

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/1346
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<b>Responsible Officer:</b>	Megan Surtees
<b>Land to be developed (Address):</b>	Lot 13 DP 1275411, 1180 Barrenjoey Road PALM BEACH NSW 2108
<b>Proposed Development:</b>	Use of part of the building as a dwelling house
<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>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Louise Katrina Manning
<b>Applicant:</b>	Andrew Darroch

<b>Application Lodged:</b>	06/10/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	11/10/2023 to 25/10/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$ 0.00
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### PROPOSED DEVELOPMENT IN DETAIL

This development application seeks consent for the use of the as-constructed works in the basement and ground floor levels of the dwelling house, including solar panels on the roof and skylights.

#### Basement level:

- Wine cellar
- Play room
- Storage
- Bathroom
- Laundry
- Plant room

- Internal staircase to the ground floor level

**Ground floor level:**

- 3 x Bedrooms, one with an en-suite
- main bathroom

**External:**

- Skylights
- Solar panels to the rear of the dwelling

**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 - Zone C4 Environmental Living  
 Pittwater Local Environmental Plan 2014 - 5.21 Flood planning  
 Pittwater 21 Development Control Plan - B3.11 Flood Prone Land  
 Pittwater 21 Development Control Plan - D12.5 Front building line  
 Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

**SITE DESCRIPTION**

<b>Property Description:</b>	Lot 13 DP 1275411 , 1180 Barrenjoey Road PALM BEACH NSW 2108
<b>Detailed Site Description:</b>	The subject site consists of one (1) allotment located on the eastern side of Barrenjoey Road.

The site is irregular in shape with a frontage of 13.41m along Barrenjoey Road and a depth of 55.465m. The site has a surveyed area of 789.6m<sup>2</sup>.

The site is located within the C4 Environmental Living zone within the *Pittwater Local Environmental Plan 2014* (PLEP 2014) and accommodates a one (1) and two (2) storey residential dwelling within a landscaped setting.

The site has a westerly orientation is located on a slope of approximately 12.75%, falling from the southern boundary toward the north-western corner of the site.

The site is not known to have any threatened species.

#### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by residential development. The Palm Beach Golf Club is located at 2 Beach Road, which is to the north of the subject site. The Boat House cafe is also located to the north of the subject site. Further north is the Palm Beach Golf Course.

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:

- **N0379/16.** This development application sought consent for alterations and additions to a residential dwelling. This application was approved, subject to conditions, on 1 February 2017.
- **Mod2022/0450.** This modification application sought consent to modify N0379/16. This modification application was approved, subject to conditions, on 5 December 2022.
- **BC2023/0263.** This Building Information Certificate (BIC) seeks consideration of constructed unauthorised works, including the basement construction and ground floor windows to the north and south, including solar panels and skylights to the roof form. This building information certificate is currently under assessment by Councils Building team at the time of writing this report.

## 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	There are no current draft environmental planning instruments.
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)(iiiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters are capable of being addressed via a condition of consent, were the development to be approved..</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 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 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to flood management concerns raised by Council's Floodplain Management Officer. This information was requested via a Request for Further Information (RFI) letter, dated 11 January 2024. Amended information was provided to, and reviewed by, Council's Floodplain Management Officer. In accordance with Council's Community Participation Plan, this additional information did not require re-notification of the application.</p>

Section 4.15 Matters for Consideration	Comments
	<p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 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 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. If this application were to be approved, this matter would could be addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter could be addressed via a condition of consent, were the development to be approved.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <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 proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable 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	This assessment has found the proposal to be contrary to the relevant requirement(s) of the Pittwater 21 Development Control Plan and the <i>Pittwater Local Environmental Plan 2014</i> and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be 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 application has been publicly exhibited from 11/10/2023 to 25/10/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
NECC (Flooding)	<p>The proposal is for significant alterations to the property. This includes extensions to the lower ground floor with the addition of a new plant room, new laundry, new playroom, new cellar and two new storage areas all below the Flood Planning Level (FPL).</p> <p>The front of property is within the identified Medium Risk Flood Planning Precinct. It has the following flood characteristics:</p> <ul style="list-style-type: none"> <li>• 1% AEP Flood Level: 5.89m AHD</li> <li>• 1% AEP Hydraulic Category: Fringe</li> <li>• Flood Planning Level (FPL): 6.39m AHD</li> <li>• Probable Maximum Flood (PMF) Level: 7.42m AHD</li> <li>• PMF Life Hazard Category: H2</li> </ul> <p>The plans show that the lower ground floor level is 4.63m AHD, which is below the Flood Planning Level. Considering the available information, it is the view of council that during a 1% AEP Flood Event, floodwaters would enter the newly proposed rooms on the lower ground floor via the garage and plant room ventilation vents on the northern side of the building. This does not comply with the following control from Section B3.11 of the Pittwater DCP:</p> <p>C1: New floor levels within the development shall be at or above the Flood Planning Level.</p> <p>Partridge provided additional information via a letter (dated 20/03/2024) addressing the latest flood referral comments on DA2023/1346 (dated 15/03/2024). In the letter Partridge proposes:</p> <ul style="list-style-type: none"> <li>• The use of a self-actuating flood gate at the garage entrance</li> <li>• Water tight materials up to the FPL to prevent inundation from the plant room vents</li> </ul>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• Raising the garage retaining walls up to the FPL</li> <li>• Waterproofing the new basement floor rooms up to the FPL</li> </ul> <p>After considering the proposal, council does not support the use of a self-actuating flood gate to protect the lower ground floor. Flood gates are generally not accepted. Council does not support the use of flood gates to protect non-compliant illegal works such as the ones presented in DA2023/1346. The proposal would not comply with the following control from Section B3.11 of the Pittwater DCP:</p> <p>D6: All enclosed car parks (including basement car parks) must be protected from inundation up to the Flood Planning Level. All access, ventilation, driveway crests and any other potential water entry points to any enclosed car parking shall be above the Flood Planning Level. Where a driveway is required to be raised it must be demonstrated that there is no net loss to available flood storage in any event up to the 1% AEP flood event and no impact on flood conveyance through the site. Council will not accept any options that rely on electrical, mechanical or manual exclusion of the floodwaters from entering the enclosed carpark.</p> <p>The proposal to raise the driveway retaining wall to the FPL would have adverse impacts on flood behaviour and conveyance, causing floodwater to spill on to the adjacent road. This does not comply with the following control from the Section B3.11 of the Pittwater DCP:</p> <p>A1: Development shall not be approved unless it can be demonstrated in a Flood Management Report that it has been designed and can be constructed so that in all events up to the 1% AEP event:</p> <ul style="list-style-type: none"> <li>(a) There are no adverse impacts on flood levels or velocities caused by alterations to the flood conveyance; and</li> <li>(b) There are no adverse impacts on surrounding properties; and</li> <li>(c) It is sited to minimise exposure to flood hazard.</li> </ul> <p>Major developments and developments likely to have a significant impact on the PMF flood regime will need to demonstrate that there are no adverse impacts in the Probable Maximum Flood.</p> <p>Council is not satisfied that the development can be compliant with Section B3.11 of the Pittwater 21 DCP 2021 and Clause 5.21 of the Pittwater LEP 2014.</p>

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

All, Environmental Planning Instruments (SEPPs 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 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 (Building Sustainability Index: BASIX) 2004

The development application seeks consent for the use of the as-constructed unauthorised works to the basement level of the dwelling. In this instance, a BASIX Certificate is not required to be submitted with the development application.

### SEPP (Resilience and Hazards) 2021

#### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

### 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	6.06m	N/A	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.21 Flood planning	No
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes



Clause	Compliance with Requirements
7.10 Essential services	Yes

### Detailed Assessment

## **Zone C4 Environmental Living**

### **Zone Objectives**

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

Comment:

The proposed works are sited directly beneath the existing residential dwelling, with the as-built unauthorised works achieving compliance with the relevant built form controls as stipulated within the P21DCP and PLEP 2014. However, the subject site is located within Council's Flood Prone map, with the front north-western and south-western portions being sited within the medium flood risk precinct and the low flood risk precinct, respectively. The as-built unauthorised works are sited below the relevant flood planning level (FLP). In this instance, the as-constructed unauthorised works are not considered to be low-impact within a site that may have special ecological, scientific or aesthetic values.

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

Comment:

For the reasons as detailed above, the as-constructed unauthorised works are likely to have an adverse impact upon those values.

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

Comment:

Notwithstanding the as-built unauthorised works being sited below the FPL, these works are considered to be low density, and appropriately integrated within the existing landform and landscape with no unreasonable amenity impacts upon adjoining properties.

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

Comment:

The subject site is not sited within a foreshore area, as such consideration of foreshore vegetation is not required in this instance. Based on the information Council has before it, it does not appear that any substantial or threatened vegetation was removed to accommodate the basement level. There remains existing vegetation within the site that can provide wildlife corridors.

## **5.21 Flood planning**

Under this clause, development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

Comment:

Council's Floodplain Management Officer has reviewed the proposed development and concerns were raised with regards to the unacceptable flood risk to the basement level of the dwelling. Given the comments and extent of issue provided by Council's Floodplain Management Officer and the considerations of Clause 5.21, it is considered that the proposed development is unsatisfactory and that the proposal can provide an environment in which the safe occupation of the subject floor area can be achieved. As such, it is considered that the proposed development cannot achieve the above matters as prescribed within this Clause.

In this instance, the proposal does not satisfy the above Clause and this will form a reason for refusal of this application.

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters:

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Comment:

Council's Floodplain Management Officer has reviewed the proposed development and the above matters have been considered. Per the specialist comments, the proposed development is not considered to be adequately designed to incorporate measures to minimise the risk to life. As such, the proposal is unsatisfactory.

In this instance, the proposal does not satisfy the above Clause and this will form a reason for refusal of this application.

**Pittwater 21 Development Control Plan**

Built Form Controls

<b>Built Form Control</b>	<b>Requirement</b>	<b>Proposed</b>	<b>% Variation*</b>	<b>Complies</b>
Front building line	10.0m	<b>Basement Level</b> 10.88m	N/A	No

		<b>Ground Level</b> 5.5m	45%	No, existing
Rear building line	6.5m	<b>Basement Level</b> >6.5m	N/A	Yes
		<b>Ground Level</b> >6.5m	N/A	Yes
Side building line	<b>Northern Boundary</b> 2.5m	<b>Basement Level</b> 2.8m	N/A	Yes
		<b>Ground Level</b> 2.8m	N/A	Yes
	<b>Southern Boundary</b> 1m	<b>Basement Level</b> 1.5m	N/A	Yes
		<b>Ground Level</b> 1.0m	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	60% (473.76m <sup>2</sup> )	<b>Proposed without variation</b> 57.2% (451.8m <sup>2</sup> )	4.6%	No
		<b>Proposed with variation</b> 63.2% (499.2m <sup>2</sup> )	N/A	Yes

#### Compliance Assessment

<b>Clause</b>	<b>Compliance with Requirements</b>	<b>Consistency Aims/Objectives</b>
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	No	No
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B5.15 Stormwater	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	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	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.7 Private Open Space	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	No	Yes
D12.6 Side and rear building line	Yes	Yes
D12.8 Building envelope	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

### Detailed Assessment

#### **B3.11 Flood Prone Land**

##### Merit consideration

- *Protection of people.*
- *Protection of the natural environment.*
- *Protection of private and public infrastructure and assets.*

##### Comment:

The as-built unauthorised works on the basement level are below the flood planning level (FPL) and, as considered by Council's Floodplain Management Officer, the proposed amendments as detailed within the most recent letter prepared by Partridge (dated 15 March 2024), are not acceptable to address the flooding concerns as these rely upon mechanic or electrical mechanisms to stop flood waters entering the basement level.

In this instance, the proposal does not meet the requirements and outcomes of this control and this will form a reason for refusal of this application.

#### **D12.5 Front building line**

For lots within the R2 or C4 zones that front Barrenjoey Road, this control requires a 10.0 metre front setback distance. The existing dwelling has a front setback distance of 5.5 metres, and the as-constructed unauthorised works to the basement level are setback 10.88 metres.

In this instance, the as-constructed unauthorised works to the basement level are numerically compliant with the front setback requirement. A detailed discussion on the existing ground level non-compliance is not required in this instance.

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

The subject site is located within Area 1 of the Landscape Area mapping, which requires the site to provide a minimum landscaped area of 60% (or 473.76m<sup>2</sup>). The subject site, as existing (following the unauthorised works) has a landscaped area of 57.2% (or 451.8m<sup>2</sup>), which presents a variation of 4.6%.

This control stipulates that, provided the underlying outcomes of this control can be achieved, a variation may be permitted that allows for up to 6% of the total site area to be provided as impervious landscape surfaces (so long as these are used for outdoor recreational purposes only), and pathways of less than 1.0 metre in width. With the inclusion of the variation, the landscaped area can be increased to 499.2m<sup>2</sup> (or 63.2%), which is numerically compliant with the requirement.

The works to the basement level are sited entirely under the building footprint on the ground floor level. In this instance, the as-constructed unauthorised works have not interfered with the landscaped area of the site. The landscaped area can be supported, on its merits, and as this is existing, a detailed discussion against the outcomes of this control is not required, in this instance.

## **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 2022**

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

## **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 2021;
- 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, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

- Inconsistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP

- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2023/1346 for the Use of part of the building as a dwelling house on land at Lot 13 DP 1275411, 1180 Barrenjoey Road, PALM BEACH, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 5.21 Flood Planning of the *Pittwater Local Environmental Plan 2014*. Pursuant to Section 4.15(1)(c) of the environmental planning and Assessment Act 1979 the site is not considered suitable for the proposed development.

### Particulars

- i) As the existing basement level does not meet the flood planning level of 6.39 metres AHD, the as-built works do not incorporate adequate design and mitigation measures to minimise flood risk to life and property, and the development is, therefore, not compatible with the flood function and behavior on the land. The proposed use of as-built works do not meet the prescribed requirements of Clause 5.21 of the *Pittwater Local Environmental Plan 2014*.
  - ii) The modelled flood environ and the sites susceptibility to flood is such that use of the proposed area for habitable purposes presents an unacceptable impact to property and life. As such the site is not considered to be suitable for habitable floor area below the flood planning level.
  - iii) The proposed development is not considered to be within the public's interest due to the risk to safety of life and impact on property.
2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B3.11 Flood Prone Land of the Pittwater 21 Development Control Plan.

### Particulars

The subject site is located within flood prone land, and is subject to a flood planning level of 6.39 metres AHD. The as-built works which are subject to the use under this application are sited on the basement level of the dwelling on site are below the required flood planning level with a floor level at 4.63 metres AHD,. As such, the as-built works are significantly below the flood planning level, are highly susceptible to flood and do not achieve compliance with the requirements of B3.11 of the P21 DCP.

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

**Signed**



A handwritten signature in blue ink, appearing to read "Megan Surtees".

**Megan Surtees, Planner**

The application is determined on 07/05/2024, under the delegated authority of:

A handwritten signature in black ink, appearing to read "Adam Richardson".

**Adam Richardson, Manager Development Assessments**