

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/2262
----------------------------	-------------

<b>Responsible Officer:</b>	Anne-Marie Young
<b>Land to be developed (Address):</b>	Lot 1 DP 412086, 14 Ocean Road PALM BEACH NSW 2108
<b>Proposed Development:</b>	Demolition works and construction of a dwelling house including a swimming pool
<b>Zoning:</b>	C4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Asia Digital Investments Pty Ltd
<b>Applicant:</b>	Reform Projects Pty Ltd

<b>Application Lodged:</b>	06/12/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	13/12/2021 to 18/01/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	3
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 4,204,631.90
---------------------------------	-----------------

### EXECUTIVE SUMMARY

This development application seeks consent for the demolition of the existing dwelling and construction of a three level dwelling with garage, pool and associated landscaping and earthworks.

The application is referred to the Development Determination Panel (DDP) as 3 submissions have been received in response to the exhibition of the application and the cost of construction is greater than \$1 Million. Concerns raised in the objections predominantly relate to impacts on amenity (overshadowing, privacy and view loss) as a result of the bulk and height of the development and non-compliances with the built form controls.

The proposal, as amended, will result in a maximum building height of 9.7m which is below the 10.0m

concessional building height limit for steeply sloping sites under the PLEP 2014. The majority of the building sits below the 8.5m building height with only a small section of the roof to Level 1 and 2 in the southern corner exceeding the 8.5m standard. The height, bulk, scale and massing is consistent with that of other recent residential developments in Ocean Road.

With the exception of the building envelope and landscaped area provisions, the proposal complies with all other built form controls. The extent of the envelope breach has been reduced with an increased setback to the upper floors from the southern boundary. Despite the breach, there are no unreasonable impacts on neighbouring amenity by virtue of overshadowing, overbearing and view loss and the dwelling steps down the site to respect the steeply sloping landform. The minor 4% breach of the required landscaped area is assessed, on merit, as acceptable as sufficient landscaping is proposed to ensure that the built form is softened and impacts ameliorated.

The proposal presents as a contemporary dwelling which is stepped, articulated and incorporates a palette of natural materials to respect the desired future character of the Palm Beach area.

This report concludes with a recommendation that the DDP should **APPROVE** the development application, subject to conditions.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposal seeks consent for the demolition of the existing dwelling and the construction of a new dwelling, integrated garage and pool. In detail, the proposal includes:

### Lower Ground Floor RL5.05

- excavation to a max depth of 4.6m for the construction of a double garage, cellar, laundry, plant and bin store
- lobby, lift and stair access

### Ground Level RL9.30- RL9.75

- pool and lower terrace (RL9.30)
- open plan kitchen, dining and living with adjoining terrace (RL9.75)
- lift and stair access

### Level 1 RL13.28

- four bedrooms, bedroom 3 and 4 with ensuites
- rumpus
- study
- bathroom
- lift and stair access

### Level 2 RL16.51

- master bedroom WIR and ensuite
- terrace
- lift and stair access

External

- 1.2m high masonry wall (to prevent wave inundation) clad in stone and rendered in part
- timber clad driveway gate
- removal of 2 clumps of strelitzia nicolai at the rear and new planting throughout the site

Materials

- Natural stone, rendered walls painted, vertical timber board cladding to garage door, metal deck roof, horizontal timber louvres, pebbled roofs, glass balustrades and aluminium windows and doors.

**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 21 Development Control Plan - A4.12 Palm Beach Locality
- Pittwater 21 Development Control Plan - C1.3 View Sharing
- Pittwater 21 Development Control Plan - C1.4 Solar Access
- Pittwater 21 Development Control Plan - C1.5 Visual Privacy
- Pittwater 21 Development Control Plan - D12.3 Building colours and materials
- Pittwater 21 Development Control Plan - D12.8 Building envelope
- Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

**SITE DESCRIPTION**

<b>Property Description:</b>	Lot 1 DP 412086 , 14 Ocean Road PALM BEACH NSW 2108
------------------------------	-----------------------------------------------------

**Detailed Site Description:**

The subject site consists of one (1) allotment located on the western side of Ocean Street located directly opposite Palm Beach.

The site is irregular in shape with a frontage of 17.7m along Ocean Street and a depth of between 36.28m and 40.7m. The site has a surveyed area of 700.2m<sup>2</sup>.

The site is located within the C4 Environmental Living zone from the PLEP and accommodates a two (2) storey rendered and clad house (painted blue) with a metal roof with terracing over a garage accessed via a driveway at the front of the property. A detached cabana is located at the rear with a series of rough stone walls creating terracing at the rear

The site is steeply sloping with a level difference of approximately 18m between the front (east) of the site and the rear (west). There are some palm tree clumps 2m - 3m in height located on the garden embankment to the rear.

**Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by a mixture of one, and two storey dwellings. The property to the immediate north is a part one part two storey brick and tiled roof dwelling with a balcony to the front and side facing the ocean to the east. A further balcony / deck area is located to the south. The property to the north is a two storey clad and stone dwelling with a tiled roof. Two storey dwellings are located to the rear of the subject site on higher ground accessed via Sunrise Road. More recent developments include a number of large multi level dwellings to the north of the site including No. 6 Ocean Road which is four storeys.

Palm Beach is located across the road to the immediate east.

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:

### PLM2021/0195

On 24 August 2021, a pre-lodgement meeting took place between the applicant and Council Officers regarding demolition of the existing dwelling and the construction of a new dwelling and pool. The PLM notes concluded:

*The proposed development is not supported in its current form, but may be supported subject to the following design amendments:*

- *further articulation of the eastern wall to the lower ground floor of the dwelling house*
- *increase to the northern and southern side building lines to achieve compliance with the respective side building line requirement, with the exception of retaining walls required for the retention of land*
- *reduction to the extent of the terrace, lower terrace and sunken courtyard to eliminate any potential direct overlooking into the adjoining properties at Nos. 13 and 15 Ocean Road, with the inclusion of solid or vegetative screening where necessary*
- *reduction to the extent of the breach to the prescribed building envelope on the southern elevation to be a minor breach only; and*
- *increase to the provision of landscaped area on the site to achieve greater compliance with the 60% requirement when including the permitted variations.*

Note: \*The proposal has since been amended to address the PLM design recommendations.

### Current DA

On 14 March 2022, after a preliminary assessment was completed, a letter was sent to the applicant raising issues in relation to the building height, building envelope, landscape open space and potential

amenity impacts (solar access, privacy and view loss).

On 27 April 2022, amended plans were received which included the following changes:

*Lower Ground Floor Plan*

- A reduction in the width of the driveway where it crosses the property boundary to provide increased landscaped area at the front of the site.

*Ground and Level 1*

- A reduction in the width of the proposed dwelling and swimming pool to provide increased setbacks to the southern boundary at these levels and a corresponding reduction in building envelope breach.

*Level 2*

- A reduction in the width of the master bedroom to achieve an additional 1300mm setback to the southern boundary and a corresponding reduction in building envelope breach.
- A reduction in the trafficable area of the terrace to maintain appropriate visual privacy between adjoining development.
- A minor increase in the setback of the master bedroom to the front boundary to reduce the height of the development relative to ground level (existing).

**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	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development



Section 4.15 Matters for Consideration	Comments
<p>Assessment Regulation 2000 (EP&amp;A Regulation 2000)</p>	<p>consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;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&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to issues raised regarding the height, bulk and scale, landscape open space and impacts on neighbouring amenity.</p> <p><u>Clause 92</u> of the EP&amp;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&amp;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&amp;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> <p><u>Clause 98</u> of the EP&amp;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><u>Clause 143A</u> of the EP&amp;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>
<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>	<p>(i) <b>Environmental Impact</b> 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) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and</p>

Section 4.15 Matters for Consideration	Comments
	proposed land use.
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 13/12/2021 to 18/01/2022 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 3 submission/s from:

Name:	Address:
Mr Avik Kalloghlian	15 Ocean Road PALM BEACH NSW 2108
Mrs Kathryn Louise Holland	28 Bilga Avenue BILGOLA PLATEAU NSW 2107
Mr Hugh Rodney Cooke	13 Ocean Road PALM BEACH NSW 2108

The following issues were raised in the submissions:

- **Overshadowing**
- **Breach of Building Envelope**
- **View loss due to height, bulk and scale**

The above issues are addressed as follows:

- **Overshadowing**

The submissions raised concerns that the proposal will overshadow the rear garden of the property to the immediate south.

Comment:



The proposal will result in an increase in the shadow impact to the southern neighbour, including the area to the rear. Despite the increase in shadow, the proposal complies with the solar access controls in respect of solar impacts to the principle area of open space which is noted to be to the south and east of No. 15 Ocean Road, refer to detailed discussion under Clause C1.4.

- **View loss / building envelope breach / height bulk and scale**

The submissions raised concerns that views from the top bedroom in the neighbouring property to the north will be blocked, and height poles were requested to assess the impacts on the neighbouring amenity. The submission stated that the proposal should be amended to comply with the building envelope.

Comment:

The proposal has been amended to increase the setback of the upper floors from the northern and eastern boundary which in turn has reduced the height of the development and the breach of the building envelope. The bulk and scale of the development is assessed as acceptable, refer to discussion under height and building envelope below.

The top floor is stepped back to allow views across the site to be retained from the south facing bedroom window to No. 13 Ocean Road. The primary iconic eastern view of Palm Beach enjoyed from all east facing windows and the front elevated deck will not be impacted.

Due to the elevated position of the dwellings to the rear (west) on Sunrise Road, views to the ocean and beach will be retained over the roof of the new dwelling. It is not reasonable to request height poles given that there view sharing will be maintained, refer to detailed discussion under view sharing below, refer to detailed discussion under Clause C1.3 below.

## REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulphate)	<p><b>Supported, no conditions</b></p> <p>General Comments</p> <p>Class 5</p> <p>Recommendation supported - no conditions</p>
Landscape Officer	<p><b>Supported, subject to conditions</b></p> <p>This application is for the demolition of an existing residential dwelling, and the construction of a new residential dwelling including a new swimming pool and associated landscape works.</p> <p>Councils Landscape Referral section has considered the application against the Pittwater Local Environmental Plan, and the following Pittwater 21 DCP controls:</p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> <li>• D12.10 Landscaped Area - Environmentally Sensitive Land</li> <li>• D12.14 Scenic Protection Category One Areas</li> </ul> <p>The Statement of Environmental Effects provided with the application notes that two trees are to be removed as a result of proposed works. This statement is largely supported by the Architectural Plans as it is evident only two trees are shown to be removed. For this reason, an Arboricultural Impact Assessment has been provided.</p> <p>This Arboricultural Impact Assessment has identified a total of five trees, two of which are within the site boundaries, with the remaining three trees located in the adjoining property to the south. The two trees within the site, Trees No. 2 and 3, have been proposed for removal as they fall within the footprint of proposed. These trees have been identified as palm like species, and are therefore considered to be exempt and as a result may be removed without Councils approval. The remaining three trees identified, Trees No. 1, 4 and 5, are clear of proposed works and are not anticipated to receive any Tree Protection Zone (TPZ) or Structural Root Zone (SRZ) encroachments as a result of proposed works. Considering this, no major concern is raised regarding the impacts of proposed works on existing trees, nor with the proposed tree removal. The retention and protection of those trees to be retained is vital to satisfy control B4.22 as key objectives of this control include "to protect and enhance the urban forest of the Northern Beaches", as well as "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide".</p> <p>A Landscape Plan is provided with the application with proposed works including the in-ground planting of trees, shrubs, accents, grasses and groundcovers, as well as the on-slab planting of trees, shrubs, grasses and groundcovers. Generally, the proposed landscape works are supported as they seek to increase the overall landscape amenity of the site, whilst also ensuring the built form is softened and mitigated particularly when viewed to from the adjoining road and beach reserve. Slight concern however is raised regarding the use of <i>Archontophoenix cunninghamiana</i> and <i>Rhaphiolepis indica</i>. <i>Archontophoenix cunninghamiana</i> is identified as an exempt species and as a result can be removed without approval in the future. For this reason, it is recommended that this be substituted with <i>Livistona australis</i> to ensure the ongoing retention of Pittwater's biodiversity by using locally native species. Furthermore, <i>Rhaphiolepis indica</i> has been identified as an environmental weed and is therefore an undesirable species. For this reason, it is recommended that this be substituted for a locally native alternative. The completion of these landscape works, inclusive of the required species changes, is necessary to satisfy controls C1.1 and D12.10, as key objectives of these controls seek to ensure "vegetation is retained and enhanced to visually reduce the built form", "landscaping results in the long-term retention of Pittwater's locally native tree canopy", as well as "landscaping enhances habitat and amenity value".</p>

Internal Referral Body	Comments
	<p>The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, as well as the completion of landscape works as proposed on the Landscape Plan, inclusive of the required species changes.</p>
NECC (Bushland and Biodiversity)	<p><b>Supported, subject to conditions</b></p> <p>The application seeks approval for the demolition of the existing dwelling house and the construction of a new contemporary dwelling house with integrated car parking accommodation, swimming pool and an enhanced site landscape regime.</p> <p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p><u>Biodiversity Conservation Act 2016 (BC Act)</u> <u>Pittwater Development Control Plan (PDCP)</u></p> <ul style="list-style-type: none"> <li>• B4.3 Flora and Fauna Habitat Enhancement Category 2</li> </ul> <p>The application seeks to remove two (2) 'clumps' of exotic trees (T.2 &amp; 3 ; <i>Strelitzia nicholai</i>). No objection is raised by Natural Environment Unit - Biodiversity subject to their replacement with locally-native species per the landscaping provisions of B4.3:</p> <ul style="list-style-type: none"> <li>• Development shall ensure that at least 60% of any new planting incorporates native vegetation (as per species listed in Native Plants for Your Garden available on the Pittwater Council website). Landscaping is to be outside areas of core bushland and not include environmental weeds.</li> </ul> <p>The species selection within the submitted Landscape Plan (Fifth Season Landscapes 2021) is currently non-compliant, and is to be amended accordingly to ensure consistency with B4.3 of the Pittwater DCP. Additionally, <i>Raphiolepis indica</i> is to be deleted from the planting list due to its former status as a Noxious Weed.</p> <p>The application does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values following amendment of the Landscape Plan. Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Coast and Catchments)	<p><b>Supported, subject to conditions</b></p> <p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against</p>

Internal Referral Body	Comments
	<p>requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p><u><i>Coastal Management Act 2016</i></u> The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p><u><i>State Environmental Planning Policy (Coastal Management) 2018</i></u> The subject land has been included on the 'Coastal Use Area' map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 14 and 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Boston Blyth Fleming Pty. Ltd. dated November 2021 and Coastline Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 12 November 2021, the DA satisfies requirements under clauses 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p><u><i>Pittwater LEP 2014 and Pittwater 21 DCP</i></u></p> <p><u><i>Coastline (Beach) Hazard Management</i></u></p> <p>The property is located within a “Wave inundation” hazard area designated on the Coastal Risk Planning Map that is referenced in Pittwater Local Environmental Plan 2014. The subject property is also mapped as being land identified under Coastline Beach Hazard Area on the Pittwater 21 Development Control Plan (DCP) Map MDCP016. As such, the Coastal Risk Management Policy for Development in Pittwater (Appendix 6, Pittwater 21 DCP) and the relevant B3.3 Coastline (Beach) Hazard controls in P21 DCP will apply to new development of the site.</p> <p>A Coastline Risk Management Report by Horton Coastal Engineering Pty. Ltd. dated 12 November 2021, has been submitted with this DA application.</p>

Internal Referral Body	Comments					
	<p>The report assessed that erosion/recession from coastal processes is not considered to be a significant risk to the proposed development. Based on the Coastline Policy, it is theoretically required to define a Coastline Hazard Line (CHL) and Coastline Management Line (CML) 3, but these lines do not actually apply at the property due to the elevated bedrock. However, to reduce the risk of wave runup impacting the proposed development, the report recommended a number of measures to be adopted.</p> <p>Hence, the proposed development does comply with the requirements of Clause 7.5 of Pittwater Local Environmental Plan 2014, Section B3.3 of the Pittwater 21 DCP and the Coastline Risk Management Policy for Development in Pittwater for the matters considered herein.</p>					
NECC (Development Engineering)	<p><b>Supported, subject to conditions</b></p> <p>The submitted drainage design including on-site stormwater detention (OSD) is satisfactory. The proposed driveway access and internal grades are acceptable for the proposal. The submitted Geotechnical report addresses the relevant DCP controls.</p> <p>Development Engineering support the proposal, subject to conditions as recommended.</p>					
Strategic and Place Planning (Heritage Officer)	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th data-bbox="518 1144 1439 1182" style="background-color: #cccccc;">HERITAGE COMMENTS - <b>Supported, no conditions</b></th> </tr> <tr> <th data-bbox="518 1182 1439 1220" style="background-color: #cccccc;">Discussion of reason for referral</th> </tr> </thead> <tbody> <tr> <td data-bbox="518 1220 1439 1429"> <p>The proposal has been referred to Heritage as the subject site is within the vicinity of a heritage item:</p> <p><b>Item I270064 - House - 2 Palm Beach Road</b></p> </td> </tr> <tr> <th data-bbox="518 1429 1439 1467" style="background-color: #cccccc;">Details of heritage items affected</th> </tr> <tr> <td data-bbox="518 1467 1439 2136"> <p>Details of the item, as contained within the Pittwater Heritage Inventory is as follows:</p> <p><b>Item I270064 - House</b>  <u>Statement of Significance:</u>            The House at 2 Palm Beach Road in Palm Beach, built c1920s as a holiday house, has historic and aesthetic significance as a holiday house typical of the early Pittwater subdivisions.</p> <p>The architectural heritage of the area is characterised by this house form which, in Pittwater, evolved as a structure subordinate to the landscape and which utilised natural materials to harmonise with the surroundings and lessen their visual impact.</p> <p>The dwelling is representative of the popularity of cottage retreats in Pittwater built of local natural materials to simple designs with traditional construction techniques.</p> </td> </tr> </tbody> </table>	HERITAGE COMMENTS - <b>Supported, no conditions</b>	Discussion of reason for referral	<p>The proposal has been referred to Heritage as the subject site is within the vicinity of a heritage item:</p> <p><b>Item I270064 - House - 2 Palm Beach Road</b></p>	Details of heritage items affected	<p>Details of the item, as contained within the Pittwater Heritage Inventory is as follows:</p> <p><b>Item I270064 - House</b>  <u>Statement of Significance:</u>            The House at 2 Palm Beach Road in Palm Beach, built c1920s as a holiday house, has historic and aesthetic significance as a holiday house typical of the early Pittwater subdivisions.</p> <p>The architectural heritage of the area is characterised by this house form which, in Pittwater, evolved as a structure subordinate to the landscape and which utilised natural materials to harmonise with the surroundings and lessen their visual impact.</p> <p>The dwelling is representative of the popularity of cottage retreats in Pittwater built of local natural materials to simple designs with traditional construction techniques.</p>
HERITAGE COMMENTS - <b>Supported, no conditions</b>						
Discussion of reason for referral						
<p>The proposal has been referred to Heritage as the subject site is within the vicinity of a heritage item:</p> <p><b>Item I270064 - House - 2 Palm Beach Road</b></p>						
Details of heritage items affected						
<p>Details of the item, as contained within the Pittwater Heritage Inventory is as follows:</p> <p><b>Item I270064 - House</b>  <u>Statement of Significance:</u>            The House at 2 Palm Beach Road in Palm Beach, built c1920s as a holiday house, has historic and aesthetic significance as a holiday house typical of the early Pittwater subdivisions.</p> <p>The architectural heritage of the area is characterised by this house form which, in Pittwater, evolved as a structure subordinate to the landscape and which utilised natural materials to harmonise with the surroundings and lessen their visual impact.</p> <p>The dwelling is representative of the popularity of cottage retreats in Pittwater built of local natural materials to simple designs with traditional construction techniques.</p>						

Internal Referral Body	Comments																					
	<p>The house is associated with the development of the northern beaches as a holiday destination. The listing includes the interiors of the house; however detailed analysis and assessment should be undertaken at the time of any future changes to the interior in order to ascertain the relative heritage significance.</p> <p><u>Physical Description:</u> This house is located on an elevated site block. It is a symmetrical two-storey stone house with central faceted bay, stone basement and weatherboard upper level.</p> <table border="1" data-bbox="520 703 1430 1279"> <thead> <tr> <th colspan="3" data-bbox="520 703 1430 741">Other relevant heritage listings</th> </tr> </thead> <tbody> <tr> <td data-bbox="520 741 852 882">Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td> <td data-bbox="852 741 948 882">No</td> <td data-bbox="948 741 1430 882"></td> </tr> <tr> <td data-bbox="520 882 852 956">Australian Heritage Register</td> <td data-bbox="852 882 948 956">No</td> <td data-bbox="948 882 1430 956"></td> </tr> <tr> <td data-bbox="520 956 852 1028">NSW State Heritage Register</td> <td data-bbox="852 956 948 1028">No</td> <td data-bbox="948 956 1430 1028"></td> </tr> <tr> <td data-bbox="520 1028 852 1102">National Trust of Aust (NSW) Register</td> <td data-bbox="852 1028 948 1102">No</td> <td data-bbox="948 1028 1430 1102"></td> </tr> <tr> <td data-bbox="520 1102 852 1211">RAIA Register of 20th Century Buildings of Significance</td> <td data-bbox="852 1102 948 1211">No</td> <td data-bbox="948 1102 1430 1211"></td> </tr> <tr> <td data-bbox="520 1211 852 1279">Other</td> <td data-bbox="852 1211 948 1279">N/A</td> <td data-bbox="948 1211 1430 1279"></td> </tr> </tbody> </table> <p><u>Consideration of Application</u></p> <p>The proposal seeks consent for the demolition of the existing dwelling and the construction of and new landscaping. The heritage item is located to the south of the subject site. Given the separation afforded by the two dwellings between the heritage item and the subject property, the impact of the proposal upon the significance of the heritage item is considered manageable.</p> <p>Therefore, no objections are raised on heritage grounds and no conditions required.</p> <p><u>Consider against the provisions of CL5.10 of Pittwater LEP 2014.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>	Other relevant heritage listings			Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register	No		RAIA Register of 20th Century Buildings of Significance	No		Other	N/A	
Other relevant heritage listings																						
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No																					
Australian Heritage Register	No																					
NSW State Heritage Register	No																					
National Trust of Aust (NSW) Register	No																					
RAIA Register of 20th Century Buildings of Significance	No																					
Other	N/A																					

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that a decision was not required.
Aboriginal Heritage Office	<b>Supported, with conditions</b>



External Referral Body	Comments
	<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>

### 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. 1246606S dated 21 October 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	53%
--------	----	-----

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 who raised no objections.

## SEPP (Coastal Management) 2018

The site is classified as land within the coastal use area under the State Environmental Planning Policy (Coastal Management) 2018. Accordingly, an assessment under the SEPP has been carried out as follows:

### 13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - (b) *coastal environmental values and natural coastal processes,*
  - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
  - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
  - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (f) *Aboriginal cultural heritage, practices and places,*

- (g) *the use of the surf zone.*

Comment:

The site is located approximately 22m to the west of Palm Beach. The proposal is not likely to cause an adverse impact on the matters listed above.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
  - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

Given the location of the development the proposal is not likely to impact on the matters listed under clause 13 (1).

**14 Development on land within the coastal use area**

- (1) (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
  - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
  - (iv) *Aboriginal cultural heritage, practices and places,*
  - (v) *cultural and built environment heritage, and*
- (b) *is satisfied that:*
- (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
  - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment:

The proposed development will not result in any unreasonable impacts on the matters listed under Clause 14.

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

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

coastal hazards on that land or other land.

Comment:

Council is satisfied that the proposal is unlikely to cause an increased risk of coastal hazards, refer to comments from the Coastal Officer in the referral section of this report.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

**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	8.5m *Clause 4.3(2D) allows for 10.0m	9.71m	N/A	Yes

\*Note: Clause 4.3(2D) allows for a maximum height of 10.0m if the portion of the building above the 8.5m is minor, the building footprint is on a slope in excess of 16.7 degrees (30%) the building steps down the slope and the objectives of the clause are achieved. The development is consistent with these requirements, refer to discussion below.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.1 Land use zones	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.5 Coastal risk planning	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

**4.3 Height of buildings**

The height of the proposed dwelling house, as amended, has been measured at 9.71m above ground level.

Despite the 8.5m development standard that applies to the subject site, a maximum building height of 10.0m is permitted on this site, but only if the proposed development satisfies the relevant requirements of Clause 4.3 (2D) of PLEP 2014.

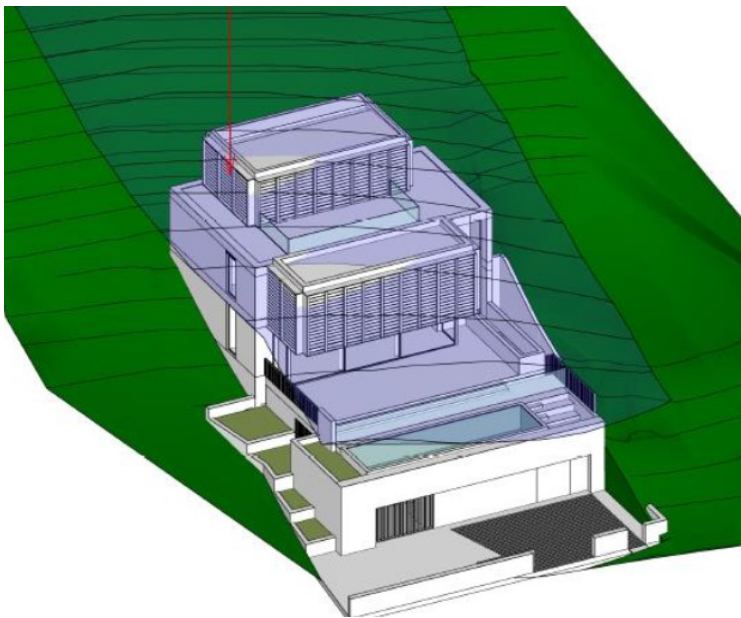
The proposal, as amended, satisfied the requirements of Clause 4.3(2D) as discussed below:

*(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 portion of the building that breaches the 8.5m height limit is limited to a small portion of the southern corner of the Level 1 and Level 2 roof as depicted in the 8.5m height diagram below.

\*Note: The natural ground levels of the land have been modified to accommodate the existing dwelling. The applicant's height diagram interpolates the natural undisturbed ground level across the site.



**8.5m height plane diagram** (source Matieson)

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

Comment:

The proposal, as amended, generally satisfies the objectives of the height control

- it ensures that the dwelling, by virtue of its height and scale, is consistent with the desired character of the locality,
- it ensures that buildings are compatible with the height and scale of surrounding and nearby development,
- it limits overshadowing of neighbouring properties to a compliant level (see discussion under Clause x of the PDCP),
- it allows for the reasonable sharing of views,
- it ensures that the dwelling respond sensitively to the natural topography,
- it minimise the adverse visual impact of development on the natural environment, heritage

conservation areas and heritage items.

(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 in excess of 30%.

(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 proposal will not require excessive cut and fill for the construction. The proposed dwelling steps down the site in response to the steep slope.

In summary, the proposal, as amended, significantly reduces the extent of non-compliance with the 8.5m height standard through the provision of an increase setback to the southern boundary and pulling back the upper floor away from the street frontage. The breaching element is assessed as minor and meets the criteria for the 10.0m concessional building height limit for steeply sloping sites. The building steps down the site and is an appropriate response to the desired character of the Locality. As such, the proposal satisfies clause 4.3 2(D) and a Clause 4.6 Variation Statement is not required.

**Pittwater 21 Development Control Plan**

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Lower Ground and Ground Floor- min 7.4m	N/A	Yes
Rear building line	6.5m	Upper Floor - min 9.0m	N/A	Yes
Side building line	2.5m	South - min 2.5m to the wall of the dwelling (Note: Landscape features, planter beds and terraces, OSD and RWT within the 2.5m setback)	N/A	Yes
	1.0m	North - min 1m to stair / lobby 3.6m to the external wall of the dwelling	N/A	Yes
Building envelope	3.5m	South Outside envelope (refer to detailed discussion)	Refer to detailed discussion	<b>No</b>
	3.5m	Within envelope	N/A	Yes
Landscaped area	50%	56%	4%	<b>No</b>

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives



Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	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
B3.3 Coastline (Beach) Hazard	Yes	Yes
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	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	Yes	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
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	No	Yes
C1.23 Eaves	No	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	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	Yes	Yes
D12.6 Side and rear building line	Yes	Yes
D12.8 Building envelope	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

### Detailed Assessment

#### **A4.12 Palm Beach Locality**

The Desired Character of the Palm Beach Locality requires:

*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.*

*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 proposal has been amended to increase the setback of the development to the southern boundary in particular the upper level by an additional 1.3 metres. This amendment has had the effect of significantly reducing the building height and building envelope breach with the building appropriately articulated and modulated to step down the site in response to the topographical characteristics of the land. While the dwelling exceeds the recommended two storey limit, the height, bulk and scale are consistent with that established by recently approved and constructed development along this section of Ocean Road. The dwelling steps down the site and the bulk and scale of the development will be softened with landscaping to help integrate the built form with the landform.

In summary, it is assessed that the development is consistent with the desired future character of the Palm Beach Locality as outlined as it relates to the orderly and economic development of a steeply sloping site along this section of Ocean Road.

#### **C1.3 View Sharing**

### Merit consideration

The development is considered against the underlying Outcomes of the Control as follows:

- *A reasonable sharing of views amongst dwellings.*

### Comment:

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:

A submission has been received from the neighbour to the immediate north at No. 13 Ocean Road regarding views to the south from the top bedroom window. Height poles were requested to assess the impact. It is also noted that height poles were requested from the neighbour to the immediate west at No. 12 Sunrise Road.

A search of available photos taken from No. 13 Ocean Road on the internet confirms that the property enjoys extensive uninterrupted ocean views to the east from the primary living areas and area of private open space. Views are also enjoyed looking north towards the iconic Palm Beach light house and headland and to the southern headland towards the ocean pool.

A search of Council's records confirms that No. 12 Sunrise Road sits at a super-elevated position, approximately 8.0m or more above the height of the proposed dwelling. The views from the dwelling are currently over the roof of the existing dwelling towards the ocean to the east, although the views may be partially interrupted by the existing vegetation within the rear embankment of the subject site. Views are also be enjoyed looking towards the southern headland over the roof of No. 15 Ocean Road.

### **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:

As discussed above, the views from No. 13 Ocean Road are obtained from elevated decks and the east, north and south facing windows to primary living areas and bedrooms. The submission from No. 13 Ocean Road notes that the views from the upper floor bedroom may be impacted by the proposed development. The upper floor bedroom has a primary east facing window and a secondary south facing window.

### **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”.*

Comment to Principle 3:

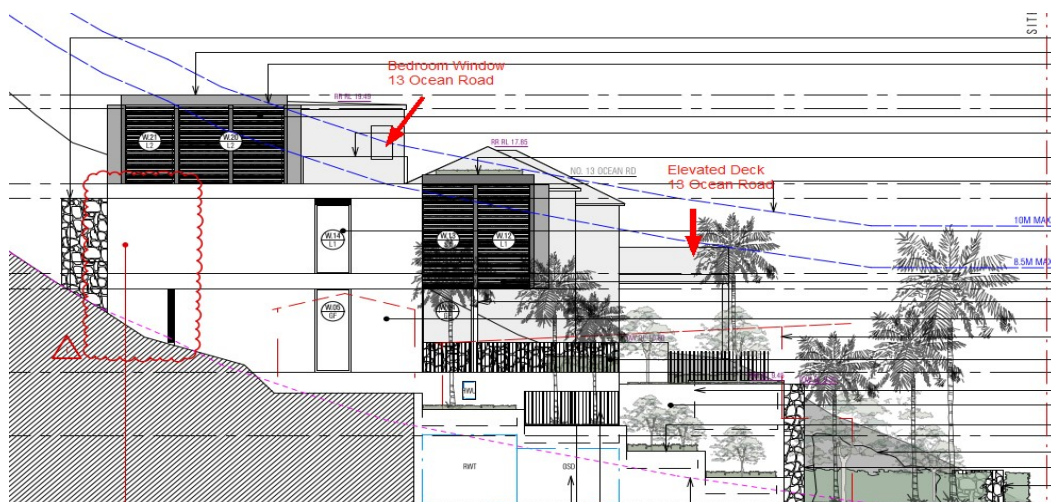
*13 Ocean Road*

No. 13 Ocean Road sits back from the street frontage in an elevated position. The lower ground and ground floor of the proposed dwelling are setback a minimum of 7.4m from the frontage at a lower level to the ground and first floor of No. 13 Ocean Road to the immediate north. The lower levels of the proposed dwelling will not result in any adverse impacts on views to the southern or northern headland or eastern views to the Ocean.

Level 1 of the proposed dwelling is setback from No. 13 Ocean Road (approximately 5.6m to the west of the frontage of the elevated deck, 2.2m to the west of the frontage of the east facing window to the open plan living area and 0.9m from the recessed eastern wall). Given the setback of Level 1 behind the frontage of No. 13 Ocean Road, there will be no unreasonable view loss to the neighbouring property to the immediate north.

Level 2 of the proposed dwelling is set back even further from the frontage of No. 13 Ocean Road, and as such there will be no view loss from this level.

Concern has been raised regarding the impact on views enjoyed from the upper floor bedroom window looking across the side boundary of the subject site looking towards the south. The bedroom in question has a corner window to the frontage which has a primary view to the east to the ocean. There will be no unreasonable view loss from the east facing bedroom window. The eastern external wall of Level 2 of the proposed dwelling is setback approximately 2.2m from the edge of the south facing bedroom window. The window will overlook the terrace of the master-bedroom to the southern headland beyond. As such, it is not envisaged that there will be any unreasonable loss of view from the south facing bedroom window.



**Southern Elevation** - showing relationship to windows and deck at No. 13 Ocean Road (source Mathieson Architects)

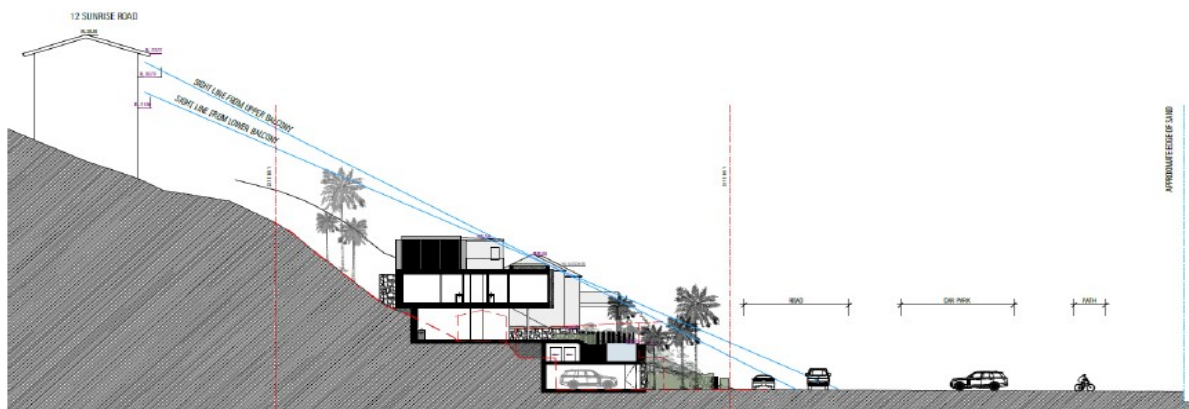




**Subject Site** - shows in context to No. 13 Ocean Road and 12 Sunrise Road

#### 12 Sunrise Road

The applicant has submitted a View Analysis plan DA3(A) based on the available survey information which demonstrates that the proposed development will not obstruct the existing ocean views enjoyed from No. 12 Sunrise Road, refer to image below:



**View Analysis Plan** (source Mathieson Architects)

It is Council's assessment that there will be no unreasonable view loss impacts on No. 12 Sunrise Road located directly to the west (rear) given its elevated location. Eastern ocean views will be retained over the roof of the proposed dwelling. Given the above assessment and information submitted by the applicant in response to the view loss concern it is not considered reasonable to request that height poles in this instance.

#### 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.”*

Comment to Principle 4:

With the exception of a minor breach in the building envelope to the southern elevation, the proposal is compliant with the relevant built form controls in respect of height, setbacks (front, side and rear). The southern corner of Level 1 that breaches the building envelope will not in itself give rise to any unreasonable view loss impacts.

- *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.*

Comment:

There are no views or vistas from public places to water, headland or the beach that will be impacted by the proposed development.

- *Canopy trees take priority over views.*

Comment:

There are no canopy on the subject site that will be impacted by the development.

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.

#### **C1.4 Solar Access**

Clause C1.4 requires:

*The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.*

*Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).*

Comment:

Shadow diagrams, in plan and elevation, have been submitted by the applicant which demonstrate that additional shadow will be cast on the property to the south, No. 15 Ocean Road. A site inspection and a search of records confirm that the main area of private open space to No. 15 Ocean Road is the deck area located to the south and the east facing terrace that is located to the frontage and wraps around the north of the dwelling. The shadow diagrams confirm that additional shadow will not impact the principal area of private open space.

The principal living area is located to the front and southern side of No. 15 Ocean Road. The primary windows to the open plan living room face east with secondary windows to the north. The shadow diagrams confirm that the additional shadow will not impact the primary windows.

In summary, the proposal, as amended, complies with the requirements and outcome of the solar access control.



### **C1.5 Visual Privacy**

Claus C1.5 requires:

*Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).*

*Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.*

*Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.*

#### Comment:

A site visit confirms that dwellings along Ocean Road are orientated to take advantage of the eastern ocean views with large areas of private open space provided to the frontages of dwellings generally with no privacy screens which may impede the quality of the ocean view. As such, a balance needs to be achieved in relation to the maintenance of cross views and reasonable privacy.

#### *Level 2 Deck*

The proposal has been amended to reduce the trafficable area of the Level 2 balcony. The amended proposal will result in a 7.5m separation between the northern edge of the deck and the south facing upper floor bedroom window to No. 13 Ocean Road. While this is less than 9.0m, it is assessed as acceptable given that the deck is associated with a bedroom which will be used infrequently, and the window to the adjoining property is a secondary window to a bedroom, again in a room infrequently used. In addition, in order to ensure that there is a balance between retaining the view from the south facing bedroom window to No.13, a privacy screen is not recommended in this instance.

The amended proposal is setback between 6.2m - 6.5m from the north facing window to the study in No. 15 Ocean Road, which sits at a lower than the proposed Level 2 deck to the master bedroom. In order to ensure that there is no overlooking from the elevated Level 2 deck to this window, a condition is recommended requiring that the trafficable area of the deck be set back an additional 2.0m from the southern boundary.

Privacy screens incorporated into the south facing Level 1 and Level 2 bedroom windows. In addition, the spatial separation combined with landscaping will ensure privacy is maintained between the proposed dwelling and adjoining properties.

### **D12.3 Building colours and materials**

Cause D12.3 requires:

*External colours and materials shall be dark and earthy tones*

#### Comment:

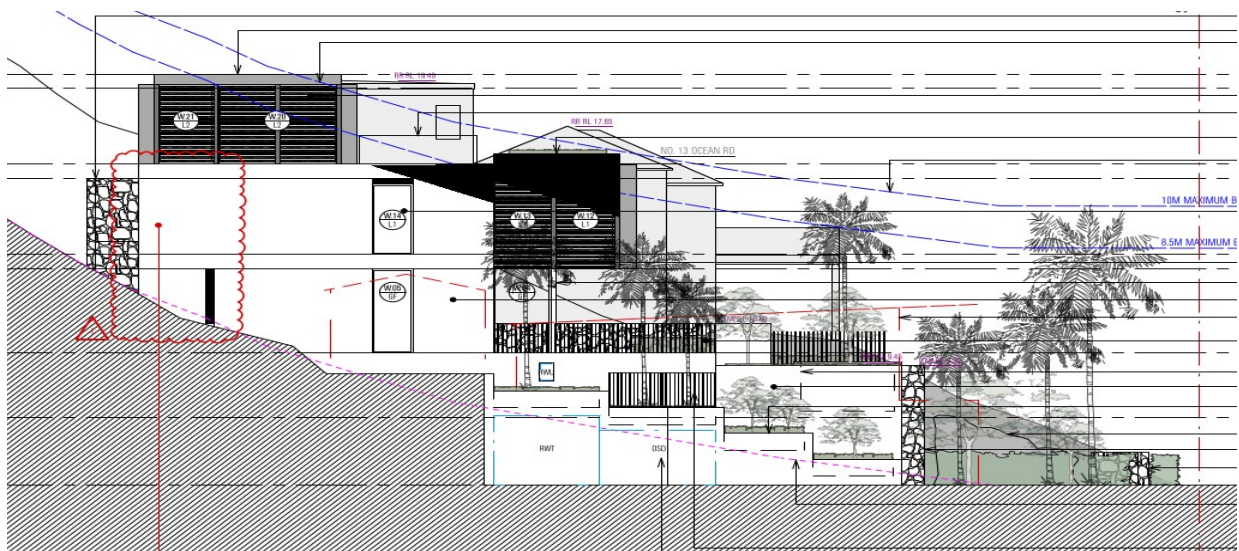
The external materials palette generally consists of dark earthy colours in compliance with the control. It is noted that some minor elements, including the southern external rendered masonry wall of the mid level (Level 1) is painted in a light colour. On merit, this is considered acceptable, as it is consistent

with light external colour scheme of the dwelling to the immediate south. The change in colour also helps break up the mass of the southern elevation.

### D12.8 Building envelope

Clause D12. requires buildings to be contained within an envelope that measures 3.5m from the boundary and an angle of 45m.

The proposal breaches the side building envelope along Level 1 of the southern elevation for a height of 2.2m to 1.0m x 3.5m in length, which relates to the upper portion of the screens to the windows of Bedroom 3 and a small triangular area 1.3m in height x 3.2m in length which relates to the upper external wall of the ensuite, refer to image below.



**Southern Elevation Envelope Breach - marked black (source Mathieson Architects).**

A merit assessment of the application against the outcomes of the control is provided below.

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

Comment:

The breaching elements are confined to relatively small areas of building facade and result from a combination of the irregular southern boundary alignment and the topography of the site. The breaching elements do not prevent the development from achieving the desired future character of the Palm Beach locality. The dwelling steps down the site and the is consistent with the height, scale and bulk of other developments along Ocean Road.

*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 dwelling is well articulated and presents an attractive built form in the street. As noted above, the scale and density is consistent with that of other recent developments in Ocean Road and the proposed landscaping will help soften the built form.

*To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of*

*the existing natural environment.*

Comment:

Notwithstanding the breaching elements, the development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.

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

Comment:

The amended proposal reduces the height and bulk of the development, landscaping will help soften the built form.

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

Comment:

The proposal will not result in any unreasonable impacts on view sharing, refer to detailed discussion below.

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

Subject to conditions, the proposal will not impact on privacy and the proposal complies with the solar access provisions, refer to detailed discussion above.

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

Comment:

There is no significant vegetation on the site. The proposed planting will reduce any visual impact on the built form.

### **D12.10 Landscaped Area - Environmentally Sensitive Land**

Clause D12.10 requires:

*The total landscaped area on land zoned R2 Low Density Residential or C4 Environmental Living shall be 60% of the site area.*

*The use of porous materials and finishes is encouraged where appropriate.*

*Provided the outcomes of this control are achieved, the following may be permitted on the landscaped proportion of the site:*

*impervious areas less than 1 metre in width (e.g. pathways and the like);  
for single dwellings on land zoned R2 Low Density Residential or C4 Environmental Living, up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)).*

Comment:

The proposal, as amended, will provide a landscape area of 392sqm (56%), inclusive of the 6% allowance for hard landscaping. The proposal represents 28sqm (4%) breach of the control. A merit assessment of the proposal against the outcomes of the control is provided below:

*Achieve the desired future character of the Locality.*

Comment:

The minor 4% breach of the control will not result in unreasonable impacts on the desired future character of the Locality.

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

Comment:

The bulk and scale of the development will be softened with new planting.

*A reasonable level of amenity and solar access is provided and maintained.*

Comment:

The proposal, as amended, maintains a reasonable level of amenity and solar access to neighbouring properties.

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

Comment:

The subject site is devoid of any significant existing vegetation. The application seeks to remove two (2) 'clumps' of exotic trees (T.2 & 3 ; *Strelitzia nicholai*). The proposed works including the in-ground planting of trees, shrubs, accents, grasses and groundcovers, as well as the on-slab planting of trees, shrubs, grasses and groundcovers. Generally, the proposed landscape works are supported, as they seek to increase the overall landscape amenity of the site, whilst also ensuring the built form is softened and mitigated particularly when viewed to from the adjoining road and beach reserve.

*Conservation of natural vegetation and biodiversity.*

Comment:

No objections, subject to conditons, are raised by Council's Biodiversity Unit, refer above.

*Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*

Comment:

No objections, subject to conditions, are raised by Council's Development Engineer in respect of stormwater management.

*To preserve and enhance the rural and bushland character of the area.*

Comment:

The proposal preserves and enhances the character of the area.

*Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*

Comment:

As noted above, Council's Development Engineer has no objections to the proposal subject to conditions.

## **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 \$42,046 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,204,632.

### **Coastal Management Act 2016**

The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.

## **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 height, bulk and scale of the proposed dwelling, as amended, is consistent with the character of development along Ocean Road. The dwelling exhibits and high degree of stepping down the site to favourably relate the sloping landform and presents an attractive, well articulated contemporary dwelling to the street which incorporated natural materials in dark earthy tones. The proposed enhanced landscaping will soften the built form to ensure the development is suitable integrated into the topography.

With the exception of a minor breach of the building envelope and landscape area controls, the proposal complies with all other built form controls. The breaching elements will not result in unreasonable amenity impacts by virtue of overshadowing and view loss, and conditions are recommended to ensure privacy is maintained.

On balance, the proposal represents a good planning outcome on a constrained site in a sensitive coastal setting and is recommended 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 DA2021/2262 for Demolition works and construction of a dwelling house including a swimming pool on land at Lot 1 DP 412086, 14 Ocean 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA 00 Rev D Cover page location plan and BASIX commitments	25.10.2021	Mathieson Architects
DA 01 Rev I Site plan and site analysis	06.04.2022	Mathieson Architects
DA 02 Rev I Lower ground plan	06.04.2022	Mathieson Architects
DA 03 Rev I Ground Plan	06.04.2022	Mathieson Architects



DA 04 Rev I Level 1 Plan	06.04.2022	Mathieson Architects
DA 05 Rev I Level 2 Plan	06.04.2022	Mathieson Architects
DA 06 Rev I Roof Plan	06.04.2022	Mathieson Architects
DA 07 Rev J East and West Elevations	08.04.2022	Mathieson Architects
DA 08 Rev I North and South Elevations	08.04.2022	Mathieson Architects
DA 09 Rev G Sections	08.04.2022	Mathieson Architects
DA 13 Rev B Demolition Plan	15.10.2021	Mathieson Architects
DA 16 Rev B Excavation Plan	06.04.2022	Mathieson Architects
DA 17 Rev A Schedules and Finishes	22.10.2021	Mathieson Architects

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
C-0001 Issue 02 General Notes and Legend	21.10.2021	Intrax Projects
C-1001 Issue 02 Erosion and Sediment Control Plan	21.10.2021	Intrax Projects
C-1011 Issue 02 Erosion and Sediment Control Detail and Notes	21.10.2021	Intrax Projects
C-4001 Issue 02 Stormwater Management Plan	21.10.2021	Intrax Projects
C-4101 Issue 02 Stormwater Catchment Plan	21.10.2021	Intrax Projects
C-4301 Issue 02 Stormwater Management Detail Sheet 1 of 2	21.10.2021	Intrax Projects
C-4302 Issue 2 Stormwater Management Detail Sheet 2 of 2	21.10.2021	Intrax Projects

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Coastal Risk Management Report	12.11.2021	Horton Coastal Engineers
Geotechnical Investigation and Stability Assessment Ref 34272Jrpt	15.10.2021	JK Geotechnics
Building Services Rev A Ref NP649645	08.10.2021	Intrax Consulting Engineers Pty Ltd
Arboricultural Impact Assessment	25.10.2021	Jackson Nature Works
BASIX Certificate Number 1246606S	21.10.2021	BCA Energy

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:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
LCP-01 Rev B Landscape Concept Pan	19.10.2021	Fifth Season

PLT-01 Rev A Planting Plan	19.10.2021	Fifth Season
----------------------------	------------	--------------

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	-	Reform Projects

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. 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.

### 3. **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

### 4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$42,046.32 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 \$4,204,631.90.

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](http://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.

### 5. 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](http://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

### 6. **On Slab Landscape Works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed:

- i) 300mm for lawn
- ii) 600mm for shrubs
- iii) 1m for small trees

Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

### 7. **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 JKGeotechnics reference 34272YJrpt dated 15 October 2021 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 Principal Certifying Authority prior to the issue of the Construction Certificate.



Reason: To ensure geotechnical risk is mitigated appropriately.

**8. Amendment of Landscape Plans**

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

- Deletion of *Raphiolepis indica* due to its former listing as a Noxious Weed within Greater Sydney
- Provision of at least 60% of any new planting incorporates native vegetation (as per species listed in Native Plants for Your Garden available on the Pittwater Council website).

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.

**9. 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.

**10. Amendments to the approved plans**

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

- (a) The non-trafficable setback of the Level 2 deck to the southern boundary shall be increased by an additional 2m.
- (b) The northern sides of the Level 2 terrace annotated with a reference to a pebbled roof (Drawing DA 5 Rev 1 dated 06.04.2022 prepared by Matieson) shall be non-trafficable.

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.

**11. 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 referenced in Condition 1 of this consent 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 Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

**12. 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 Intrax Projects, drawing number P649645 C-0000, C-0001, C-4001, C-4101, C-4301 and C-4302 Issue 2 dated 22/10/2021. Detailed drainage plans are to be prepared by 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.

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.

13. **Tanking of Basement Level**

The basement area is to be permanently tanked. The Applicant is to submit structural details of the tanking, prepared by a suitably qualified Engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Environment and Heritage. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Office of Water are to be complied with and a copy of the approval must be submitted to the Certifying Authority. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements.

14. **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.

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.

15. **Shoring of Council's Road Reserve (Temporary road anchors)**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

16. **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.

17. **Compliance with Coastal Risk Management Report**

The development is to comply with all recommendations of the approved Coastline Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 12 November 2021, and these recommendations are to be incorporated into construction plans and maintained over the life of the development.

Reason: To ensure coastal risk is addressed appropriately

18. **Low Level Coastal Inundation Risk Design**

All development must be designed and constructed to achieve a low risk of damage and instability due to coastal inundation, wave impact and foreshore erosion hazards.

19. **Design Impact on Coastal Processes and Public/Private Amenity**

All development and/or activities must be designed and constructed so that they will not adversely impact on surrounding properties, coastal processes or the amenity of public foreshore lands.

Reason: To ensure the development does not impact the coastal process and public/private

20. **Construction Traffic Management Plan (CTMP)**

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. All Staff and Contractors are to use the basement parking once available.
- 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 safety.
- 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.

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 21. **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 Assessment, including:

- i) the implementation and installation of tree protection measures,
- ii) all demolition, excavation and construction within the TPZ's and SRZ's of trees to be retained.

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.

22. **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.

23. **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.

13 Ocean Road, Palm Beach  
15 Ocean 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 arising 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.

**24. Installation and Maintenance of Sediment and Erosion Control**

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

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

**25. 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), vi) and vii) 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 Assessment, as listed in the following sections:

i) Section 3 - Discussions,

ii) Section 4 - Recommendations,

iii) Annexure D - Tree Protection Details.

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.

## 26. **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.

## 27. **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.

## 28. **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.

29. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

30. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

31. **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.

32. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N 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 kerb and 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.

33. **Waste / Recycling Requirements**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan prepared by Reform Projects.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

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

34. **Landscape Completion**

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

- i) substitute the proposed *Archontophoenix cunninghamiana* with a native, non-exempt alternative, minimum 75L pot size. Suggested species include: *Livistona australis*,
- ii) substitute the proposed *Rhaphiolepis indica* with a native alternative, minimum 200mm pot size. Suggested species include: *Banksia spinulosa*, *Correa alba* (as proposed elsewhere on site), or *Westringia fruticosa*.

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.

35. **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:

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

Reason: Tree protection.

36. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (Fifth Season Landscapes 2021) 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.

37. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) 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.

38. **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.

39. **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.

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

The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall 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) and Hydraulic engineers' certification.

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 disposal structures within this development consent. The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgment 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 is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

41. **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.

42. **Environmental Reports Certification**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

- (a) Coastal Risk Management Report, dated 12.11.2021, prepared by Horton Coastal Engineers
- (b) Geotechnical Investigation and Stability Assessment Ref 34272Jrpt, dated 15.10.2021, prepared by JK Geotechnics
- (c) Building Services Rev A Ref NP649645, dated 08.10.2021, prepared by Intrax Consulting Engineers Pty Ltd
- (d) Arboricultural Impact Assessment, dated 25.10.2021, prepared by Jackson Nature Works
- (e) BASIX Certificate Number 1246606S, dated 21.10.2021 prepared by BCA Energy

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

Reason: To ensure compliance with standards.

43. **Post Construction Coastal certificate**

Prior to the issue of the Occupation Certificate, a Post Construction Coastal Certificate shall be submitted to the Principal Certifying Authority (Form No. 3 of the Coastline Risk Management Policy for Development in Pittwater - Appendix 6 of P21 DCP) that has been prepared and signed by a specialist coastal engineer who is a registered professional engineer with chartered professional status (CP Eng) and coastal engineering as a core competency and who has an appropriate level of professional indemnity insurance.

Reason: To ensure the development has been constructed to the engineers requirements

44. **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.

45. **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.

46. **Swimming Pool Requirements (existing pool modified by works)**

The existing onsite Swimming Pool / Spa fencing enclosure shall be upgraded to comply with:

(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 warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.
- (c) All signage shall be located in a prominent position within the pool area.

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 a Interim / Final Occupation Certificate.

Reason: To protect human life.

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

### 47. **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.

For all new on slab landscape works, a maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

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

Reason: To maintain local environmental amenity.

### 48. **Undesirable Trees**

Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, or any other Undesirable Trees identified by Council, must not be planted on the site for the life of the development.

In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views and loss of plant diversity.

### 49. **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.

### 50. **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.

51. **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.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**

**Steven Findlay, Manager Development Assessments**

The application is determined on //, under the delegated authority of:

**Steven Findlay, Manager Development Assessments**