

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0900
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Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 151 DP 6937, 40 Sunrise Road PALM BEACH NSW 2108
Proposed Development:	Construction of a dwelling house including a swimming pool and spa
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Susan Elizabeth Rothwell
Applicant:	Susan Rothwell Architects

Application Lodged:	01/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	23/11/2021 to 07/12/2021
Advertised:	Not Advertised
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,760,000.00
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EXECUTIVE SUMMARY

The development application is for the construction of a three (3) level dwelling house, including a swimming pool and spa on a vacant residential parcel of land. The application is referred to the Development Determination Panel due to the estimated cost of construction being over \$1 million and there being three (3) objections.

Following notification and preliminary assessment of the proposal, concerns with the proposal were raised with the applicant, including height, character, views, building envelope, landscaping, privacy, front setback, scenic protection, tree removal, stormwater and insufficient/inconsistent documentation. Amended plans and additional information were submitted in response. The assessment of this application is based on the amended plans.

A total of three (3) submissions were made in response to the original notification and one (1) was made to the notification of the amended plans. These submissions raised numerous concerns with the proposal. The principle issues that were raised in the submissions were concerned with the height, bulk, scale and visual impact of the proposal; amenity issues regarding privacy, noise and views and non-compliance with built form controls including height, building envelope, front and side building lines.

Overall, it is considered that the design and appearance of the proposed dwelling (as amended) is consistent with the sloping topography and the surrounding newer residential dwelling houses located on Sunrise Road and wider locale. The application is accompanied by an Arboricultural Impact Assessment and Biodiversity Development Assessment Report which address the proposed tree removal and associated impact on biodiversity. These reports have been reviewed by the relevant experts in Council who are satisfied that the issues can be managed, subject to their recommended conditions and compliance with the relevant expert reports which include replacement planting. Potential amenity issues to surrounding neighbours have been reviewed under Council's Policies and have been determined to be reasonable within a residential environment (subject to recommended conditions).

The proposed development has the appearance of being two storey as viewed from Sunrise Road, steps down the site and is within the required 10.0m height variation for sloping sites under the PLEP 2014. The proposed development is set below the general tree canopy height, is in keeping with that of other properties along Sunrise Road, many of which are three stories in height, and includes building modulation to minimise bulk. Proposed landscaping, in conjunction with existing and required landscaping (by recommended conditions contained within this report), will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape. The proposed variations to the Built Form Controls under the Pittwater 21 DCP are supported for the reasons discussed in detail in this report.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that, on balance the proposal (as amended) is a suitable and appropriate development for the subject site, for the reasons outlined in this report.

Accordingly, it is recommended that the application be approved subject to the attached conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for the construction of a new three (3) level dwelling-house, including a swimming pool and spa on a vacant site.

The proposal consists of:

First Floor Level

- Bed 1 & Bed 2 (with individual ensuites)
- Terrace Balcony
- Lift access

Ground Floor Level

- Open Kitchen, Living and Dining Plan with Terrace balcony
- Double Garage

- Lift access
- Entry porch

Lower Ground Floor Level

- Bed 3 – 7 (with individual ensuites)
- Rumpus room
- Cinema
- Laundry
- Lift Access

External Works

- New pool and Spa
- Courtyard and terracing
- Landscaping works
- Excavation and fill works
- Retaining walls
- Stormwater infrastructure

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
 Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation
 Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
 Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection
 Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

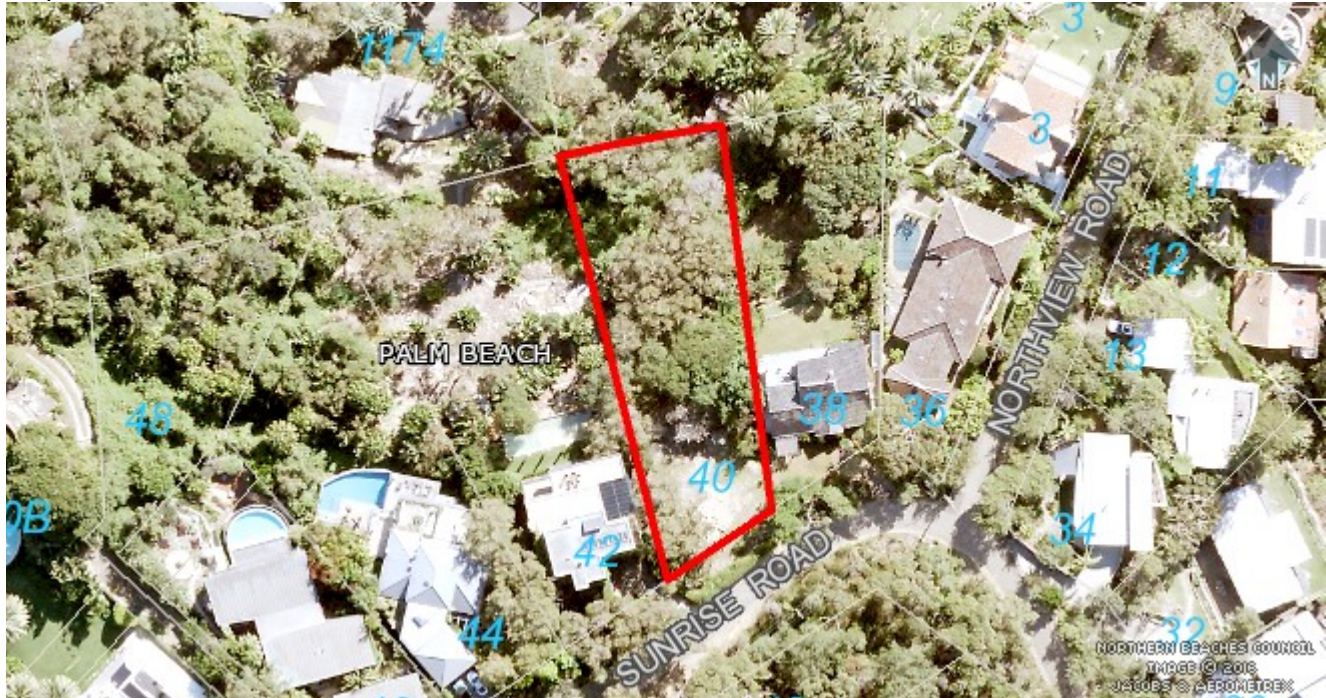
Pittwater 21 Development Control Plan - A4.12 Palm Beach Locality
Pittwater 21 Development Control Plan - B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites
Pittwater 21 Development Control Plan - B1.4 Aboriginal Heritage Significance
Pittwater 21 Development Control Plan - B4.2 Flora and Fauna Conservation Category 1 and Wildlife Corridor
Pittwater 21 Development Control Plan - B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor
Pittwater 21 Development Control Plan - B4.22 Preservation of Trees and Bushland Vegetation
Pittwater 21 Development Control Plan - B6.7 Transport and Traffic Management
Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill
Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan
Pittwater 21 Development Control Plan - C1.1 Landscaping
Pittwater 21 Development Control Plan - C1.3 View Sharing
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - C1.13 Pollution Control
Pittwater 21 Development Control Plan - C1.23 Eaves
Pittwater 21 Development Control Plan - D12.5 Front building line
Pittwater 21 Development Control Plan - D12.6 Side and rear building line
Pittwater 21 Development Control Plan - D12.8 Building envelope
Pittwater 21 Development Control Plan - D12.13 Construction, Retaining walls, terracing and undercroft areas
Pittwater 21 Development Control Plan - D12.14 Scenic Protection Category One Areas

SITE DESCRIPTION

Property Description:	Lot 151 DP 6937 , 40 Sunrise Road PALM BEACH NSW 2108
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Sunrise Road</p> <p>The site is irregular in shape with a frontage of 20.42m along Sunrise Road and a depth of 71.09m. The site has a surveyed area of 1528m².</p> <p>The site is located within the C4 Environmental Living zone and is currently vacant.</p> <p>The site has a crossfall of approximately 28m from the south (street frontage) to the north (rear) .</p> <p>Numerous native and non-native trees and vegetation is located on the site. The rear of the site is densely vegetated. Rock outcrops are located throughout the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by two, three and four storey dwelling houses of varying architectural styles. Sunrise reserve is located to the south of the site.</p>

The site adjoins two heritage items "Villa D'este' (house) - 3 Northview Road Palm Beach and C6 Sunrise Hill Heritage Conservation Area - Sunrise Road

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

N0094/12 - Development Application for the demolition of the existing dwelling - Approved 05/09/2012

APPLICATION HISTORY

15 September 2021

Council wrote to the applicant, raising concerns in relation to:

- Height non-compliance
- Palm Beach Locality
- Landscaping
- Views
- Privacy
- Character as viewed from a public place
- Front building line
- Building envelope
- Insufficient documentation

09 November 2021

Amended plans and additional information were submitted to address Council's concerns.

18 November 2021

Amended plans were re-notified to the original list of residents and those who made a submission.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans and updated reports.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration	Comments
	<p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 23/11/2021 to 07/12/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 4 submission/s from:

Name:	Address:
Mr Lance Doyle	3A Kendall Road CASTLE COVE NSW 2069

Name:	Address:
The Palm Beach & Whale Beach Association Inc	Palm Beach/Whale Beach Areas AB Dummy For Daba Notification WARRIEWOOD NSW 2102
Richard West	87 Florida Road PALM BEACH NSW 2108
Doyle Consulting Group	3A Kendall Road CASTLE COVE NSW 2069

The following issues were raised in the submissions:

- **Building Height**
- **View Loss**
- **Size, bulk, and visual impact of proposed development**
- **Non-compliance with DCP Controls – Building Envelope, Front and Side Building Line**
- **Number of Storeys**
- **Privacy**
- **Proximity of proposed pool**
- **Retaining Wall Height**
- **Impact of proposed fire place**
- **Amenity impact of plant and equipment**
- **Landscaping around pool**

The above issues are addressed as follows:

- **Building Height**

The submissions raised concerns that the proposed height of the development and the the proposal does not meet the stipulated height requirement.

Comment:

Following this submission, amended plans were received which reduced the height of the proposed development to under 10.0m. This matter has been addressed within section 4.3 *Height of buildings* of this report. In summary, the proposed development (as amended) is considered to meet the requirements of Clause 2D of Clause 4.3, which permits the 10.0m height standard for this development.

- **View Loss**

The submissions raised concerns that the proposal would result in unreasonable view loss from the public realm and from the adjoining property to the east (No.38 Sunrise Road)

Comment:

The proposed development is acceptable in relation to view loss for the reasons detailed in the section of this report relating to Section C1.3 View Sharing of the P21 DCP. The requirements of this clause and the view sharing principles of *Tenacity Consulting vs Warringah Council [2004] NSWLEC 140* and *Rose Bay Marina Pty Limited Vs Woollahra Municipal Council and anor (213) NSWLEC 1046* have been addressed and the issues raised within the residents submissions in relation to view loss do not warrant further amendment or refusal of the application.

- **Size, bulk, and visual impact of proposed development**

The submissions raised concerns regarding the bulk and scale of the proposal and the associated visual impact. Particular concern was raised by the neighbour to the east (No. 38 Sunrise Road) with regards to the bulk and visual impact of the eastern elevation of the proposed dwelling and the pool.

Comment:

During the assessment of this application, amended plans were received which reduced the height, increased side and front setbacks, reduced the building envelope breach, reduced the extent of terracing and introduced additional landscaping to the proposal.

The proposed dwelling (as amended) is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being a two storey building when viewed from street and "human scale". The design and appearance of the proposed dwelling is consistent with the sloping topography of the site and newer surrounding residential dwelling houses located on Sunrise Road. The proposed dwelling steps with the fall of the land and is predominantly below the required 8.5m height requirement and is within the required 10.0m height control applying to sloping sites. Furthermore, the height and scale of the proposed dwelling is in keeping with that of other properties along Sunrise Road, many of which are three stories in height (see No.42; No.44 and No.46). Proposed landscaping, in conjunction with existing and required landscaping (by recommended conditions), will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape, when viewed from the street and the waterway.

- **Non-compliance with DCP Controls – Building Envelope, Front and Side Building Line**

Comment:

During the assessment of this application, amended plans were received which increased the side and front setbacks and reduced the building envelope non-compliance.

For each of the numerical non-compliances, a merit assessment has been carried out against the objectives of that control. The assessment has found that the proposed non-compliances are reasonable (subject to conditions).

- **Number of Storeys**

The submissions raised concerns that 3 storey development is not permitted on the subject site.

Comment:

The proposed development consists of part a two/part three storey dwelling house, where the locality calls for two storey development.

The proposed dwelling is considered appropriate in the context of the site, in that the subject site slopes away from the street, with the proposed development having the appearance of being two storey and "human scale" as viewed from Sunrise Road. The design and appearance of the proposed dwelling will be consistent with the sloping topography and newer surrounding residential dwelling houses located on Sunrise Road. The proposed dwelling steps with the fall of the land and is predominantly below the required 8.5m height requirement and is within the required 10.0m height variation for sloping sites. Furthermore, the height and scale of the proposed dwelling is in keeping with that of other properties along Sunrise Road, many of which are three stories in height (see No.42; No.44 and No.46).

- **Privacy**

A submission was received on behalf of the neighbour to the east (No. 38 Sunrise Road) with regards to visual and acoustic privacy impacts. The initial submission raised particular concern with the upper level terrace and the location of the proposed pool. Following this submission, amended plans were received which substantially reduced the size of the upper level terrace and set the pool and spa away from the eastern side boundary to incorporate screen planting.

Following the notification of the amended plans, a further submission was raised on behalf of the neighbour to the east (No. 38 Sunrise Road) with regards to visual privacy from the upper level terrace, requesting the provision of planter boxes with vegetation a minimum of 1.4 metres in height above the finished floor level along the eastern periphery of the upper level deck.

The terrace (Terrace 1) floor level is RL62.4 and the head height of adjoining windows of No.38 Sunrise Road is RL61.63. As such, this terrace would be appropriately offset from these adjoining windows. In order to prevent downward overlooking into adjoining windows, it is recommended a condition be imposed for the balustrading on the eastern elevation of this terrace to be solid or obscure glazed. In addition, this terrace would serve bedrooms which are not considered high usage areas. Given the orientation and height of this terrace, the proposal is not considered to give rise to unacceptable privacy impacts to this neighbour (subject to conditions). Given the dense urban environment of this area of Palm Beach, it is considered that it is an unreasonable expectation that complete privacy can be maintained between dwellings.

The proposed development (as amended) is acceptable in relation to privacy for the reasons detailed in the section of this report relating to Section C1.5 Visual Privacy of the P21 DCP. In summary, the proposal results in reasonable levels of privacy to adjoining properties (subject to recommended conditions).

- **Proximity of proposed pool**

A submission was raised on behalf of the neighbour to the east (No. 38 Sunrise Road) with regards to the proximity of the proposed pool to the eastern boundary and lack of screen landscaping between the pool and the eastern boundary.

Comment:

Following this submission, amended plans were received which increased the side setback of the pool to 4.5m from the eastern side boundary and introduced suitable screen planting to assist in the mitigation of bulk and privacy impacts.

- **Retaining Wall Height**

A submission was raised on behalf of the neighbour to the east (No. 38 Sunrise Road) with regards to the height of the proposed retaining wall adjacent to the eastern boundary requested that this wall be no higher than 300mm above the finished ground level at any point.

Comment:

The retaining wall has been designed to allow light and ventilation to the lower ground floor windows and is considered acceptable in this instance. Suitable conditions have been imposed to ensure the structural adequacy of this retaining wall. In order to ensure that there are no adverse impacts on the adjoining neighbours during excavation, conditions have been imposed which ensure structural adequacy of landfill and excavation work; ensure the recommendations of the Geotechnical report are adhered; and require the preparation of pre and post construction dilapidation reports for adjoining properties.

- **Impact of proposed fire place**

Concern was raised with regards to the amenity impact of the proposed fire place.

Comment:

Council's Environmental Health Department have reviewed the proposed fire place and have raised the following comments:

Environmental Health note the gas fireplace marked in the plans and offer the recommendation of approval without conditions. Unlike solid fuel heaters, gas fireplaces do not create smoke nuisances and therefore aren't subject to the same emission control standards.

As such, the proposed gas fireplace is considered acceptable. A condition is imposed to ensure that no approval is granted for the installation of a solid/fuel burning heater.

- **Amenity impact of plant and equipment**

The submissions raised concerns with regards to potential acoustic impacts of air-conditioning and plant equipment.

Comment:

In this regard, conditions are imposed to ensure that any plant equipment does not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

- **Landscaping around pool**

"Landscaping of the pool in the rear yard area is a very important consideration for both the applicant and my clients as the issue of privacy to and from the proposed pool is an important consideration. We would like to ensure that the proposed landscaping between the pool and my clients living areas is of sufficient height to overcome any potential privacy impacts but not of a height that would block views from my clients areas of principle open space."

Comment:

It is considered that this planting would assist with maintenance of privacy and would not result in unreasonable view loss. The proposal has been reviewed by Councils Landscape Officer who has raised no objection to the proposal. Appropriate conditions are imposed to ensure compliance with the landscape plan and ongoing landscape maintenance.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	<p>General Comments</p> <p>Environmental Health note the gas fireplace marked in the plans and offer the recommendation of approval without conditions. Unlike solid fuel heaters, gas fireplaces do not create smoke nuisances and therefore aren't subject to the same emission control standards.</p>

Internal Referral Body	Comments
	<p>Recommendation</p> <p>APPROVAL - no conditions</p>
Landscape Officer	<p>Further comments: An updated Arboricultural Impact Appraisal and Method Statement dated 4 February 2022 is submitted and is reviewed.</p> <p>Updated comments: A arboricultural investigation titled Tree Impact Statement for existing tree 3 (Paperbark) is submitted providing evidence that the tree is advised for removal regardless of development works as tree 3 has had "a major failure, ... with a large cavity at the base ... and the structure of the tree has been severely compromised ... and the strong recommendation is that this tree be removed and replaced."</p> <p>With removal of tree 3 (Paperbark) within the frontage of the site, the Landscape Plan outcome shall be improved by conditions imposed for replacement tree planting within the front setback in accordance with Pittwater 21 DCP control C1.1 Landscaping, requiring two canopy trees within the frontage, of which at one shall be a replacement Cheese Tree.</p> <p>In total eight existing locally native Paperbark trees are preserved to the rear of the property, seven prescribed trees (ie. protected by the DCP and requiring Council consent) require removal based on development impacts, and thirteen exempt species by either height or by species type and not requiring Council consent are proposed for removal. No impacts are assessed in the Arboricultural Impact Appraisal and Method Statement dated 9 December 2020 upon existing trees and vegetation within adjoining properties.</p> <p>Tree protection measures as recommended in the Arboricultural Impact Appraisal and Method Statement shall be adhered to, including the engagement of a Project Arborist.</p> <p>Subject to conditions of consent for tree protection, and the completion of landscape works as imposed by conditions, Landscape Referral raise no concerns.</p> <p>Previous comments: The application is for the construction of a new dwelling.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause E4 zone Environmental Living, and the following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D12 Palm Beach Locality

Internal Referral Body	Comments
	<p>The site is located in the E4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the E4 Environmental Living zone.</p> <p>A Landscape Plan and a Arboricultural Impact Assessment is provided. The Landscape Plan identifies existing trees to be retained and removed and provides additional landscape treatment to the frontage of the site, with the rear to be retained in its natural landscape state.</p> <p>The Arboricultural Impact Assessment report recommended removal of three (3) high retention value trees without any detailed information or justification for removal. It is considered that trees identified as number 4 (Paperbark) and 18 (Cheese Tree) are impacted by the development with no opportunity for retention. However detailed information is required to justify removal of tree 3 (Paperbark) as its location within the frontage provides streetscape appeal and satisfies the landscape outcomes of E4 zone and the DCP controls B4.22 and C1.1.</p> <p>It is considered that a design alternative is available to retain this tree including retention of the existing ground levels and realignment of proposed retaining walls to ensure the structural root zone is not impacted and any encroachment into the tree protection zone is managed, including pier and beam construction if required. Given the existing slope it may be assessed that the majority of tree roots are found upslope. The Arboricultural Impact Assessment report does not provide arboricultural investigation to support tree removal and a sensitive tree root investigation may reveal accurate information to justify any proposed removal. The site plans additionally do not co-ordinate the location of tree 3 Paperbark against the proposal.</p> <p>Landscape Referral are unable to continue the assessment until detailed information is provided.</p>
NECC (Bushland and Biodiversity)	<p>Updated Biodiversity Comments It is noted that a Tree Impact Statement (Naturally Trees, October 2021) was submitted as additional information for investigations into Tree 3. The Arborist has recommended the removal of Tree 3 due to concerns on the structural health of the tree. As such, the Landscape Plan is to be amended to include replacement canopy trees within the site as per Council's Landscape Referral teams comments.</p> <p>Subject to conditions, including amendments to the landscape plan, Council's Biodiversity referrals team raise no objection</p> <p>Previous Biodiversity Comments Council's Biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity</p>

Internal Referral Body	Comments
	<p>related controls:</p> <ul style="list-style-type: none"> • Biodiversity Conservation Act 2016 • Pittwater LEP cl. 7.6 Biodiversity Protection • Pittwater 21 DCP cl. B4.2 Flora and Fauna Conservation Category 1 and Wildlife Corridor • Pittwater 21 DCP cl. B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor <p>The Development Application seeks consent for the construction of a new two-storey dwelling with basement level, including a pool and attached garage.</p> <p>It is noted that the following biodiversity related reports/documentation were reviewed as part of this assessment:</p> <ul style="list-style-type: none"> • Arboricultural Impact Appraisal and Method Statement (Naturally Trees, December 2020) • Flora and Fauna Surveys and Biodiversity Impact Assessment (ACS Environmental, January 2021) • Landscape Plan (Susan Rothwell Architects, June 2021) <p>The Biodiversity Impact Assessment confirmed that the proposal does not trigger the Biodiversity Offset Scheme (BOS) and thus a Biodiversity Development Assessment Report (BDAR) is not required. No threatened species or entities listed under the BC Act were confirmed on site, and after conducting a likelihood of occurrence for threatened species identified within BioNet, no 5-part tests were undertaken.</p> <p>The Arborist Report identified that six (6) native prescribed trees will require removal to facilitate the proposed development. It is recommended that Tree 3 (<i>Melaleuca quinquenervia</i>) be retained as it is located outside the development footprint. Loss of native tree removal will be mitigated through replacement plantings at a 1:1 ratio to ensure that no net loss in native canopy trees is achieved in accordance with P21DCP cl. B4.2. Replacement trees are to be included in the Landscape Plan.</p> <p>The Landscape Plan currently does not achieve compliance with P21DCP cl. B4.2 which requires that development ensure that at least 80% of any new planting incorporates native vegetation. Species are to be selected from Council's Native Plant Species Guide - Pittwater Ward which is available on Council's website (https://www.northernbeaches.nsw.gov.au/node/34932).</p> <p>Subject to these conditions of consent, Council's Biodiversity referrals team are satisfied that the proposed development complies with the controls listed above.</p>
NEFC (Development	

Internal Referral Body	Comments
Engineering)	<p>The stormwater plans proposes to discharge stormwater, via a private drainage easement, to a council pit located on the low side of Barrenjoey Road. As this requires crossing a state road concurrence from TfNSW is required prior to approval.</p> <p>Review 29/11/2021 The stormwater management plan by Acor Consultants dated 7/6/2021 proposes an interallotment easement along the northern boundary of No 1174 Barrenjoey Rd to connect to the Council system in Barrenjoey Road. However there is a previous approval for a stormwater system for the development at 1174 Barrenjoey Rd (Lot 2) with a pipeline and an underground OSD system along the northern boundary. Correspondence from the applicant suggest the proposal is to connect to the approved system once constructed. The issues with this proposal is as follows:</p> <ol style="list-style-type: none"> 1. The proposed private interallotment easement as per the current stormwater plan for 40 Sunrise Rd conflicts with the existing approval for 1174 Barrenjoey Road. The current plans does not appear to have considered the approved system. Due to the narrow area of Lot 2, along the northern boundary, there does not appear to be enough room for both an easement and private drainage system for Lot 2. 2. The interallotment drainage line must be separate from the private drainage for 1174 Barrenjoey Rd and cannot pass through the private OSD system. 3. The private connection across Barrenjoey Road is not supported. If the proposal involves the connection to the council system on the western side of Barrenjoey Rd, then the applicant shall extend the council system via a new pit and pipe connection across Barrenjoey Road. The Private line can connect to the new pit on the eastern side of Barrenjoey Rd. <p>The proposed application cannot be supported by Development Engineering due to lack of information to address:</p> <ul style="list-style-type: none"> • <i>Stormwater drainage for the development in accordance with clause B5.15 Stormwater.</i> <p>Additional Information Provided on 17/12/2021 The amended stormwater plans showing the interallotment drainage line via No 1178 Barrenjoey Rd and the extension of the council system to the eastern side of Barrenjoey Rd is satisfactory. The proposed drainage works across Barrenjoey Rd are subject to TfNSW approval as conditioned. No objections to approval subject to conditions as recommended.</p>
NECC (Water Management)	<p>The proposal was assessed under the current creek and water management legislation framework, the relevant parts of the LEP, DCP and Council Water Management for Development Policy. The relevant water management Policy principles are:</p>

Internal Referral Body	Comments					
	<ul style="list-style-type: none"> • Improve the quality of water discharged to our natural areas to protect the ecological and recreational condition of our, beaches, waterways, riparian areas and bushland. • Water sensitive urban design measures will be integrated into the built form to maximise liveability and reduce the impacts of climate change e.g. urban heat island effect and intensified rainfall events. • Reduce the consumption of potable water by encouraging water efficiency, the reuse of water and use of alternative water sources. <p>The proposed development is presenting a low environmental risk after the construction period. The development application is acceptable, subject to conditions.</p>					
Road Reserve	<p>There is no impact on existing road infrastructure assets.</p> <p>Development Engineering to provide comments and conditions pertaining to driveway access.</p>					
Strategic and Place Planning (Heritage Officer)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th data-bbox="520 936 1430 969" style="background-color: #cccccc;">HERITAGE COMMENTS</th> </tr> <tr> <th data-bbox="520 969 1430 1003" style="background-color: #cccccc;">Discussion of reason for referral</th> </tr> <tr> <td data-bbox="520 1003 1430 1256"> <p>The proposal has been referred to Heritage as the subject site adjoins two heritage items</p> <p>'Villa D'este' (house) - 3 Northview Road Palm Beach</p> <p>C6 Sunrise Hill Heritage Conservation Area - Sunrise Road</p> </td> </tr> <tr> <th data-bbox="520 1256 1430 1290" style="background-color: #cccccc;">Details of heritage items affected</th> </tr> <tr> <td data-bbox="520 1290 1430 2128"> <p>Details of the item as contained within the Pittwater inventory are as follows:</p> <p>Villa D'Este <u>Statement of Significance</u> Villa D'este at 3 Northview Road in Palm Beach, was built in 1933 to the design of Fred Verrills as a holiday house, has historic and aesthetic significance as a rare and intact example of Spanish Mission House typical of the early Pittwater subdivisions.</p> <p><u>Physical Description</u> The house is located on a slightly raised site screened by a short stone fence and vegetation with scenic views over Ocean Beach. The house comprises of a rendered brick two-storey building characterised by typical Spanish Mission style features. These include: the asymmetrical facade, shaped gable facade, barley-twist columns, semi-circular arches, rendered brick walls, decorative sunrise motif, wrought-iron door hardware, gabled chimney stack, arched veranda, timber shutters, front steps, timber pergola, stucco finish and decorative parapet.</p> <p>Sunrise Hill Heritage Conservation Area <u>Statement of Significance</u> The Sunrise Hill Heritage Conservation Area includes the curtilage</p> </td> </tr> </table>	HERITAGE COMMENTS	Discussion of reason for referral	<p>The proposal has been referred to Heritage as the subject site adjoins two heritage items</p> <p>'Villa D'este' (house) - 3 Northview Road Palm Beach</p> <p>C6 Sunrise Hill Heritage Conservation Area - Sunrise Road</p>	Details of heritage items affected	<p>Details of the item as contained within the Pittwater inventory are as follows:</p> <p>Villa D'Este <u>Statement of Significance</u> Villa D'este at 3 Northview Road in Palm Beach, was built in 1933 to the design of Fred Verrills as a holiday house, has historic and aesthetic significance as a rare and intact example of Spanish Mission House typical of the early Pittwater subdivisions.</p> <p><u>Physical Description</u> The house is located on a slightly raised site screened by a short stone fence and vegetation with scenic views over Ocean Beach. The house comprises of a rendered brick two-storey building characterised by typical Spanish Mission style features. These include: the asymmetrical facade, shaped gable facade, barley-twist columns, semi-circular arches, rendered brick walls, decorative sunrise motif, wrought-iron door hardware, gabled chimney stack, arched veranda, timber shutters, front steps, timber pergola, stucco finish and decorative parapet.</p> <p>Sunrise Hill Heritage Conservation Area <u>Statement of Significance</u> The Sunrise Hill Heritage Conservation Area includes the curtilage</p>
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Internal Referral Body	Comments		
	<p>of a number of historic properties representing the earliest phase of residential development at Palm Beach.</p> <p><u>Physical Description</u> Conservation area includes houses at 50, 52, 54, 56, 58-60,35 and public reserve at summit of Sunrise Hill.</p>		
	<p>Other relevant heritage listings</p>		
	<p>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</p>	<p>No</p>	
	<p>Australian Heritage Register</p>	<p>No</p>	
	<p>NSW State Heritage Register</p>	<p>No</p>	
	<p>National Trust of Aust (NSW) Register</p>		
	<p>RAIA Register of 20th Century Buildings of Significance</p>	<p>No</p>	
	<p>Other</p>	<p>N/A</p>	
	<p>Consideration of Application</p>		
	<p>The proposal seeks consent for a new dwelling on the subject lot. The conservation area is located directly to the south of the subject property and includes the road reservation outside the property. However the significant component of the conservation area in this location is the bushland reserve located opposite which is unlikely to be impacted by the works and no concerns are raised in relation to this conservation area.</p> <p>Villa D'este is located to the north east of the subject property in Northview Road. It is built close to the road reserve. However, given the subdivision pattern, one of its lot extends to the west and eventually shares a common boundary with the subject site. However the proposed dwelling is to be located close to the road reserve with no works proposed in the rear vegetated portion of the site. This leaves an adequate physical and visual separation between the site and this item.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? A short statement has been provided within the Statement of Environmental Effects.</p>		

Internal Referral Body	Comments
	<p>Further Comments</p> <p>COMPLETED BY: Brendan Gavin, Principal Planner</p> <p>DATE: 8 July 2021</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Aboriginal Heritage Office	<p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>
Concurrence – NSW Roads and Maritime Services - SEPP Infrastructure (cl 100 Development on proposed classified road)	The proposal was referred to Transport for NSW (TfNSW) for concurrence in accordance with Section 138 of the Roads Act, 1993 due to stormwater works proposed on Barrenjoey Road. TfNSW has reviewed the proposal and provided a response stating that the proposal is acceptable subject to compliance with recommended conditions. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the

application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.1163660S_03 dated 31/10/2021). The BASIX Certificate is supported by an NatHERS Certificate (see Certificate No.0005518410-02 dated 31/10/2021).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	51

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Roads and Maritime Service (RMS)

Clause 101 - Development with frontage to classified road states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Comment:

The proposal seeks stormwater infrastructure works on Barrenjoey Road to facilitate the development. As such, the proposal was referred to TfNSW who raised no objection subject to recommended conditions.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	10.0m *Clause 2D Applies	9.9m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes

Clause	Compliance with Requirements
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

4.3 Height of buildings

The proposed dwelling has a maximum building height of 9.9m which does not comply with the 8.5m requirement. The proposal has been amended during the assessment to reduce the overall height, bulk and scale of the dwelling

Clause 2D of the height of building control within PLEP 2014 states that the height of a building may exceed the 8.5 metre height, but not be more than 10.0 metres, subject to the following provisions being met:

(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and

Comment

The variation to the 8.5m height limit is demonstrated in Figure 1 below. As shown, the extent of the variation is predominantly limited to the roof form and areas of open balustrading. The non-compliances generally occur as the land falls away steeply to the north and the west. The exceedances of the 8.5m is considered to be minor.

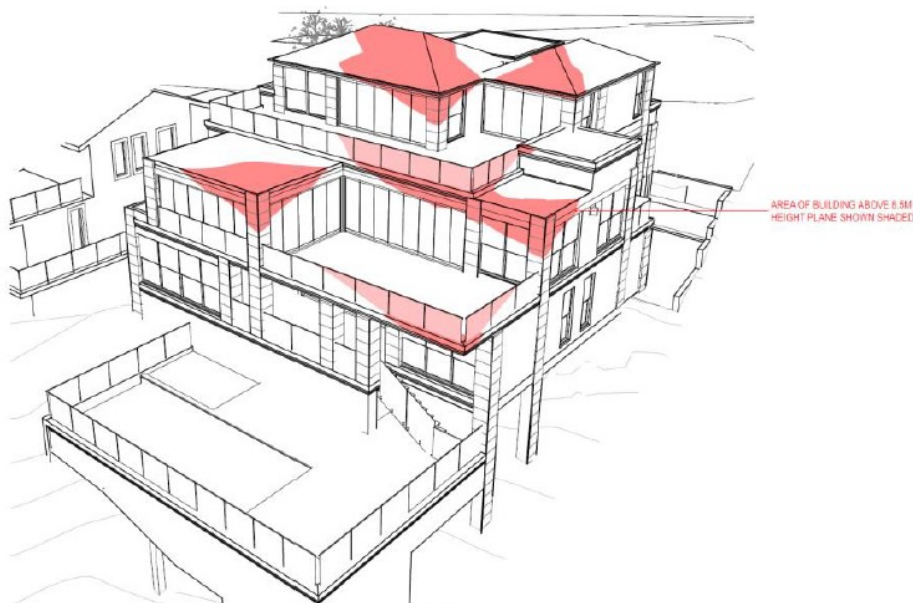


Figure 1: 3D representation of the proposed building form relative to the 8.5m building height with areas above 8.5m highlighted in red

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

Comment

The objectives of 4.3 Height of Building are achieved as follows:

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

character of the locality,

The proposed dwelling is comparable with the built form of surrounding newer dwellings located on Sunrise Road. The dwelling is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being two storey and "human scale" as viewed from Sunrise Road. Proposed landscaping, in conjunction with existing and required landscaping (by recommended conditions), will assist to visually screen the bulk and scale of the building and integrate the built form into the landscape. Overall, the height, design and scale of the new dwelling will be inconsistent with surrounding properties and the desired character of the locality.

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

Comment

As above, the dwelling is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being two storey and "human scale" as viewed from Sunrise Road. The proposal presents a compatible height and scale with that of surrounding and nearby development (noting that multiple properties and structures on the low side of Sunrise Road are built in close proximity to sunrise Road with similar overall ridge heights). The proposed ridge height will be 2.0m below the adjoining neighbour to the west (No.42) and the overall scale and height of the proposal is consistent with this neighbour.

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

Comment

The solar impacts of this aspect of the development are minimal and acceptable in terms of the impacts on habitable rooms of the adjoining properties and public open spaces.

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

Comment

The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP. Overall, the height variation is not considered to result in unreasonable view loss.

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

Comment

The proposed development would not require excessive excavation and would be stepped with the fall of the land.

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

Comment

Whilst there is some tree removal required, the proposed development has been designed to retain and

protect other significant trees on the site (and adjoining the site). The proposal is supported by a Biodiversity Impact Assessment Report and Arborist Report, which have been reviewed by Council's Biodiversity Officer, who has raised no objection to the proposal subject to conditions. Proposed landscaping, in conjunction with existing and required landscaping by conditions, will assist to visually screen the bulk and scale of the building and integrate the built form into the landscape as viewed from the street and waterway. A substantial vegetated rear setback (of approximately 35m) will also assist in the amelioration of the visual impact when viewed from Pittwater waterway. The proposed recessive colours and materials will assist to harmonise the proposal with the natural environment. The proposal has been reviewed by Council's Heritage Officer and Aboriginal Heritage Officer, who have raised no objections to the development.

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

Comment

The building footprint is situated on a slope which exceeds the 30% requirement.

(d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.

Comment

The extent of excavation for the proposed dwelling house will be minimised due to the design of the proposed dwelling house 'stepping down' the natural topography of the site. The proposed development is supported by a geotechnical risk assessment, that demonstrates all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

5.10 Heritage conservation

The proposal has been reviewed by Council's Heritage Officer and Aboriginal Heritage Office who have raised no objections to the development.

7.2 Earthworks

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment

The development was referred to the Aboriginal Heritage Officer, who provided comments and conditions that have been included in the consent.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment: The development has been assessed by Water Management Officer and Biodiversity Officers, who have raised no objection to the proposal subject to conditions.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment:

The proposal has been reviewed by Council's Heritage Officer and Aboriginal Heritage Officer who have raised no objections to the development.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

7.6 Biodiversity protection

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to consider:

(a) whether the development is likely to have:

(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and

(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and

(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and

(iv) any adverse impact on the habitat elements providing connectivity on the land, and

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to the proposed development. Therefore, Council can be satisfied that the development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Council is also satisfied that the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land.

(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to the proposed development. Therefore, Council can be satisfied that the proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to approval. Therefore, Council can be satisfied that the development is designed, sited and will be managed to any significant adverse environmental impact.

7.7 Geotechnical hazards

Under Clause 7.7 Geotechnical Hazards, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

(a) site layout, including access,

(b) the development's design and construction methods,

(c) the amount of cut and fill that will be required for the development,

(d) waste water management, stormwater and drainage across the land,

- (e) the geotechnical constraints of the site,
- (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment:

The proposed development is supported by a geotechnical risk assessment, architectural plans, an excavation plan, and stormwater management plans that demonstrate all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

Development consent must not be granted to development on land to which this clause applies unless:

- (a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and

Comment:

The proposed development is supported by a geotechnical risk assessment and stormwater management plans that demonstrate waste water, stormwater and drainage are suitably managed on site. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

(b) the consent authority is satisfied that:

- (i) the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or
- (ii) if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or
- (iii) if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.

Comment:

The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent. As such, Council can be satisfied that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	5.2m (garage) 4.9m (Porch) 5.9m (Lift) 6.0m (Laundry)	20% (Max)	No
Rear building line	6.5m	35m	N/A	Yes
Side building line	2.5m (W)	2.1m (Bed 6) 2.2m (Terrace 4)	16%	No
	1.0m (E)	1.0m	N/A	Yes
Building envelope	3.5m (W)	Outside envelope	Outside envelope	No
	3.5m (E)	Outside envelope	Outside envelope	No
Landscaped area	60% (916.8sqm)	71% (1087sqm)	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100

to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	No	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.2 Flora and Fauna Conservation Category 1 and Wildlife Corridor	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	No	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.23 Eaves	No	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	No	Yes
D12.6 Side and rear building line	No	Yes
D12.8 Building envelope	No	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.12 Palm Beach Locality

The Palm Beach Locality Statement notes as follows:

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

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

Comment

The proposed development consists of part two/part three storey dwelling house, where the locality calls for two storey development.

The proposed dwelling is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being two storey and "human scale" as viewed from Sunrise Road. The design and appearance of the proposed dwelling would be consistent with the sloping topography and newer surrounding residential dwelling houses located on Sunrise Road. The proposed dwelling steps-down with the fall of the land and is predominantly below the required 8.5m height requirement and within the required 10.0m height

variation for sloping sites. Furthermore, the height and scale of the proposed dwelling is in keeping with that of other properties along Sunrise Road, many of which are three storeys in height (refer to No.42; No.44 and No.46).

The proposed development involves relatively modest excavation works, is set below the general tree canopy height, and includes building modulation to minimise bulk. Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape as viewed from the street and waterway. A substantial vegetated rear setback (of approximately 35m) will also assist in the amelioration of the visual impact of the building when viewed from Pittwater waterway. The proposed recessive colours and materials will assist to harmonise the proposal with the natural environment.

As such, the proposed development achieves the intention of the desired character of the area and is acceptable in this regard.

B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites

The proposal has been reviewed by Council's Heritage Officer who has raised no objection to the development. Please see Council's Heritage Officer's referral comments for further details.

B1.4 Aboriginal Heritage Significance

The proposal has been reviewed by Council's Aboriginal Heritage Officer who has raised no objection to the development subject to conditions.

B4.2 Flora and Fauna Conservation Category 1 and Wildlife Corridor

The application is accompanied by an Aborigicultural Impact Assessment and Biodiversity Impact Assessment Report which addresses the proposed tree removal and impact on biodiversity. Each report has been reviewed by Council's Landscape Officer and Biodiversity Team, with each referral team satisfied the proposal will not have an unacceptable impact, subject to conditions and adherence to each report as required by the recommended conditions of consent. Refer to Council's Landscape Officer and NECC Bushland and Biodiversity division comments under the 'Referral' section of this report for further discussion.

Subject to compliance with recommended conditions, the application satisfies the outcomes of this clause and is supported on merit

B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor

The application is accompanied by an Aborigicultural Impact Assessment and Biodiversity Impact Assessment Report to address the proposed tree removal and impact on biodiversity. Each report has been reviewed by Council's Landscape Officer and Biodiversity Team, with each referral team satisfied the proposal will not have an unacceptable impact, subject to conditions and adherence to each report as required by the recommended conditions of consent. Refer to Council's Landscape Officer and NECC Bushland and Biodiversity division comments under the 'Referral' section of this report for further discussion.

Subject to compliance with recommended conditions, the application satisfies the outcomes of this clause and is supported on merit

B4.22 Preservation of Trees and Bushland Vegetation

The application is accompanied by an Aboricultural Impact Assessment and Biodiversity Impact Assessment Report to address the proposed tree removal and impact on biodiversity. Each report has been reviewed by Council's Landscape Officer and Biodiversity Team, with each referral team satisfied the proposal will not have an unacceptable impact, subject to conditions and adherence to each report as required by the recommended conditions of consent. Refer to Council's Landscape Officer and NECC Bushland and Biodiversity division comments under the 'Referral' section of this report for further discussion.

Subject to compliance with recommended conditions, the application satisfies the outcomes of this clause and is supported on merit

B6.7 Transport and Traffic Management

A condition has been imposed requiring the Applicant to prepare and submit an application for a Traffic Management Plan prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person and further conditions ensure this will be implemented during works.

B8.1 Construction and Demolition - Excavation and Landfill

The proposal seeks to excavate portions of the land and redistribute the material over the site to facilitate the development. Council's Development Engineers have reviewed the proposal and submitted Geotechnical Report and have raised no objection subject to recommended conditions.

Given the proposed location of these works, the proposal is not considered to have an adverse impact on the streetscape. In order to ensure that there are no adverse impacts on the adjoining neighbours, conditions have been imposed which:

- Ensure structural adequacy of landfill and excavation work;
- Ensure the preparation and adherence of a Waste Management Plan;
- Ensure the recommendations of the Geotechnical report is adhered to;
- Ensure the proper installation and maintenance of sediment and erosion control;
- Ensure topsoil is stockpiled on site and stabilised during construction works;
- Require the preparation of pre and post construction dilapidation reports for adjoining properties.

The proposal has also been assessed by Council's Bushland and Biodiversity team; Landscape Officer and Water Management Officer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions.

B8.6 Construction and Demolition - Traffic Management Plan

This control states that development that involves either excavated materials to be transported from the site or the importation of fill material to the site is 100m³ or greater, a Construction Traffic Management Plan indicating truck movements, and truck routes is to be provided and approved by Council prior to the commencement of works.

The proposal involves earthworks and it is anticipated that the earthworks require excavation in excess of 100m³. Noting that Sunrise Road is a particularly narrow road, a condition has been imposed requiring a Construction Traffic Management Plan to be prepared and submitted to Council prior to

works commencing on site.

Subject to compliance with the conditions of consent, the proposal will be consistent with the outcomes and requirements of this control.

C1.1 Landscaping

Please refer to the referral comments prepared by Council's Landscape Officer. The proposal will meet the requirements of this control subject to recommended conditions.

C1.3 View Sharing

Merit Consideration

One (1) submission was received from the following properties which included concerns regarding view loss from a private property:

- **38 Sunrise Road PALM BEACH**

Figure 1 below shows the origin of the submissions relative to the subject site, and the view angles of the sites over the subject site (outlined in blue).

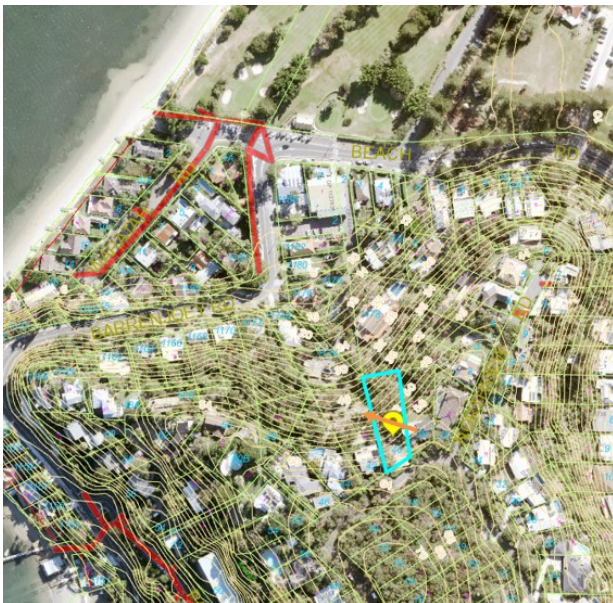


Figure 1: View angles over the subject site

The proposed development is considered against the outcomes of the control as follows:

- *A reasonable sharing of views amongst dwellings. (S)*

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*, are applied to the proposal.

1. Nature of the views affected

“The first step is the assessment of the views to be affected. Water views are valued more highly than

land views. Iconic views (e.g. 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, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

The views from 38 Sunrise Road are to the north-west of the property and include views of the Pittwater Waterway and Ku-ring-gai Chase National Park and land and water interface. The view is heavily obstructed by existing vegetation. This is demonstrated in photo 1 and 2 below. Photo 3 and 4 demonstrates unobstructed views to the north that are unaffected by the proposal.



Photo 1: Existing views from No.38 Sunrise Road to the north-west (outside upper floor kitchen and dining room windows. Photos taken externally due to COVID Restrictions). Height pole indicates extent of view loss



Photo 2: Existing views from No.38 Sunrise Road to the north-west (upper side facing dining room window. Photo provided by objector)





Photos 3 & 4 - Existing views from No.38 Sunrise Road to the north from ground and first floor decks and north facing windows to the living and dining room. Views are unobstructed by the proposal.

2. What part of the affected property are the views obtained

“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”.

Comment to Principle 2:

The view which is of concern is obtained from both a sitting and standing position and is over the western side boundary. The expansive Pittwater views to the north remain unaffected by the proposal (as demonstrated in photos 3 and 4 above).

3. Extent of impact

“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 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”.

As viewed from No.38 Sunrise Road, the proposed dwelling would impact views of vegetation and filtered views of Pittwater waterway from side facing windows of the upper floor dining room and kitchen and a portion of the upper floor deck.

The proposed dwelling would not have an impact on existing expansive views of Pittwater enjoyed by primary living areas and private open space of No.38 from the windows and private open space oriented towards the north. Given the design and layout of the dwelling at No.38, waterway and national

park views including the interface between land and water are obtained from the majority of the internal and external principle living areas over the rear (northern) boundary.

In considering the entirety of the views obtained by No.38, and the fact that the expansive views from the principle living area to the north are unaffected by the proposal (see photo 3 & 4) the extent of the impact is considered negligible to **minor**.

4. Reasonableness of the proposal that is causing the impact

“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.”

The portion of the proposed dwelling that would cause the greatest view loss impacts to No.38 meet the stipulated height requirement as well as the side and rear setback requirements. The proposal has been amended to "step-in" the proposed dining room away from the eastern boundary to assist in maintaining a view corridor for the adjoining side facing windows. It is recognised that a portion of the east elevation does not meet the required building envelope requirement. However, as described elsewhere in this report, the dwelling is considered to meet the objectives of this control and this non-compliance is largely attributed to the steep slope of the site. During the assessment of the application, amended plans were received to significantly reduce this non-compliance.

Overall, the view loss associated with the proposal is considered minor when put in context of the entirety of views obtained from this property and the location of existing vegetation. As such, the proposal is not considered to result in an unreasonable view loss for the neighbouring dwelling at No.38 Sunrise Road and will satisfy the provisions of this clause.

Concern has also been raised with proposed landscaping and the impact on views. The inclusion of replacement tree planting is reasonable to satisfy the objectives of E4 zone, B4.22, C1.1 and D12.1, that can be summarised as follows:

- 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.
- Development shall result in no significant onsite loss of canopy cover or a net loss in native canopy trees.
- To provide for residential development of a low density and scale integrated with the landform and landscape.

Furthermore, the objectives of clause C1.3 View Sharing of P21 DCP specifies that canopy trees take priority over views. In consideration of the location of existing canopy trees within the existing view corridor (on the subject site, adjoining road reserve and neighbouring sites); as well as the requirements and objectives of P21DCP, the replacement tree planting and proposed landscaping is supported and any associated view loss is considered reasonable in this instance. Councils Landscape Officer has imposed conditions requiring all proposed tree planting to be positioned in locations to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

- *Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.*

Concern has been raised by an objector with regards to the impact of the proposal on views from Sunrise Road.

In determining the extent of potential view loss from the public domain, the planning principles outlined within the Land and Environment Court Case of *Rose Bay Marina Pty Limited Vs Woollahra Municipal Council and anor (213) NSWLEC 1046* are applied to the proposal.

1. Nature and Scope of Views

The first step is to identify the nature and scope of the existing views from the public domain, including, but not limited to:

- *Any existing obstructions of the view;*
- *Composition of the view (e.g. is it static or dynamic and, if dynamic, the nature and frequency of changes to the view);*
- *Are existing obstructions permanent or temporary;*
- *The curtilages of important elements within the view.*

Comment to Principle 1:

The existing views obtained from the public domain, in this case being Sunrise Road, consists of filtered and unfiltered views to the north Pittwater Waterway, Ku-ring-gai Chase National Park, Lion Island and land and water interface. Existing obstructions to the views includes dense screen vegetation and canopy trees. The screen vegetation at the front of the site is on the Council Road Reserve and has existed for many years. Nevertheless, this vegetation can be described as temporary in nature given it is an exempt species. The established trees to the north of the site are relatively permanent in nature as they are unlikely to be removed in the foreseeable future. The current views obtained from the road can be classified as static views. The change to the available outlook from the road will be permanent. See photographs and submitted perspectives below:



Photo 5: Existing views from Sunrise Road looking over the subject site (south to north from road reserve).



Photo 6: Existing views from Sunrise Road looking over the subject site (south to north from road reserve).



Photo 7: Existing views from Sunrise Road looking over the subject site (south to north-east from road reserve).



Photo 8: Existing views from Sunrise Road looking over the subject site (south to north from front boundary, i.e. behind screen vegetation).

2. Locations of View Interruptions

The second step is to identify the locations in the public domain from which the potentially interrupted view is enjoyed.

Comment to Principle 2:

The affected view is available from the road and road reserve of Sunrise Road. Sunrise Road does not contain any formal footpath. It is noted Sunrise Road is not classified as a major road, thus traffic frequency is not considered to be significant.

3. Extent of Obstructions

The third step is to identify the extent of the obstruction at each relevant location. The impact on appreciation of a public domain view should not be subject to any eye height constraint. A public domain view is one that is for the enjoyment from many positions by all people.

Comment to Principle 3:

The location where views are obtained are limited to the roadway. Views are currently obtained from a seated position in a car travelling along Sunrise Road; or from a standing position on the street. The proposed development will obstruct views to the waterway and land and water interface. The views are filtered by existing dense vegetation when approaching the site from the east or the west as seen in the images above.

4. Intensity of the use of the Relevant Public Spaces

The fourth step is to identify the intensity of public use of those locations where enjoyment of the view will be obscured, in whole or in part, by the proposed development.

Comment to Principle 4:

Sunrise Road is a secondary road, used to gain access to the residential properties along the road. The street does not contain any formal pedestrian footpath. The nature of the street does not encourage people to stop and gather and views are maintained over and between other properties along the street.

5. Documentation of the View

The final step to be identified is whether there is any document that identifies the importance of the view

to be assessed, such as international, national, state or local heritage recognition, or where the relevant planning controls promote or specifically requires the retention or protection of public domain views.

Comment to Principle 5:

Sunrise Road is identified as part of Council's Scenic Streets Register, which states (of the whole road):

Sunrise Road is some 500 metres long, narrow, tortuous and hilly. At the start there are splendid views of the southern part of Palm Beach. These give way to glimpses of Lion Island and the mouth of the Hawkesbury river. The last 150 metres shows the common themes of Palm Beach streets: tall Eucalypts, native shrubs and further spectacular water views.

Overall Comment

As the existing site is vacant, any proposed development would result in a degree view loss from the public domain. The existing view from Sunrise Road over the subject site is also heavily impeded by existing vegetation. As discussed throughout this report, the proposed dwelling is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being two storey and "human scale" as viewed from Sunrise Road. The proposal presents a compatible height and scale with that of surrounding and nearby development (Noting that multiple properties and structures on the low side of Sunrise Road are built in close proximity to sunrise Road with similar overall ridge heights).

The proposed ridge height would be 2.0m below the adjoining neighbour to the west (No.42) and the overall scale and height of the proposal would be consistent with this neighbour. The proposal maintains suitable side setbacks to allow for view corridors to the east and the west of the dwelling. The proposal has been designed to step-down with the fall of the land and the amended design is below the 10.0m height requirement for steeply sloping sites.

To approve the proposed development would not be setting a precedent, as the proposal is consistent with the existing character of the locality and the form and scale would be consistent with adjoining properties.

Overall, in consideration of the existing views obtained from the road reserve, location of existing screen planting, the nature of the site being a vacant lot and the character and scale of surrounding development in the vicinity, the proposed view loss is considered reasonable in this instance.

C1.5 Visual Privacy

Description of Non-compliance

Clause C1.5 of the P21DCP stipulates that private open space areas and windows of adjoining properties are to be protected from direct overlooking within 9.0m by building layout, landscaping, screening devices or greater spatial separation. The proposed development contains side facing windows and elevated balconies and areas of private open space, which are within 9.0m from both the eastern (No.38 Sunrise Road) and western (No.42 Sunrise Road) neighbours.

Merit Assessment

With regard to the consideration for a variation, the proposed development is considered against the underlying outcomes of the control as follows:

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good*

design.

No.38 Sunrise Road (East)

Windows

In plan, windows W202 and W203 on the eastern elevation of the ground floor garage is within 1.0m of the side boundary and private open space of the adjoining neighbour to the east (No.38 Sunrise Road). In order to minimise privacy impacts and mitigating direct overlooking to the adjoining private open space of this neighbour, it is recommended that a condition be imposed for these windows to install privacy screens of horizontal louvre style construction (with a maximum spacing of 20mm), or be either high sill (i.e.. containing a sill height of 1.65m from the FFL) or obscure glazed.

In plan, window W302 on the eastern elevation of the first floor ensuite is within 2.5m of the side boundary and private open space of the adjoining neighbour to the east (No.38 Sunrise Road). In order to minimise privacy impacts and mitigating direct overlooking to the adjoining private open space of this neighbour, it is recommended that a condition be imposed for this window to install privacy screens of horizontal louvre style construction (with a maximum spacing of 20mm), or be either high sill (i.e.. containing a sill height of 1.65m from the FFL) or obscure glazed.

Windows W203b and W203b on the eastern elevation to the ground floor dining room would contain privacy screens and the proposed lower ground floor windows on the eastern elevation would be suitably offset from adjoining windows and private open space and would be screened by proposed landscaping. As such, these windows are not anticipated to result in unreasonable privacy impacts.

Terrace 1 - First Floor

A first floor terrace is proposed on the northern (rear) elevation which is 1.0m from the eastern boundary. A submission was raised on behalf of the neighbour to the to the east (No. 38 Sunrise Road) with regards to visual privacy from this terrace, requesting the provision of planter boxes with vegetation a minimum of 1.4 metres in height above the finished floor level along the eastern periphery of this terrace.

This terrace floor level is RL62.4 and the head height of adjoining windows is of No.38 Sunrise Road is RL61.63. As such, this terrace would be appropriately offset (above) these adjoining windows and private open space. In order to prevent downward overlooking into adjoining windows, it is recommended a condition be imposed for the balustrading on the eastern elevation of this terrace to be solid or obscure glazed. In addition, this terrace would serve bedrooms which are not considered high usage areas. Given the orientation and height of this terrace, the proposal is not considered to give rise to unacceptable privacy impacts to this neighbour (subject to conditions). Given the dense urban environment of the Northern Beaches, it is considered that it is an unreasonable expectation that complete privacy can be maintained between dwellings.

Swimming pool

The proposed elevated pool and spa would be 4.5m from the eastern side boundary and within 6.0m of No.38 Sunrise Road's private open space. The swimming pool would be below the level of the adjoining neighbours' balcony. In order to assist with the mitigation of privacy impacts, it is recommended a condition be imposed for the eastern elevation of the pool fencing/balustrading to be solid or obscure glazed. It is considered that this, combined with proposed Lilly Pilly screen planting along the eastern boundary will appropriately mitigate privacy impacts.

No.42 Sunrise Road (West)

Windows

In plan, windows W110 and W109 on the western elevation of the lower ground floor Bed 5 ensuite and Bed 6 ensuite is within 9.0m of the private open space of the adjoining neighbour to the west (No.42 Sunrise Road). In order to minimise privacy impacts and mitigating direct overlooking to the adjoining private open space of this neighbour, it is recommended that a condition be imposed for these windows to install privacy screens of horizontal louvre style construction (with a maximum spacing of 20mm), or be either high sill (i.e.. containing a sill height of 1.65m from the FFL) or obscure glazed.

In plan, windows W211 (to the kitchen) and W209 and W208 (to the living room) on the western elevation of the ground floor is within 9.0m of windows and private open space of the adjoining neighbour to the west (No.42 Sunrise Road). In order to minimise privacy impacts and mitigating direct overlooking to the adjoining windows and private open space of this neighbour, it is recommended that a condition be imposed for these windows to install privacy screens of horizontal louvre style construction (with a maximum spacing of 20mm), or be either high sill (ie. containing a sill height of 1.65m from the FFL) or obscure glazed.

In plan, window W307 the western elevation of the first floor Bedroom (Bed 2) is within 9.0m of windows of the adjoining neighbour to the west (No.42 Sunrise Road). In order to minimise privacy impacts and mitigating direct overlooking to the adjoining windows of this neighbour, it is recommended that a condition be imposed for this window to install privacy screens of horizontal louvre style construction (with a maximum spacing of 20mm), or be either high sill (ie. containing a sill height of 1.65m from the FFL) or obscure glazed.

Terrace 1 - First Floor

A elevated "first floor" terrace is proposed on the northern (rear) elevation which is within 9m of the private open space and balconies of the adjoining western neighbour (No.42 Sunrise Road). To prevent overlooking within 9m of of neighbouring properties, and to achieve consistency with this development control, a condition of consent is recommended to require privacy screen measuring 1.5m in height on the western elevation of the proposed "Terrace 1" adjoining Bed 1 & Bed 2.

Terrace 3 - Ground Floor

A elevated "ground floor" terrace is proposed on the northern (rear) elevation which is within 3.5m from the western boundary. This terrace would align with private open space and balconies of the adjoining western neighbour (No.42 Sunrise Road). To prevent overlooking within 9m of of neighbouring properties, and to achieve consistency with this development control, a condition of consent is recommended to require privacy screen measuring 1.5m in height on the western elevation of the proposed "Terrace 3" adjoining the living and dining room.

Terrace 4 - Ground Floor

A elevated "ground floor" terrace is proposed on the western (side) elevation which is within 3.0m from the western boundary. This terrace would align with windows of the adjoining western neighbour (No.42 Sunrise Road). To prevent overlooking within 9m of of neighbouring properties, and to achieve consistency with this development control, a condition of consent is recommended to require privacy screen measuring 1.65m in height on the western elevation of the proposed "Terrace 4" adjoining the living room.

Swimming Pool "Lawn"

The proposed elevated "lawn" are adjoining the proposed pool and spa would be 4.0m from the western side boundary and within 9.0m of No.42 Sunrise Road's private open space. To prevent overlooking within 9m of of neighbouring properties, and to achieve consistency with this development control, a condition of consent is recommended to require privacy screen measuring 1.5m in height on the western elevation of the proposed "lawn" adjoining the swimming pool

To prevent overlooking within 9m of of neighbouring properties, and to achieve consistency with this

development control, a condition of consent is recommended to require privacy screen measuring 1.65m in height on the western elevation of the proposed "Terrace 4" adjoining the living room.

Front Courtyard

The proposed landscape plan provide adequate screen planting along the western boundary of the front courtyard in order to mitigate privacy impacts

Subject to recommended conditions, the privacy impacts are considered to be reasonable within a residential environment.

- *A sense of territory and safety is provided for residents.*

Comment:

The proposed development is considered capable of providing a sense of territory and safety for residents on the subject site and adjoining properties.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit, subject to conditions.

C1.13 Pollution Control

A condition of consent has been included to ensure that no solid fuel heaters are approved under this consent. Subject to compliance with this condition the proposal is considered to meet the requirements of this control.

C1.23 Eaves

The control requires dwellings to incorporate 450mm wide eaves on all elevations. The proposed dwelling does not incorporate 450mm wide eaves on all elevations, which fails to meet this requirement.

Despite this non-compliance, consideration has been given that the roof form will continue to reflect character of the locality. The proposal is supported by a valid BASIX Certificate to demonstrate suitable energy efficiency. Additionally, the proposed development allows for compliant solar access to the subject site and adjacent properties, whilst also providing covered outdoor private open space to ensure appropriate shading.

For the reasons outlined above, it is concluded that the outcomes of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

D12.5 Front building line

Description of Variation

Clause D12.5 of the P21DCP requires development (other than driveways, fences or retaining walls) to be setback at least 6.5m from the front boundary or the established building line, whichever is greater. The following elements of the proposal do not comply with the required 6.5m setback.

- The proposed porch has a setback of 4.9m from the front boundary
- The proposed garage has a setback of 5.2m from the front boundary
- The proposed lift has a setback of 5.9m from the front boundary
- The proposed lower laundry has a setback of 6.0m from the front boundary

It should be noted that the front boundary line is angled and the design of the front facade has been stepped to accommodate this angled boundary line.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To achieve the desired future character of the Locality. (S)***

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to *A4.12 Palm Beach Locality* of the Pittwater 21 DCP.

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

Comment:

The proposed elements within the front setback are not considered to result in unreasonable view loss. This matter has been addressed under Clause C1.3, above in this report, which has determined that the proposal will allow a reasonable sharing of views.

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

Comment:

The subject site adjoins a local road, therefore, this outcome is not applicable.

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

Comment:

Whilst there is some tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions and replacement planting. Overall, retained and proposed vegetation and the conditioned replacement planting would appropriately break up the building massing and reduce the visual impact of the proposal. Sufficient landscaped area has been retained at the front and rear of the site to accommodate plantings to minimise the built form.

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

Comment:

Vehicle maneuvering is not proposed in a forward direction. Providing such would necessitate a large portion of the front garden to become a driveway and, given the relatively low volume of traffic which

traverses Sunrise Road, maneuvering in a forward direction is not considered to be essential. The application has been reviewed by Council's Development Engineer who has raised no objection to the proposal.

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

Comment:

Whilst there is some tree removal required as part of the development, multiple significant canopy trees are proposed to be retained in order to visually reduce the built form. The application is also supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The proposal is considered to preserve and enhance the rural and bushland character of the locality. Council's Bushland Officer has reviewed the application and raised no objections to approval, subject to conditions.

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

Comment:

The development is sited below the established tree canopy and would appear "human scale" when viewed from the street due to the steep cross fall of the site away from the frontage, and the bulk and scale of the development would not appear inconsistent with existing development along Sunrise Road.

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

Comment:

The development is sited below the established tree canopy and would appear "human scale" when viewed from the street due to the steep cross fall of the site away from the frontage, and the bulk and scale of the development would not appear inconsistent with existing development along Sunrise Road. Notwithstanding the non-compliance, sufficient space remains within the front setback area for additional vegetation planting to provide an attractive street frontage and retain pedestrian amenity.

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

Comment:

The northern side of Sunrise Road accommodates examples of structures located forward of the front building line. In this regard, the location of the structures will not be out of context with the established streetscape character. Furthermore, given the significant slope of the site, the proposed porch, garage and laundry would be below street level and would not dominate the streetscape. Additionally, the proposed porch would be open structures of minimal bulk and scale. The facade of the proposed dwelling would be modulated and stepped, with the majority meeting the required 6.5m setback. Existing and proposed vegetation and landscaping and planter boxes will further alleviate the visual impacts when viewed from the street and surrounding properties. Based on the above, it is concluded that the development responds to the spatial characteristics of the existing built and natural environment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the P21DCP and the objectives specified in s1.3 of the Environmental

Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.6 Side and rear building line

Description of Non-Compliance

The proposed 2.1m side setback to the western boundary of the proposed dwelling does not comply with the 2.5m setback requirement. It should be noted that this is a minor encroachment and the vast majority of the western elevation does comply with the 2.5m setback requirement.

The proposal complies with the required 1.0m setback to the eastern side boundary and the 6.5m rear setback

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To achieve the desired future character of the Locality.***

Comment

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to *A4.12 Palm Beach Locality* of the Pittwater 21 DCP.

- ***The bulk and scale of the built form is minimised.***

Comment

The dwelling is appropriately articulated using recessed and modulated walls, fenestration, balconies, planters, eaves and changes in materials and roof formation to break up built form. Furthermore, the proposal retains and introduces suitable landscaping to minimise the visual impact of the development from adjoining properties and the public realm. The proposal steps with the fall of the land and incorporates open balconies with variable setbacks. This provides a situation in which presentation of bulk and scale is adequately minimised.

- ***Equitable preservation of views and vistas to and/or from public/private places***
- ***To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.***

Comment

The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP. Overall, the non-compliant side setback does not result in unreasonable view loss to surrounding sites.

- ***To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.***

Comment

It is considered that the proposal provides adequate spatial separation between adjoining

buildings. The application has demonstrated that the proposal will not have an unreasonable impact with regards to solar access. The adjoining properties will maintain solar access in accordance with the DCP requirements. The matter of privacy has been addressed elsewhere within this report in detail (refer Clause C1.5) and it is considered that no unreasonable privacy impacts occur as a result of the development, subject to conditions. Furthermore, the proposal introduces suitable landscaping along side boundaries to minimise the visual impact of the development to the adjoining neighbour to assist in the preservation of residential amenity.

- ***Substantial landscaping, a mature tree canopy and an attractive streetscape.***

Comment

The application is supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objections to the proposal subject to recommended conditions and replacement plantings.

- ***Flexibility in the siting of buildings and access.***

Comment

The proposed development is sited with varying setbacks, which ensure appropriate articulation and modulation along both side elevations. Despite non-compliance in small areas, the proposal is considered to be an appropriate response to the development of the site. Adequate pedestrian access to the site is maintained.

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

Comment

The existing and proposed landscape treatments on site are sufficient and ensure the site is not dominated by the built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objections to the proposal subject to recommended conditions for tree protection and replacement planting. Subject to recommended conditions, it is considered that remaining and proposed vegetation will adequately reduce the visual impact of the built form.

- ***To ensure a landscaped buffer between commercial and residential zones is established.***

Comment

N/A the site does not adjoin a commercial zone.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

D12.8 Building envelope

Description of Non-compliance

The clause stipulates that buildings are to be projected at 45 degrees from 3.5m above the existing ground level, measured from the side boundaries.

The proposed development encroaches into the prescribed building envelope along both the eastern and western elevation. This variation is represented in figures 1 and 2 below.

This building envelope non-compliance is largely attributed to the slope of the site, which exceeds 30%. P21DCP allows for a variation to the prescribed building envelope for development on steep sites, subject to consistency with the outcomes of this Clause. Furthermore, amended plans were received during the assessment of this application which reduced the side boundary envelope non-compliance on both side elevations by reducing the overall height of the dwelling and increasing side setbacks.

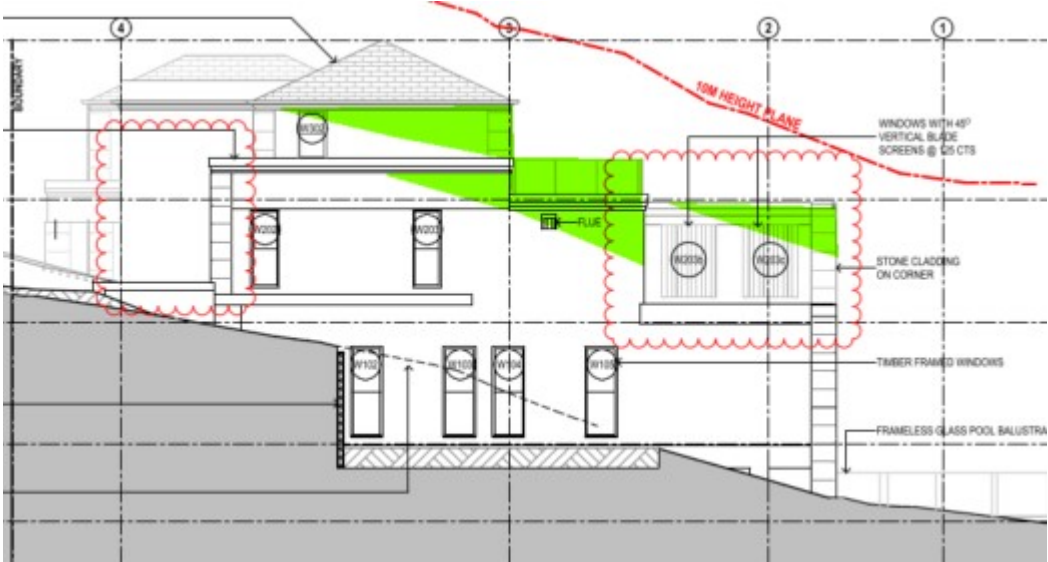


Figure 1: Envelope breach on the eastern elevation shown in green

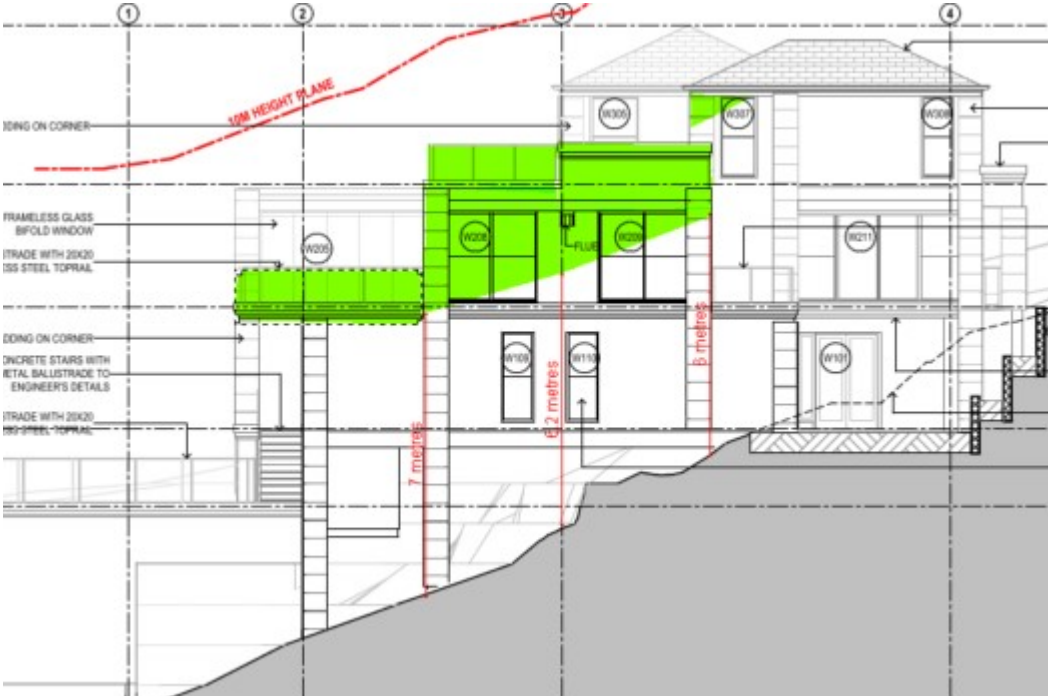


Figure 2: Envelope breach on the western elevation shown in green

Merit Consideration

In assessing the non-compliance, the proposal is considered against the outcomes of the control as follows:

- ***To achieve the desired future character of the Locality. (S)***

Comment:

The proposed development is considered to be appropriate within its context, consistent with the bulk and scale of surrounding development in the locality and generally in keeping with the desired future character of the locality. This is further discussed in the section of this report relating to *A4.12 Palm Beach Locality* of the Pittwater 21 DCP.

- ***To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.***

Comment:

The proposed dwelling is comparable with that of the built form of surrounding newer dwellings located on Sunrise Road. The dwelling is considered appropriate in the context of the site in that the subject site slopes away from the street, with the proposed development having the appearance of being two storey and "human scale" as viewed from Sunrise Road. Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape when viewed adjoining properties and the public realm. The proposed development is generally set below the height of the trees adjoining the site and in the locality. It is considered that the bulk and scale of the proposal would not be out of character with the existing streetscape and wider locale.

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

Comment:

The proposed dwelling has been designed to step with the fall of the land and would be within the required 10.0m height variation for sloping sites. Deep soil planting is provided in the front, side and rear setback areas. The application is supported by a landscape plan, which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions.

- ***The bulk and scale of the built form is minimised. (En, S)***

Comment:

The dwelling is appropriately articulated using recessed and modulated walls, fenestration, balconies, eaves, planters and changes in materials and roof formation to break up built form. Furthermore, the development incorporates a terraced style design that steps down with the slope of the land, which provides further visual relief.

Additionally, the proposal retains and introduce suitable landscaping minimise the visual impact of the development from adjoining properties and the public realm. This provides a situation in which presentation of bulk and scale is adequately minimised. Visually, the building will present as two storeys from the street which is consistent with the character of the locality.

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

Comment:

The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP.

- ***To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties.***

Comment:

It is considered that the proposal provides adequate spatial separation between adjoining buildings. The application has demonstrated that the proposal will not have an unreasonable impact with regards to solar access. The adjoining properties will maintain solar access in accordance with the DCP requirements. The matter of privacy has been addressed elsewhere within this report in detail (refer Clause C1.5) and it is considered no unreasonable privacy impacts would occur as a result of the development subject to conditions. Furthermore, the proposal will introduce suitable landscaping along side boundaries to minimise the visual impact of the development to the adjoining neighbour to assist in the preservation of residential amenity.

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

Comment:

The application is supported by a landscape plan which demonstrates an enhancement of vegetation and landscaping to screen and soften the resultant built form. The existing and proposed landscape treatments on site are sufficient and ensure the site is not dominated by the built form. The application has been reviewed by Council's Bushland and Biodiversity Officer and Landscape Officer who have raised no objection to the proposal subject to recommended conditions for tree protection and replacement planting. Subject to recommended conditions, it is considered that remaining and proposed vegetation will adequately reduce the visual impact of the built form.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.13 Construction, Retaining walls, terracing and undercroft areas

The proposed development, while including earthworks, steps down with the topography of the land, thereby minimising the impacts the proposal has in relation to bulk and scale, view loss, overshadowing and privacy. The level of excavation included in this proposal is consistent with developments in the Palm Beach area, due to the land's steep topography and valuable views, where higher pier and beam construction may cause greater impact than earthworks.

As discussed previously in this report, the level of excavation is considered acceptable subject to recommended conditions. The proposal has also been assessed by Council's Bushland and Biodiversity; Landscape Officer; Water Management Officer; Coast & Catchment Officer who have raised no objection to the proposal in relation to the natural environment subject to recommended conditions.

The proposed pool and associated coping is elevated due to the steeply sloping nature of the land. This results in a solid wall to the north of the site. In order to minimise the visual impact of this wall,

conditions are to be imposed to ensure facade of this wall is sandstone cladding. Existing and proposed trees and vegetation adjoining this area minimises the visual impact of the development as viewed from the north.

D12.14 Scenic Protection Category One Areas

The proposal has been supported by a Biodiversity Impact Assessment Report and Arborist Report which have been reviewed by Council's Biodiversity Officer who have raised no objection to the proposal subject to recommended conditions. Proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape as viewed from the street and waterway. A substantial vegetated rear setback (of approximately 35m) will also assist in the reduction of built form as viewed from Pittwater waterway. The proposed recessive colours and materials will assist to harmonise the proposal with the natural environment. The architectural elements and use of stepping and terracing provide for high levels of modulation and articulation to reduce the massing of the built form.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$17,600 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,760,000.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

The assessment of the proposal has found that the proposed development does not strictly comply with the requirements of the applicable controls related to the Palm Beach Locality, building envelope, front and side building lines and visual privacy under the Pittwater 21 DCP.

It is considered that these non-compliances would not result in unreasonable amenity impacts to surrounding properties or result in a development that is out of character with the style and scale of surrounding newer development in the immediate area.

Three (3) submissions were received in response to the notification of the application. The issues raised in the submissions have been addressed in the "Public Notification Section" of this report. A number of these concerns initially raised within the submissions were concurred with by Council's assessment of the application. Amended plans were received and the application was renotified, with one (1) submission being received in response.

The assessment of the amended scheme reveals the resident's issues do not warrant the refusal or further amendment of the application.

Conditions have been imposed to ensure that reasonable levels of privacy between properties is maintained.

Subject to the recommended conditions of consent, it is considered that the amended proposal results in a development that displays reasonable scale and density compatible with the surrounding newer development in the locality and does not result in unreasonable amenity impact to surrounding properties.

Accordingly, the application is referred to the DDP with a recommendation for approval. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/0900 for Construction of a dwelling house including a swimming pool and spa on land at Lot 151 DP 6937, 40 Sunrise Road, PALM BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA100 Issue.B - SITE AND ROOF PLAN	29/10/2021	Susan Rothwell Architects
DA101 Issue.C - LOWER GROUND FLOOR PLAN	29/10/2021	Susan Rothwell Architects
DA102 Issue.B - GROUND FLOOR PLAN	29/10/2021	Susan Rothwell Architects
DA103 Issue.B - FIRST FLOOR PLAN	29/10/2021	Susan Rothwell Architects
DA104 Issue.B - NORTH ELEVATION	29/10/2021	Susan Rothwell Architects
DA105 Issue.B - SOUTH ELEVATION	29/10/2021	Susan Rothwell Architects
DA106 Issue.B - EAST AND WEST ELEVATIONS	29/10/2021	Susan Rothwell Architects
DA107 Issue.B - SECTION	29/10/2021	Susan Rothwell Architects
DA108 Issue.B - SECTIONS	29/10/2021	Susan Rothwell Architects
DA109 Issue.B - SECTIONS	29/10/2021	Susan Rothwell Architects
DA110 Issue.B - SECTIONS	29/10/2021	Susan Rothwell Architects
DA1009 Issue A - EXTERNAL COLOURS AND FINISHES	29/10/2021	Susan Rothwell Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
C1.01 Issue C - COVER SHEET, LEGENDS AND DRAWING LIST	09/12/2021	ACOR Consultants Pty Ltd
C1.02 Issue C - NOTES SHEET	09/12/2021	ACOR Consultants Pty Ltd
C1.05 Issue C - DETAILS SHEET 1	09/12/2021	ACOR Consultants Pty Ltd
C1.06 Issue C - DETAILS SHEET 2	09/12/2021	ACOR Consultants Pty Ltd
C1.07 Issue C - DETAILS SHEET 3	09/12/2021	ACOR Consultants Pty Ltd
C3.01 Issue C - STORMWATER MANAGEMENT PLAN	09/12/2021	ACOR Consultants Pty Ltd
C3.10 Issue D - EASEMENT PLAN	15/12/2021	ACOR Consultants Pty Ltd
C5.01 Issue C - SOIL EROSION AND SEDIMENT CONTROL PLAN	09/12/2021	ACOR Consultants Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Appraisal and Method Statement Rev.A	04/02/2022	Natural Heritage
GEOTECHNICAL ASSESSMENT (Ref: 33855BYrptrev)	02/02/2022	JK Geotechnical
BASIX Certificate (1163660S_03)	31/10/2021	Andre
NatHERS Certificate No.0005518410-02	31/10/2021	Andre
Flora and Fauna Surveys, Biodiversity and Ecological Impact Assessment Report	03/01/2021	ACS

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
DA1003 Issue B - LANDSCAPE PLAN	01/11/2021	Susan Rothwell Architects

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
DA1002 Issue B - SEDIMENT CONTROL AND WASTE MANAGEMENT PLAN	29/10/2021	Susan Rothwell Architects
Waste Management Plan	01/06/2021	Susan Rothwell Architects

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Transport for NSW	TfNSW Referral Response (SYD21/0112)	03/11/2021

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as

detailed on the approved plans for any land use of the site beyond the definition of a dwelling house

A dwelling house is defined as:

"dwelling house means a building containing only one dwelling."

(development is defined by the Pittwater Local Environment Plan 2014 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

4. Installation of solid/fuel burning heaters

No approval is granted for the installation of a solid/fuel burning heater.

Reason: To preserve the amenity and environmental health of adjoining properties.

5. Transport for NSW Conditions/Requirements

The development shall be carried out in accordance with all conditions and requirements raised by TfNSW in their correspondence (Ref. SYD21/0112) dated 03 November 2021. Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of the Construction Certificate and final Occupation Certificate.

Reason: To ensure the development is carried out with the requirements of TfNSW.

6. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:

- A. the name of the owner-builder, and
- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

7. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of

any Authorised Officer.

- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable

cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

8. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$17,600.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$1,760,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website

at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

9. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

10. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by JK Geotechnics dated 02/02/2022 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

11. **Compliance with Ecologist's Recommendations – Pre-construction**

All pre-construction biodiversity-related measures specified in the Biodiversity Impact Assessment (ACS Environmental, January 2021) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project Ecologist and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

12. **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native vegetation.

13. **Amendment of Landscape Plans**

The submitted Landscape Plan is to be amended in accordance with the following:

At least six (6) locally native canopy trees are to be planted on site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with Council's Native Gardening Guide.

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

14. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

15. **Private Interallotment Stormwater Drainage Line**

The Applicant is to provide drainage plans including specifications and details of the interallotment drainage line to the Accredited Certifier for approval prior to the issue of the Construction Certificate. Such details are to be accompanied by a certificate from a suitably qualified Civil Engineer, who has membership to [Engineers Australia](#), [National Engineers Register \(NER\)](#) and registered in the General Area of Practice for civil engineering, that the stormwater management system complies with the requirements of AS/NZS 3500.3.2 - Stormwater Drainage and Council standards.

The drainage plans must address the following:

1. The inter- allotment line to be minimum Ø150mm at minimum 1% grade
2. Thrust blocks to be utilised where pipe grades exceed 10%
3. Pit details to be provided
4. HGL analysis to be provided.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site.

16. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment.

17. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

a) **"Ground Floor" Windows (W202 and W203)** - Privacy screens are to be installed on the "ground floor" eastern windows labelled W202 and W203 adjoining the "garage " as shown on the approved plans. The privacy screens shall be of horizontal louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development. Alternatively, these windows shall be fitted with obscured glazing or have a minimum sill height of 1.65m above the Finished Floor Level.

b) **"Ground Floor" Windows (W211; W209 and W208)** - Privacy screens are to be installed on the "ground floor" western windows labelled W211 (adjoining the "kitchen") and W209 and W208 (adjoining the "living room") as shown on the approved plans. The privacy screens shall be of horizontal louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development. Alternatively, these windows shall be fitted with obscured glazing or have a minimum sill height of 1.65m above the Finished Floor Level.

c) **"First Floor" Window (W302)** - A Privacy screen is to be installed on the "first floor" eastern window labelled W302 (adjoining the "ensuite") as shown on the approved plans. The privacy screen shall be of horizontal louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development. Alternatively, this window shall be fitted with obscured glazing or have a minimum sill height of 1.65m above the Finished Floor Level.

d) **"First Floor" Window (W307)** - A Privacy screen is to be installed on the "first floor" western window labelled W307 (adjoining "Bed 2") as shown on the approved plans. The privacy screen shall be of horizontal louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development. Alternatively, this window shall be

fitted with obscured glazing or have a minimum sill height of 1.65m above the Finished Floor Level.

e) "**Lower Ground Floor" Windows (W110 and W109)** - Privacy screens are to be installed on the "lower ground floor" western windows labelled W110 and W109 (adjoining "Bed 5 ensuite" and "Bed 6 ensuite") as shown on the approved plans. The privacy screens shall be of horizontal louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development. Alternatively, these windows shall be fitted with obscured glazing or have a minimum sill height of 1.65m above the Finished Floor Level.

f) "**Terrace 1" Privacy Screen** - A 1.5 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost western edge of the "first floor" terrace labelled "Terrace 1" located off the "Bed 1 & Bed 2" as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

g) "**Terrace 1" Balustrading** - The proposed "first floor" terrace labelled "Terrace 1" located off "Bed 1" is to incorporate solid balustrading for the entire length of the eastern elevation. This balustrading is to be constructed of nontransparent material or opaque glazing measured at a height of at least 1.0m above the finished floor level.

h) "**Terrace 3" Privacy Screen** - A 1.5 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost western edge of the "ground floor" terrace labelled "Terrace 3" located off the "living room" as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

i) "**Terrace 4" Privacy Screen** - A 1.65 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost western edge of the "ground floor" terrace labelled "Terrace 4" located off the "living room" as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

j) "**Swimming Pool Lawn" Privacy Screen** - A 1.5 metre privacy screen (measured from finished floor level) is to be erected for the entire length of the outermost western edge of the "lower ground floor" lawn area adjoining the proposed swimming pool as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.

k) "**Swimming Pool and Spa" Balustrading/fence** - The proposed swimming pool and spa is to incorporate solid balustrading/fencing for the entire length of the eastern elevation. This balustrading is to be constructed of nontransparent material or opaque glazing measured at a height of at least 1.0m above the finished floor level.

l) **Swimming Pool and OSD wall** - The exterior of the wall below the proposed swimming pool and OSD tank shall be covered in sandstone cladding or similar which uses dark, earthy and natural coloured finishes and materials of low reflectivity

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

18. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

19. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by ACOR Consultants, project number NSW202638, drawing number C1.01, C1.02, C1.05, C106, C1.07, C3.01, C3.10, dated 9/12/2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

i. OSD shall be provided in accordance with Clause 9.0

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

20. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of the extension of the existing Council stormwater system to the eastern side of Barrenjoey Rd via a new pit and pipe connection which are to be generally in accordance with the drainage plans by Acor Consultants, drawing number NSW202638 -3C3.10, dated 15/12/2021 and Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified civil engineer. The design must include the following information:

1. The stormwater connection and any associated works on Barrenjoey Road shall be in accordance with TfNSW letter reference SYD21/0112 dated 3 November 2021.
2. Detailed design plans of the proposed works are to be submitted to TfNSW for approval. Approval from TfNSW to be submitted with this application.
3. A v-grate pit to be provided within kerb/layback on the eastern side of Barrenjoey Road in front of No 1178 Barrenjoey Road constructed with Class D grate in accordance with

Council Standards.

4. A minimum Ø 375mm RRJ RCP extending from the newly constructed v-grate pit to the existing council pit located on the western side of Barrenjoey Road.
5. Civil Engineers design certificate.
6. Connection of the private interallotment line from 40 Sunrise Rd to the new pit in front of No 1178 Barrenjoey Road.
7. Long section and HGL analysis.
8. Survey plan showing location and levels of the existing Council pit on the western side of Barrenjoey Road.
9. Road reserve outside No 1178 Barrenjoey to be reinstated as required.
10. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided with the application.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

21. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

22. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

23. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian

Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

24. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

25. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work

Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees

- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

26. External Finishes to Roof

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties.

Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

27. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots,

trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Appraisal and Method Statement dated 4 February 2022, including:

- i) excavation and construction works in proximity to trees 21 to 56 inclusive, under section 3.2.2, 3.2.3, and 4.3,
- ii) ground protection to existing trees 21, 22 and 24 under section 4.2.2 and appendix 5,
- iii) any other works deemed necessary by the Project Arborist and as listed under section 4 Arboricultural Method Statement,
- iv) compliance with appendix 7 - schedule of works and responsibilities,
- v) compliance with appendix 8 - tree protection plan.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

28. **Tree Removal Within the Property**

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Appraisal and Method Statement dated 4 February 2022):

- i) trees numbered 3 and 4 (Paperbark), 6 and 7 (Frangipani), 17, 18 and 20 (Cheese Tree).

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal. The following existing trees are identified for removal: tree numbers 1, 2, 5, 8, 9, 10, 11, and 12 (exempt by height), and tree numbers 13, 14, 15, 16, and 19 (exempt by species type).

Note: all existing trees to be removed shall be marked on site by the Project Arborist prior to removal.

Reason: To enable authorised development works.

29. **Compliance with Ecologist's Recommendations – During Construction**

All biodiversity-related measures are to be implemented during construction in accordance with

the Biodiversity Impact Assessment (ACS Environmental, January 2021).

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifying Authority.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

30. **Impacts to Protected Native Wildlife**

Habitat for native wildlife including all vegetation proposed for removal is to be inspected for native wildlife by the Project Ecologist prior to removal. If native wildlife is found within habitat to be removed, the wildlife is to be safely relocated by the Project Ecologist.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be prepared by the Project Ecologist and provided to the Principal Certifying Authority

Reason: To protect native wildlife.

31. **Dead or Injured Wildlife**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

32. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

- 38 Sunrise Road, Palm Beach
- 42 Sunrise Road, Palm Beach

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

33. Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Appraisal and Method Statement dated 4 February 2022.

The Certifying Authority must ensure that:

- d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.
- e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any

other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

34. Road Reserve

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

35. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

36. Dewatering Management

Tailwater (surface water and rainwater): Please contact catchment@northernbeaches.nsw.gov.au for advice on Council's water quality requirements for a single instance of dewatering tailwater that collects in an excavation during works. A dewatering permit application must be made for expected multiple instances or continuous dewatering of tailwater.

Groundwater: A permit from Council is required for any dewatering of groundwater. An application for interference with an aquifer is required to the Natural Resources Access Regulator. Contact catchment@northernbeaches.nsw.gov.au for more information about permits.

The groundwater/tailwater to be discharged must be compliant with the General Terms of Approval/Controlled Activity permit issued by WaterNSW (if applicable), Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.

All approvals, water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.

Reason: Protection of the receiving environment and groundwater resources.

37. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

38. Geotechnical Requirements

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

39. Survey Certificate

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To demonstrate the proposal complies with the approved plans.

40. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

41. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

42. **Civil Works Supervision**

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

43. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

44. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3.0 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ 5EL and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

45. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection.

46. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to

Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

47. **Protection of Landscape Features and Sites of Significance**

All natural landscape features including natural rock outcrops, natural vegetation, soil and watercourses are to remain undisturbed during demolition, excavation and construction works except where affected by works detailed on approved plans.

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

48. **Stockpiling of Topsoil**

During site excavation, topsoil which is to be used in later landscape works is to be stockpiled on site and stabilised during construction works. Stockpiles are to be stored outside of hazard areas and not located within the dripline of existing trees which are to be retained.

Reason: To ensure protection and retention of the Urban Forest/Natural Environment.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

49. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan, and inclusive of the following conditions:

- i) two (2) locally native canopy trees shall be planted within the front setback, with at least one species to be a *Glochidion ferdinandi* (Cheese Tree), and the other to be selected from Northern Beaches Council's Native Plant Species Guide - Narrabeen Ward, or Council's Tree Guide, and capable of attaining at least 6 metres in height at maturity,
- ii) all tree planting shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- iii) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres and preferably 5.0m from buildings, 2.0 metres from structures including driveways, walling and paths, and at least 1.5 metres from common boundaries,
- iv) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,
- v) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space, and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape

designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

Note: Please consider registering your new tree through the link below to be counted as part of the NSW State Governments 5 Million trees initiative.

<https://5milliontrees.nsw.gov.au/>

50. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

- i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

51. **Compliance with Ecologist's Recommendations – Post Construction**

All biodiversity-related measures are to be implemented at the appropriate stage of development in accordance with the Biodiversity Impact Assessment (ACS Environmental, January 2021).

Satisfactory establishment/initiation of post-construction measures is to be certified by the Project Ecologist and provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

52. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Details demonstrating compliance are to be provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

53. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the amended and approved Landscape Plan and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

54. **Replacement of Canopy Trees**

At least six (6) locally native canopy trees are to be planted on site to replace protected trees

approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with Council's Native Gardening Guide.

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

55. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2021 – 2026) are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

56. Stormwater Drainage Disposal Certification

Certification from an appropriately qualified and practising Civil Engineer demonstrating the stormwater drainage systems have been designed and installed in accordance with the requirements of Council's Water Management for Development Policy and where relevant a Geotechnical Engineer shall be provided to the Certifying Authority prior to the issue of an Occupation Certificate, and;

If any on site stormwater detention system is installed the Applicant shall lodge the Legal Documents Authorisation Application with Council.

The application is to include the completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification. A guide to the process and associated Legal Document Authorisation Application form can be found on Council's website. The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent.

The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of final Occupation Certificate.

Reason: To ensure satisfactory management of stormwater.

57. Post-Construction Dilapidation Report

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

58. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

59. **Passenger Lift Noise Control**

Prior to the issue of an Occupation Certificate, certification by a suitably qualified person shall be provided to the Principle Certifying Authority demonstrating that the noise level from the passenger lift will not exceed 5dBA above background noise when measured from the nearest property boundary.

Reason: To ensure an appropriate level of residential amenity is maintained.

60. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/guide-submitting-ldaa-nov19.pdf>

The form for the application can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/4023-legal-documents-authorisation-oct19.pdf>

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of final Occupation Certificate.

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered.

61. **Certification Elevated Parking Facility Work**

The Applicant shall submit a Structural Engineers' certificate certifying that the elevated parking facility was constructed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical controls. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation.

Reason: Compliance with this consent.

62. **Retaining wall**

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Public and Private Safety

63. **Geotechnical Certification Prior to Occupation Certificate**

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

64. **Creation of Easement for Drainage**

As the natural fall of the land is towards the rear of the site the disposal of stormwater drainage is to be in accordance with the drainage plan submitted by ACOR Consultants dated 15/12/2021. The easement is to be created under Sections 88B and/or 88K of the Conveyancing Act 1919. The applicant must provide evidence of the created easement on title and the constructed private stormwater connection from the subject site to the existing council system in Barrenjoey Road.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior

to the issue of the Occupation Certificate.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

65. Certification of Civil Works and Works as Executed Data on Council Land

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved Section 138 plans. Works as Executed data certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data (details overdrawn on a copy of the approved civil plans) for Council Assets' in an approved format shall be submitted to Council for approval prior to the release of any security deposits.

Reason: To ensure compliance of works with Council's specification for engineering works.

66. House / Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings.

67. Swimming Pool Requirements

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

68. Landscape Maintenance

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

69. Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

70. Replacement of Canopy Trees

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.

71. Geotechnical Recommendations

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

72. Swimming Pool/Spa Motor Noise

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

73. **Plant Equipment and Air Conditioning**

Any plant equipment and air conditioning unit associated with the development shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.

74. **Lift noise control**

The passenger lift must be installed and operated at times so as not to cause 'offensive noise'. It must be demonstrated that the noise level will not exceed 5dBA above background noise when measured from the nearest property boundary, as defined by the Protection of the Environments Operation Act 1997.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of neighbouring properties.

75. **Use of "Lower ground floor level"**

The proposed "Lower ground floor level" is not to be used for the purpose of separate habitation (including a secondary dwelling or dual occupancy) and is not to contain any cooking facilities.

Reason: To ensure that the ground floor remains ancillary to the dwelling house.