLEP 2014.

The application seeks consent for the construction of a new swimming pool and associated fence partially within the foreshore area, which are permitted within the foreshore areas, as prescribed by clause 7.8(2)(b) of PLEP 2014 and as acknowledged in the Minutes from the Pre-Lodgement Meeting dated 19 January 2023.

In accordance with clause 7.8(3) of PLEP 2014, the consent authority can be satisfied that –

- a. the swimming pool will not detract from consistency with the objectives of the C4 zone,
- b. the appearance of the swimming pool is compatible with development within the surrounding area,
- c. the swimming pool will not cause environmental harm,
- d. the swimming pool will not cause congestion or generate conflict between people using open space or the waterway,
- e. public access along the foreshore is not compromised,
- f. the proposed swimming pool does not impact upon the natural or aesthetic significance of the foreshore area, and
- g. coastal and geotechnical hazards affecting the foreshore area have been considered.

Further, the consent authority can be satisfied that the proposed development, that is wholly maintained within private property, will not impact upon public access along the foreshore and that the character of the foreshore is appropriately maintained.



## development control plan

---

P21 DCP is applicable to the site and the proposed development. The site is identified within the Palm Beach Locality.

The relevant provisions of P21 DCP are considered, as follows:

| Clause  | Control  | Proposal   | Compliance            |
|---|--|--|-----------------------|
| A1.7 Considerations before consent is granted                             | Have regard for the matters for consideration under section 4.15 of the EP&A Act.                                      | The matters for consideration prescribed by section 4.15 of the EP&A Act have been considered (above).   | Yes                   |
| A4.12 Palm Beach Locality   |  |  | Yes<br>See discussion |
| B1.3 Heritage Conservation – General                                      |  |  | Yes                   |
| B1.4 Aboriginal Heritage  |  |  | Yes                   |
| B3.1 Landslip Hazard  | Development is to comply with Council's <i>Geotechnical Risk Management Policy for Development in Pittwater 2009</i> . | The application is supported by a Geotechnical Report prepared by Crozier Geotechnical Consultants.  | Yes                   |
| B3.4 Coastline (Bluff) Hazard   | Development is to comply with Council's <i>Geotechnical Risk Management Policy for Development in Pittwater 2009</i> . | The application is supported by a Geotechnical Report prepared by Crozier Geotechnical Consultants, which includes a Coastal Report by Horton Consulting Engineers.                                    | Yes                   |
| B3.6 Contaminated Land and Potentially Contaminated Land                  |  |  | Yes                   |
| B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor | Development shall result in no significant onsite loss of canopy cover or net loss in native canopy trees.             | The proposed removal of exempt canopy trees will be offset by compensatory planting of locally native species, to ensure the enhancement of landscaping across the site and the adjacent road reserve. | Yes                   |

| Clause  | Control  | Proposal  | Compliance                  |
|---|--|---|-----------------------------|
| B5.15 Water Management  | The stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.  | The application is supported by Stormwater Management Plans prepared by ITM Design, which demonstrate consistency with Council's Water Management Policy.   | Yes                         |
| B6.1 Access Driveways and Works on the Public Road Reserve    | Access Driveway profiles shall conform to the profiles as illustrated in Appendix 10 - Driveway Profiles (which prescribe a maximum gradient of 1:4 for driveways within the road reserve).  | The upper portion of the driveway (between Florida Road and 16 Rock Bath Road) exceeds the 1:4 gradient prescribed in part.   | <b>No</b><br>See discussion |
| B6.2 Internal Driveways                                       | Provision is to be made for vehicles to enter and leave the site in a forward direction, where driveways are more than 30m in length.  | A vehicle turntable is proposed within the garage to facilitate entry and exit in a forward direction.  | Yes                         |
| B6.3 Off-Street Vehicle Parking Requirements                  | 2 spaces (minimum)   | 2 spaces  | Yes                         |
| B8.1 Construction and Demolition – Excavation and Fill        |  |   | Yes                         |
| B8.3 Construction and Demolition – Waste Minimisation         |  |   | Yes                         |
| B8.4 Construction and Demolition – Site Fencing and Security  |  |   | Yes                         |
| B8.5 Construction and Demolition – Works in the Public Domain | <p>All works undertaken within the public road reserve must be protected in a manner to ensure pedestrian and vehicular safety at all times.</p> <p>All works undertaken on site or in the public road reserve must make provision for pedestrian and traffic flow and not adverse nuisance.</p> | <p>The application is supported by a Construction Management Plan by Lawson &amp; Lovell Building Services detailing how the road reserve is to be managed during construction.</p> <p>Whilst the proposal will inevitably impact upon vehicular access to the adjoining dwelling at 16</p> | Yes                         |

| Clause                   | Control   | Proposal  | Compliance            |
|--------------------------|---|---|-----------------------|
|                          | All works undertaken on a site or in the public road reserve must make good any damage or disruption to the public infrastructure.  | <p>Rock Bath Road in the short-term, the proposal seeks to provide a significantly improved and safer access driveway at no cost to the adjacent landowner.</p> <p>The proposal will also result in short term impacts upon existing canopy cover as a result of the removal of exempt and undesirable species within the road reserve. However, the proposal will also provide for an improved landscaped outcome within the road reserve, with an enhancement of native species proposed.</p> |                       |
| C1.1 Landscaping         | <p>All canopy trees, and a majority (more than 50%) of other vegetation, shall be locally native species.</p> <p>At least 2 canopy trees are to be provided in the front yard and 1 in the rear yard.</p> | <p>The site does not have a traditional front, rear and two sides configuration. Nonetheless, the proposed development provides for a significant enhancement of landscaping, including 10 additional trees on the site and 106 within the road reserve.</p> <p>The Landscape Plans confirm that all proposed plantings are native to the location.</p>   | Yes                   |
| C1.2 Safety and Security |   |   | Yes                   |
| C1.3 View Sharing        | All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.  | The proposed development has been sensitively designed to minimise impacts upon views, particularly those currently enjoyed from 16 Rock Bath Road.   | Yes<br>See discussion |



| Clause                               | Control   | Proposal   | Compliance |
|--------------------------------------|---|--|------------|
| C1.4 Solar Access                    | 3 hours of direct sunlight to the main private open space and windows of principal living areas between 9am and 3pm in mid-winter.  | <p>The application is supported by Solar Access Diagrams by Richard Cole Architecture, which confirm that the proposed development will not result in any adverse impacts upon adjoining properties with regards to solar access, with overshadowing of the property to the south remaining generally unchanged.</p> <p>Council can be satisfied that both the proposed new dwelling and the existing dwelling to the rear will receive in excess of 3 hours of sunlight to living room windows and the primary area of private open space between 9am and 3pm in midwinter.</p> | Yes        |
| C1.5 Visual Privacy                  | Private open space and living rooms of adjoining dwellings are to be protected from direct overlooking.   | High levels of visual privacy are afforded to future occupants of the proposed dwelling and neighbouring properties. The proposed new dwelling is sited well below the adjoining property to the south, with no opportunities for direct overlooking.  | Yes        |
| C1.6 Acoustic Privacy                |   |  | Yes        |
| C1.7 Private Open Space              |   |  | Yes        |
| C1.12 Waste and Recycling Facilities | All development must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan | The application is accompanied by a Waste Management Plan demonstrating consistency with Council's Waste Management Guidelines.  | Yes        |

| Clause  | Control   | Proposal   | Compliance                  |
|---|---|--|-----------------------------|
| C1.13 Pollution Control                       |   |  | Yes                         |
| C1.17 Swimming Pool Safety                    | Swimming pool fencing and warning notices (resuscitation chart) shall be manufactured, designed, constructed, located and maintained in accordance with the Swimming Pools Act 1992 and Regulation. | The proposed swimming pool is designed in accordance with the Swimming Pools Act and Regulation.   | Yes                         |
| D12.1 Character as Viewed from a Public Place | Walls without articulation shall not have a length greater than 8 metres to any street frontage.  | The proposed development is well articulated, with no walls exceeding 8m in width presenting to the street.  | Yes                         |
| D12.3 Building Colours and Materials          |   | The materiality and finishes of the proposed development comprise natural tones, consistent with those of surrounding and nearby dwellings.  | Yes                         |
| D12.5 Front Building Line                     | 6.5m  | 0.9m   | <b>No</b><br>See discussion |
| D12.6 Side and Rear Building Line             | South-eastern side: 1.0m<br><br>Note: The foreshore building line serves as the rear boundary on this site.   | South-eastern side: 1.0m   | Yes                         |
| D12.8 Building Envelope                       | Buildings maintained within a plane projected at 45 degrees from existing ground level along the side boundary.   | The proposal is wholly maintained within the prescribed building envelope.<br><br>Whilst not technically applicable, the Pre-Lodgement Meeting Notes encouraged compliance with the building envelope along the front boundary. As demonstrated on the Building Envelope West Plane on DA22, the proposal complies with the envelope when projected from the western boundary. | Yes                         |

| Clause   | Control                    | Proposal                   | Compliance |
|--|----------------------------|----------------------------|------------|
| D12.10 Landscaped Area – Environmentally Sensitive Land              | 688.2m <sup>2</sup> or 60% | 760m <sup>2</sup> or 66.3% | Yes        |
| D12.13 Construction, retaining walls, terracing and undercroft areas |                            |                            | Yes        |
| D12.14 Scenic Protection Category One Area                           |                            |                            | Yes        |

#### Clause A4.12 Palm Beach Locality

The site is located within the Palm Beach locality, as identified on the Palm Beach Locality Map of P21 DCP. The proposed dwelling house is consistent with the desired future character identified for the Palm Beach Locality, as follows:

- The dwelling house contributes to the existing low-density residential area.
- The dwelling house is limited to two storeys in height, integrated with the landform and landscaping.
- The form of the dwelling house reflects and respects the horizontal massing of existing development.
- The height of the dwelling house will remain below the height of the existing and proposed tree canopy.
- The design of the proposed dwelling house is a highly considered and sensitive response to the positive attributes and constraints of the site.
- The proposed development is appropriately articulated and incorporates shade elements in order to reduce the visual impact of the development.
- The proposed materiality of the dwelling house will harmonise with the natural environment, specifically the surrounding rock platforms and exposed cliff face.
- The proposed development has been designed to be safe from hazards that affect the site.

#### Clause B6.1 Access Driveways and Works on the Public Road Reserve

Vehicular access is not currently available to the site. Occupants of the dwelling currently park on either Florida Road or at the beachfront, with access to the property limited to that afforded by the stairway and pathway within the Rock Bath Road public road reserve. This can be problematic at the best of times, but is particularly difficult during the summer months, when parking in the area is at a premium.

The Applicant seeks to obtain vehicular access to the site via a driveway from Florida Road. To achieve this, the existing access driveway within the Rock Bath Road public road reserve servicing 16 Rock Bath Road would need to be demolished, rebuilt and extended to connect to the subject site.



Clause B6.1 of P21 DCP requires consistency with the provisions of AS2890.1 and Council's Driveway profiles, which generally limit the gradient of a driveway to a maximum of 1:4 or 25.0%. The proposed driveway is inconsistent in this regard, with sections of the driveway between Florida Road and the property at 16 Rock Bath Road having a maximum gradient of 29.6%. However, the proposed non-compliance is not unreasonable in consideration of the circumstances of the subject site, specifically the slope of the land within the road reserve, and the need to match existing levels to maintain access to 16 Rock Bath Road.

The provisions of clause B6.1 of P21 DCP and AS2890.1 both provide variations to the 1:4 gradient prescribed on steeply sloping sites and when deemed acceptable by a suitably qualified Traffic Consultant. In this regard, the application is supported by certification from a Traffic Engineer from TEF Consulting confirming that the proposed design and gradient of the driveway are satisfactory.

It is also relevant to note that the Applicant has explored alternative driveway profiles that comply with the 1:4 gradient requirement. However, these options resulted in a significant increase to the above ground height of the driveway and in turn, the height of the proposed garage on the subject site and the hardstand parking area for 16 Rock Bath Road within the road reserve. The increased height of the driveway and parking structures resulted in adverse visual impacts, including view loss from 16 Rock Bath Road, and non-compliance with the prescribed building envelope. As such, despite non-compliance, the current proposal is considered to be the superior solution.

The expressed variation of clause B6.1 of P21 DCP is considered to be applicable in the circumstances of this proposal, as follows:

- The existing driveway servicing 16 Rock Bath Road has a gradient in excess of 1:3 and does not comply with the gradients prescribed.
- The driveway crest at Florida Road does not comply with Council's driveway profiles.
- The existing driveway is not an efficient use of the public road reserve, in that it provides access to one property (only) at the expense of others.
- The proposed driveway will provide a safer and more equitable arrangement for access to properties on Rock Bath Road.
- Pedestrian access along Rock Bath Road will not be impacted by the proposal.

Further, the proposal is consistent with the outcomes of the control, as follows:

- *Safe and convenient access.*

Comment: Despite non-compliance with the maximum gradient prescribed by this clause, a suitably qualified Traffic Engineer has confirmed the proposed driveway to be satisfactory, and consistent with the provisions of AS2890.1. The proposed driveway will also facilitate access that is significantly more convenient than the limited access currently available.

- *Adverse visual impact of driveways is reduced.*

Comment: Whilst the driveway has been designed to stay as close to existing ground levels as possible, sections will inevitably be elevated above ground. However, such an outcome is not uncharacteristic of the locality, with elevated driveways prevalent throughout Palm Beach (Figures 10 and 11 on the following page).



**Figure 10 – The elevated driveway servicing 1156 Barrenjoey Road in 2016, shortly after its construction**  
 Source: Google Streetview



**Figure 11 – The elevated driveway servicing 1156 Barrenjoey Road in 2021**  
 Source: Google Streetview

In order to minimise the visual impact of the driveway, the retaining structures are recessed from the leading edge of the driveway, to create shadow and to allow for vegetation to extend below the elevated surface. The retaining structures are also proposed to be finished in stone, to blend with the surrounding environment. The location of the driveway was also carefully considered to ensure the safe retention of more significant existing vegetation, with extensive landscaping proposed to screen and soften the visual impact of the resultant structure.

With respect to the visual impact of the driveway, it is also appropriate to note that any impact will be limited to that perceived when walking up and down the steps of Rock Bath Road. The proposed driveway will not be seen from a public roadway or from the beachfront, with existing and proposed downslope canopy trees screening the resultant structure from view. Further, the structure will not impinge or detract from any existing view corridors.

- *Pedestrian safety.*

Comment: The proposed development does not impact upon the existing public footpath/steps in the Rock Bath Road public road reserve and will not compromise pedestrian safety. Rather, the proposed development is likely to improve public safety by providing a compliant driveway crest at Florida Road, to enhance visibility when existing the driveway.

- *An effective road drainage system.*

Comment: The application is supported by Stormwater Management Plans that detail the collection and management of stormwater runoff from the proposed driveway. This is another positive benefit to the proposal, noting that there is no stormwater management infrastructure associated with the existing driveway.

- *Maximise the retention of trees and native vegetation in the road reserve.*

Comment: The proposed driveway has been sited to minimise impacts upon existing trees, with tree removal limited to exempt species. The application is supported by a detailed Landscape Plan that demonstrates a significant enhancement to landscaping within the road reserve.

### **Clause C1.3 View sharing**

The upslope property to the south at 16 Rock Bath Road enjoys expansive views over the subject site. The proposed new dwelling has been designed to minimise impacts upon these views, by siting the two storey form as low and as close to the common side boundary as possible.

To appreciate the likely impact upon views, a site inspection was undertaken of the adjoining property at 16 Rock Bath Road. In accordance with the four-step planning principle developed in *Tenacity Consulting v Warringah Council*, the likely impact of the proposal upon views currently enjoyed from 16 Rock Bath Road is considered, as follows:



| Steps of Tenacity  | Comment   |
|--|---|
| <p><i>The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.</i></p>   | <p>Views of Palm Beach, Barrenjoey Headland and the coastline beyond are enjoyed from the dwelling at 16 Rock Bath Road. The view also encompasses views to the Pittwater Waterway, Lion Island and the Western Foreshores. More immediate views to the rock platforms below the subject site are also available.</p> <p>The views from the upper levels are whole views, and the land and water interface of the majority of Palm Beach is visible (with vegetation obstructing the southern end of the beach). The views from the lower level are partially obstructed by the roof of the existing dwelling at the subject site and vegetation on both properties.</p> <p>As you move up through the dwelling, the views are less affected by vegetation and are more expansive.</p> <p>The views are iconic and highly valuable.</p>   |
| <p><i>The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.</i></p> | <p>The views to Palm Beach and Barrenjoey Headland (including the Pittwater Waterway) are obtained in a north-westerly direction, over the common side boundary. Views to the Central Coast are obtained in a northerly direction over the common side boundary. Views to the ocean and the rock platforms immediately below the site are gained in a northerly, north-easterly and easterly direction, over both the common side boundary and the rear boundary of 16 Rock Bath Road.</p> <p>The views to Palm Beach, Barrenjoey Headland and the coastline are obtained from all north-west and north facing rooms/areas, including the primary living room and dining room on the ground level, the primary open space adjacent to the primary living area on the ground level, and bedrooms on the lower ground and first floor levels. Views to the ocean and rock platforms are obtained from east facing rooms, primarily bedrooms.</p> <p>Sitting views from the ground level, including those from the primary living room, dining room and primary open space (balcony) are partially obstructed by the handrail of the balcony and vegetation.</p> |
| <p><i>The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views</i></p>   | <p>With a maximum RL of 32.5m AHD, the roof of the proposed dwelling sits 790mm lower than the ridgeline of the existing dwelling. This is likely to increase available views of the land/water interface of Palm Beach from the lower ground level of 16 Rock Bath Road.</p>   |

| Steps of Tenacity   | Comment  |
|---|--|
| <p><i>from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.</i></p>  | <p>However, as the new dwelling projects further to the north-west compared to the existing dwelling, it is likely that the proposal will impact upon the most immediate downward water views currently enjoyed from the upper levels of the dwelling. The extension to the north-east of the site is also likely to impact upon downward filtered views to the rock platforms from all levels.</p> <p>The likely impact is reasonably described as negligible, noting that:</p> <ul style="list-style-type: none"> <li>• In no circumstance are the iconic views to Barrenjoey Headland or the whole views of Palm Beach impacted from within the dwelling,</li> <li>• The beach view from the lower level will be significantly enhanced by the proposal,</li> <li>• Any impact upon views from the dwelling is limited to a minor portion of the water or rock platforms, which are visible from other areas of the dwelling.</li> </ul> <p>The likely impact is demonstrated and discussed further in Annexure One.</p>  |
| <p><i>The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.</i></p> | <p>With the exception of the front building line, which has no impact upon views, the proposed development complies with all built form controls applicable to the site.</p> <p>The proposed development is highly considerate of the amenity of the adjoining property and epitomises a skilful design solution. The dwelling sits generally within the excavated footprint of the existing dwelling and is maintained below the lower ground level of the upslope dwelling. The footprint of the dwelling is minimised, with a landscaped area that exceeds the minimum prescribed, and the gross floor area is comparably modest for a contemporary dwelling in the Palm Beach locality.</p> <p>The dwelling is limited to a maximum width of 13m, being less than one third of the width of the site, and has been designed to sit as close as possible to the common side boundary in order to limit any impact upon downward ocean views.</p> <p>In light of the negligible impact to views and the skilful design proposed, the impact is considered to be reasonable, with view sharing between properties achieved.</p> |

Council can be satisfied that view sharing will be achieved amongst dwelling, and consistency with the requirements and outcomes of this control are achieved.

### Clause D12.5 Front Building Line

Clause D12.5 of P21 DCP prescribes a minimum front building line of 6.5m, or the established building line, whichever is the greater. The proposed development is non-compliant in this regard, with structures located at a minimum distance of 900mm from the front boundary. However, clause 12.5 of P21 DCP provides a series of variations that may be applied by Council, subject to consistency with the outcomes of the control. Some of the nominated circumstances in which Council may accept a variation include:

- *Considering established building line,*
- *Degree of cut and fill,*
- *Retention of trees and vegetation,*
- *For narrow or irregular shaped blocks, and*
- *Where the topographic features of the site need to be preserved.*

Whilst any one of these circumstances may warrant variation of the front building line control, all five of these circumstances are relevant in relation to the subject site, as follows:

- The siting of the proposed dwelling is generally consistent with that of the existing dwelling, with a setback to Rock Bath Road that is consistent with the setbacks of the dwellings to the south at 8, 10 and 12-14 Rock Bath Road and those on the opposite side of the unmade road reserve at 2 and 4 Florida Road.
- The new dwelling is generally sited within the excavated footprint of the existing dwelling, to minimise site disturbance across the site.
- The eastern projection of the dwelling is limited by the retention of the existing Paperbark tree to be retained, with limited impact upon vegetation to the north of the dwelling and within the foreshore area.
- The site is an irregular shaped block, that is constrained by the foreshore building line,
- The site is comparably steep, limiting the area of the site that can be developed.

The application of variations due to these individual circumstances is warranted, as the proposal is consistent with the outcomes of the clause, as follows:

- *Achieve the desired future character of the Locality.*

Comment: As discussed with regard to A4.12 of P21 DCP, the proposed new dwelling is consistent with the desired future character of the Palm Beach Locality.

- *Equitable preservation of views and vistas to and/or from public/private places.*

Comment: The proposed non-compliance with the front building line does not result in any adverse impacts upon views.

- *The amenity of residential development adjoining a main road is maintained.*

Comment: The site does not adjoin a main road. Further, the site does not adjoin a road way, which significantly alters the perception of the boundary in question. In light of the unmade nature of Rock Bath Road and the siting of nearby and adjoining buildings, the south-western boundary is more readily perceived as a side boundary.



- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment: The proposed development does not result in any unreasonable impacts upon existing vegetation, with tree removal limited to that of exempt species. The proposed development will result in the significant enhancement of landscaping on the site and within the adjacent road reserve.

- *Vehicle manoeuvring in a forward direction is facilitated.*

Comment: Vehicle manoeuvring in a forward direction is facilitated.

- *To preserve and enhance the rural and bushland character of the locality.*

Comment: N/A – the site does not have a rural or bushland character. Nonetheless, the landscaped character of the site is retained and enhanced.

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

Comment: Rock Bath Road is not the typical streetscape, with access limited to a pedestrian pathway. The front building line non-compliance will not detract from the existing streetscape, noting that the proximity of the proposed dwelling is generally consistent with that of all other dwelling adjoining the unmade road. The scale of the dwelling is appropriately reduced and is maintained below the height of existing and proposed canopy trees. Furthermore, whilst not technically applicable to the front setback, the built form has been reduced to ensure compliance with the building envelope (when projected from the front property boundary), consistent with the recommendations of Council staff.

- *To encourage attractive street frontages and improve pedestrian amenity.*

Comment: The existing access to the site is significantly constrained, with uneven pathways and steps, no lighting for access at night, and overgrown landscaping infested with weeds and undesirable species. The proposal seeks to provide safe and convenient vehicular access to the site, with a new access pathway branching from the public stairway. The driveway will be screened and softened by existing and proposed landscaping and where visible, retaining structures are to be finished in stone.

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

Comment: The setbacks of the proposed dwelling are appropriately responsive to the footprint of the existing dwelling and that of surrounding and nearby dwellings along Rock Bath Road. Whilst non-compliant, the siting of the dwelling is considered to be the most appropriate location in light of the constraints of the site.

## *conclusion*

---

The proposal is a well resolved and considered design solution for the site, which has high regard for the amenity of adjoining properties and the natural features of the site. The proposal will not result in any unreasonable impacts upon adjoining properties or the surrounding natural environment and appropriately reflects the desired future character of the Palm Beach Locality.

The proposal involves minor areas of non-compliance with the driveway gradient and front building line controls of P21 DCP. We ask that Council apply flexibility in this regard, consistent with the provisions of 4.15(3A)(b) of the EP&A Act, noting that the outcomes of these controls are nonetheless achieved.

Overall, the proposed development will positively contribute to the Palm Beach locality, and the application warrants Council's support in this regard.



**Rebecca Englund**

B Arch Studies | M Plan | MPIA

**Director | Northern Beaches Planning**

## *annexure one*

---

The following images depict existing views from the adjoining dwelling at 16 Rock Bath Road and are annotated to assist in the consideration of view sharing and consistency with the provisions of clause C1.3 of P21 DCP.



Figure A: The existing view available from the ground floor (middle level) primary open space  
Source: NBP



**Figure B – View from standing position on ground floor rear balcony**  
**Source: NBP**

The ridgeline of the existing dwelling (at RL33.29m AHD) is visible behind the canopy of the frangipani trees in the foreground. Whilst the proposed roof is 790mm lower than that which currently exists, the roof projects further to the north-west, and as such, it is likely that views will remain generally the same, with any potential new impact limited to the obstruction of a portion of the water.

Council can be entirely satisfied that the proposed development will not encroach of the wave zone or the whole beach view.



**Figure C – View from seated position on ground floor rear balcony**  
**Source: NBP**

From a seated position, the existing balustrade obstructs the ridgeline of the existing dwelling. Any impacts associated with the forward projection of the new roof are reduced in a seated position and it is unlikely that there will be any discernible impact upon views in a seated position.





**Figure D – View from the eastern end of the ground floor rear balcony**  
Source: NBP

The proposed dwelling extends further to the east of the site compared to that which currently exists. The proposal may impact upon views to the rock platforms visible from areas throughout 16 Rock Bath Road, including the ground floor balcony. However, views to the rock platforms over the rear of the subject site will remain entirely unaffected.

Note: The Paperbark tree to the left of the image is to be retained.



**Figure E – View from the primary living room**  
Source: NBP

The ridgeline of the existing dwelling is visible behind the balustrade and canopy of the frangipani trees in the foreground. Whilst the proposed roof is lower than that which currently exists, the roof projects further to the north-west, and as such, it is likely that views will remain generally the same, with any potential new impact limited to the obstruction of a portion of the filtered water views.

Council can be entirely satisfied that the proposed development will not encroach of the wave zone or the whole beach view.





**Figure E – View from the lower ground private open space**  
Source: NBP

With a maximum RL of 32.5m AHD, the roof of the proposed dwelling sits 790mm lower than the ridgeline of the existing dwelling, at a similar level to that of the lower roof form at the right of the image. This is likely to increase available views of the land/water interface of Palm Beach from the lower ground level of 16 Rock Bath Road.



**Figure F – View from the lower ground private open space (further east)**  
Source: NBP

The proposed dwelling extends further to the east of the site compared to that which currently exists. The proposal may impact upon filtered ocean views currently available through and around the Paperbark tree in the centre of the image (which is to be retained).

At no point will the proposed dwelling encroach on views to the surf zone or the land/water interface of Palm Beach.



**Figure G – View from sunken paved area at north-eastern corner of 16 Rock Bath Road**  
**Source: NBP**

The proposed dwelling extends further to the east of the site compared to that which currently exists. The proposal will likely impact upon views to Palm Beach and Barrenjoey Headland that are currently available from a standing position in the sunken paved area at the north-eastern corner of the site.

The impact is considered to be reasonable, as follows:

- The views to the east over the rear boundary are retained,
- The impacted views to the north are obtained over a side boundary and are only available in a standing position (noting the solidity of the sandstone boundary wall),
- The area itself is disconnected from the primary dwelling and is not the primary area of private open space, and
- The impacted views are retained from within the dwelling and enhanced when seen from the lower ground floor external areas immediately adjacent to the dwelling.





**Figure H: Photomontage of the proposed development as seen from the primary areas of private open space at 16 Rock Bath Road**  
**Source: Richard Cole Architects**