

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|   |   |
|---|---|
| <b>Application Number:</b>                | DA2018/1305   |
| <b>Responsible Officer:</b>               | Adam Urbancic   |
| <b>Land to be developed (Address):</b>    | Lot 216 DP 15376, 256 Whale Beach Road WHALE BEACH NSW 2107<br>Lot 101 DP 869216, 256 Whale Beach Road WHALE BEACH NSW 2107 |
| <b>Proposed Development:</b>              | Alterations and additions to an existing dwelling house   |
| <b>Zoning:</b>                            | E4 Environmental Living<br>E4 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>                             | Matthew David Pancino   |
| <b>Applicant:</b>                         | Matthew David Pancino   |
| <b>Application lodged:</b>                | 06/08/2018  |
| <b>Integrated Development:</b>            | No  |
| <b>Designated Development:</b>            | No  |
| <b>State Reporting Category:</b>          | Residential - Alterations and additions   |
| <b>Notified:</b>                          | 10/08/2018 to 28/08/2018  |
| <b>Advertised:</b>                        | Not Advertised  |
| <b>Submissions Received:</b>              | 0   |
| <b>Recommendation:</b>                    | Approval  |
| <b>Estimated Cost of Works:</b>           | \$ 98,000.00  |

### 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 21 Development Control Plan - A5.1 Exhibition, Advertisement and Notification of Applications  
 Pittwater 21 Development Control Plan - D12.3 Building colours and materials  
 Pittwater 21 Development Control Plan - D12.5 Front building line  
 Pittwater 21 Development Control Plan - D12.6 Side and rear building line  
 Pittwater 21 Development Control Plan - D12.13 Construction, Retaining walls, terracing and undercroft areas

## SITE DESCRIPTION

|                                   |   |
|-----------------------------------|---|
| <b>Property Description:</b>      | <p>Lot 216 DP 15376 , 256 Whale Beach Road WHALE BEACH NSW 2107</p> <p>Lot 101 DP 869216 , 256 Whale Beach Road WHALE BEACH NSW 2107</p>  |
| <b>Detailed Site Description:</b> | <p>The subject site consists of two (2) allotments located on the northern side of Whale Beach Road.</p> <p>The site is irregular in shape with a frontage of 23.49m along Whale Beach Road and an average depth of 69.86m. The site has a surveyed area of 1005m<sup>2</sup>.</p> <p>The site is located within the E4 Environmental Living zone and accommodates a one (1) and two (2) storey clad dwelling house with metal roof located towards the front of the site and a detached stone garage with metal roof located near the street frontage.</p> <p>The site has an overall slope of approximately 38.8% and falls 26m from the rear of the site towards the street frontage.</p> <p>The site contains a number of trees and ground cover vegetation and a large natural rock feature located at the rear of the existing dwelling house.</p> <p>The site is located within the H1 Geotechnical Hazard area and is classified as bushfire prone land.</p> <p>A site inspection was conducted on 21 September 2018.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> |

Adjoining and surrounding development is characterised by multi-storey dwelling houses of varying architectural styles built with the natural topography in a bushland setting.

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:

16 November 2001

Development Application N0545/01 for retaining works associated with the existing dwelling and garage was granted consent.

15 July 2005

Development Application N0286/05 for alterations and additions to front deck and stairs was granted consent.

## APPLICATION HISTORY

31 August 2018

Amended plans were received, but were not requested by Council, which increased the height of the privacy screen adjacent to the stairs to be 1.7m from the finished floor level of the deck and also proposed screen planting along the western boundary.

## PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for alterations and additions to an existing dwelling house, specifically the following works:

- demolition of the existing stairs and retaining walls within the front yard;
- construction of new retaining walls with fill of up to 900mm, stone paving and new stairs within the front yard;

- construction of a new timber deck with glass balustrade on the first floor of the dwelling house within the front yard;
- construction of a vergola over part of the new timber deck, including cutting back portions of the existing eaves;
- minor extension of the existing first floor kitchen including the installation of two (2) new windows and internal reconfiguration of the kitchen;
- installation of a new highlight window above the existing window to the first floor lounge room on the southern elevation;
- installation of privacy screens along the western side boundary;
- removal of one (1) tree in the south-western corner of the site; and
- landscaping works.

## 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                                      | None applicable.   |
| 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)(iia) – Provisions of any planning agreement  | None applicable.   |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&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, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</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</p> |

| Section 4.15 Matters for Consideration'  | Comments  |
|--|---|
|  | <p>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> |
| 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><br/>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><br/>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><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>   |
| Section 4.15 (1) (c) – the suitability of the site for the development   | The site is considered suitable for the proposed development.   |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs   | See discussion on “Notification & Submissions Received” in this report.   |
| Section 4.15 (1) (e) – the public interest   | No matters have arisen in this assessment that would justify the refusal of the application in the public interest.   |

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the



specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Roger Fenwick, dated July 2018) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

## MEDIATION

No requests for mediation have been made in relation to this application.

## REFERRALS

| Internal Referral Body           | Comments  |
|----------------------------------|---|
| Landscape Officer                | <p>The landscape component of the proposal is acceptable subject to completion of landscaping.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls:</p> <p>C1.1 Landscaping</p> <p>C1.5 Visual Privacy</p>  |
| NECC (Bushland and Biodiversity) | <p>Council's Bushland &amp; Biodiversity division has assessed the proposal against Pittwater LEP 2014 Control 7.6 Biodiversity Protection &amp; Pittwater 21 DCP 2014 Control B1.4 Aboriginal Heritage Significance, B4.4 Flora &amp; Fauna Enhancement Category 2 &amp; Wildlife Corridors, B4.5 Flora &amp; Fauna Enhancement Category 3 Land, and believes the proposed development complies subject to conditions, as recommended.</p> |
| NECC (Development Engineering)   | <p>The proposed development does not require OSD and connection of stormwater to the kerb is satisfactory. The submitted Geotechnical report addresses the relevant DCP controls. No objection to approval, subject to conditions as recommended.</p>   |

| External Referral Body | Comments  |
|------------------------|---|
| Ausgrid: (SEPP Infra.) | <p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</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. A321757\_02, dated 30 July 2018).

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

#### **SEPP (Infrastructure) 2007**

##### Ausgrid

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

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

##### Comment:

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

## SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

### 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 maintains the existing, safe access to and along the headland and will not cause any overshadowing, wind funnelling or loss of views from public places to foreshores. The visual amenity and scenic qualities of the coast, including the coastal headlands, will be preserved. The subject site has been identified as potentially containing Aboriginal cultural heritage, practices or places, and as such, Council's Biodiversity Officer has included a recommended condition to ensure that if any Aboriginal engravings or relics are unearthed as part of the proposed development, works will cease immediately and the relevant authorities will be notified. The proposed development will also not have an adverse impact on the cultural and built environmental heritage. As such, it is considered that the proposed development has been designed, sited and will be managed to avoid an adverse impact on the aforementioned cultural and environmental aspects. Furthermore, the proposed development is consistent with the surrounding coastal and built environment, which consists primarily of multi-storey residential dwelling houses, and is of an appropriate bulk, scale and size.

As such, it is considered that the application does not comply 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        | 5.42m    | N/A         | Yes      |

#### Compliance Assessment

| Clause   | Compliance with Requirements |
|--|------------------------------|
| 1.9A Suspension of covenants, agreements and instruments | Yes                          |
| 4.3 Height of buildings                                  | Yes                          |
| 5.10 Heritage conservation                               | Yes                          |
| 7.1 Acid sulfate soils                                   | Yes                          |
| 7.2 Earthworks   | Yes                          |
| 7.6 Biodiversity protection                              | Yes                          |
| 7.7 Geotechnical hazards                                 | Yes                          |
| 7.10 Essential services                                  | Yes                          |

#### Pittwater 21 Development Control Plan

##### Built Form Controls

| Built Form Control  | Requirement              | Proposed                       | % Variation*   | Complies |
|---------------------|--------------------------|--------------------------------|----------------|----------|
| Front building line | 6.5m                     | 1.52m to paving                | 76.62% (4.98m) | No       |
|                     |                          | 4.84m to deck                  | 25.54% (1.66m) | No       |
|                     |                          | 7.36m to stairs                | N/A            | Yes      |
|                     |                          | 9.24m to vergola               | N/A            | Yes      |
| Rear building line  | 6.5m                     | >6.5m                          | N/A            | Yes      |
| Side building line  | 2.5m (W)                 | 0.92m                          | 63.2% (1.58m)  | No       |
|                     | 1m (E)                   | 1.03m                          | N/A            | Yes      |
| Building envelope   | 3.5m (W)                 | Within envelope                | N/A            | Yes      |
|                     | 3.5m (E)                 | Within envelope                | N/A            | Yes      |
| Landscaped area     | 60% (603m <sup>2</sup> ) | 73.27% (736.41m <sup>2</sup> ) | N/A            | Yes      |

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 x 100 = 95 then 100 - 95 = 5% variation)

#### 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                         |
| A5.1 Exhibition, Advertisement and Notification of Applications           | Yes                          | Yes                         |
| B1.3 Heritage Conservation - General                                      | Yes                          | Yes                         |
| B1.4 Aboriginal Heritage Significance                                     | Yes                          | Yes                         |
| B3.1 Landslip Hazard  | Yes                          | Yes                         |
| B3.2 Bushfire Hazard  | Yes                          | Yes                         |
| B3.6 Contaminated Land and Potentially Contaminated Land                  | Yes                          | Yes                         |
| B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor | Yes                          | Yes                         |
| B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land            | Yes                          | Yes                         |
| B5.7 Stormwater Management - On-Site Stormwater Detention                 | Yes                          | Yes                         |
| B5.10 Stormwater Discharge into Public Drainage System                    | Yes                          | Yes                         |
| B8.1 Construction and Demolition - Excavation and Landfill                | Yes                          | Yes                         |
| B8.2 Construction and Demolition - Erosion and Sediment Management        | 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                         |
| 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                         |
| C1.7 Private Open Space   | Yes                          | Yes                         |
| C1.13 Pollution Control   | Yes                          | Yes                         |
| C1.23 Eaves   | Yes                          | Yes                         |
| D12.1 Character as viewed from a public place                             | Yes                          | Yes                         |
| D12.3 Building colours and materials                                      | No                           | Yes                         |
| D12.5 Front building line   | No                           | Yes                         |
| D12.6 Side and rear building line   | No                           | Yes                         |
| D12.8 Building envelope   | Yes                          | Yes                         |
| D12.10 Landscaped Area - Environmentally Sensitive Land                   | Yes                          | Yes                         |
| D12.13 Construction, Retaining walls, terracing and undercroft areas      | No                           | Yes                         |
| D12.14 Scenic Protection Category One Areas                               | Yes                          | Yes                         |

#### Detailed Assessment

### A5.1 Exhibition, Advertisement and Notification of Applications

As per the provisions of this control, the requirement for notification of the amended plans for the Development Application was dispensed with as Council is of the opinion that the amended application differs only in minor respects from the original application, and does not result in a greater environmental impact.

### D12.3 Building colours and materials

A *Schedule of Colours and Materials* with samples has been provided with the application, however, 'Colorbond Surfmist', which is to be used on the proposed vergola, is non-compliant with Council's requirement for dark and earthy tones under this control. Although 'Colorbond Surfmist' would closely match the colour of the existing dwelling house and roof, it has a BCA classification of light (L) and low solar absorptance, and it is therefore considered to increase the visual prominence of the proposed development and solar reflections to neighbouring properties.

As such, a condition will be placed to ensure that the building colours and materials for the proposed vergola are amended to comply with Council's requirement for dark and earthy tones under this control.

### D12.5 Front building line

The application proposes a 1.52m setback from the front boundary of the site to the paving, and a 4.84m setback from the front boundary to the deck, both of which are non-compliant with the 6.5m requirement stated under this control, however, the control allows for a variation to be considered in certain circumstances, including for development on irregular shaped blocks or where the topographic features of the site need to be preserved, and where the outcomes of this control are also achieved. The subject site has an irregular front boundary to Whale Beach Road which tapers from west to east, limiting the usable space within the south-western corner of the site, and contains a natural rock feature and steep topography at the rear of the site which need to be preserved. Further consideration of the non-compliance will be given in accordance with the outcomes of the control, as below.

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

Comment

The proposed development is consistent with the desired future character of the Palm Beach Locality.

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

Comment

The proposed paving is generally located at existing ground level with minimal fill, and the portion of the deck which protrudes the front building line is uncovered with a glass balustrade, therefore allowing for the equitable preservation of views and vistas to and/or from public and private places.

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

Comment

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

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

Comment

The existing vegetation on the site, with the exception of one (1) tree, is to be retained, including the vegetation along the front boundary which visually reduces the built form from the street.

The proposed development also includes screen planting along the western boundary to provide

privacy and also to reduce the built form when viewed from the neighbouring property at 254 Whale Beach Road.

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

Comment

The proposed development will not change the existing arrangement for vehicle manoeuvring on the site.

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

Comment

All existing vegetation on the site is to be retained, with the exception of one (1) tree, and additional vegetation along the western boundary will ensure that the rural and bushland character of the Palm Beach Locality is preserved and enhanced.

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

Comment

The proposed development enhances the existing streetscape by providing for a more attractive building facade and promotes a scale and density that is in keeping with the height of the natural environment.

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

Comment

The proposed development introduces additional architectural features to the southern elevation of the dwelling house, providing for a more attractive street frontage, and improves pedestrian amenity by creating level areas of paving and new stairs along the western side of the dwelling house.

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

Comment

The proposed development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment by being located in a portion of the site that is already modified, contains minimal native vegetation and has been designed with the topographic features of the site.

Based on the above, the proposed development is consistent with the outcomes of the control and the non-compliance is supported on merit.

## **D12.6 Side and rear building line**

The application proposes a 0.92m setback from the western side boundary to the closest portion of the stairs and a 2.29m setback from the western side boundary to a portion of the covered deck, both of which are non-compliant with the 2.5m requirement under this control, however, further consideration of the non-compliance will be given in accordance with the outcomes of this control, as below.

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

Comment

The proposed development is consistent with the desired future character of the Palm Beach Locality.

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

Comment

The proposed stairs are generally located at existing ground level and the covered deck has open sides, therefore, the bulk and scale of the built form is minimised.

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

Comment

The proposed development has been designed to allow for the equitable preservation of views and vistas to and/or from public and private places.

- *To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

Comment

The proposed development has been sited, designed and positioned to encourage view sharing by incorporating stairs which are to be generally located at existing ground level and incorporating a partially covered deck which is appropriately sited with open sides and a glass balustrade.

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

Comment

The proposed development ensures that a reasonable level of privacy, amenity and solar access is provided within the subject site and also maintained to adjoining residential properties by incorporating privacy screens and screen planting along the western elevation.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*

Comment

The proposed development retains all existing vegetation on the site, with the exception of one small tree, and provides for an attractive streetscape. The amount of landscaping provided on the site is to be increased through additional screen planting.

- *Flexibility in the siting of buildings and access. (En, S)*

Comment

Due to the site constraints, including the topography of the site and the siting of existing development, flexibility in the siting of the proposed access stairs within the side setback area is considered reasonable.

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

Comment

The existing vegetation on the site is to be retained, with the exception of one (1) tree, and additional screen planting is to be incorporated along the western boundary to visually reduce the built form.

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

Comment

The subject site is located within, and surrounded by, residential zones, therefore this outcome is not applicable.

Based on the above, the proposed development is consistent with the outcomes of the control and the non-compliance is supported on merit.

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



The provision of the proposed paved outdoor entertaining area requires up to 900mm of fill and retaining walls, which are not preferred under this control, however, further consideration of the non-compliance will be given in accordance with the outcomes of this control, as below.

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

Comment

The proposed development is consistent with the desired future character of the Palm Beach Locality.

- *To protect and minimise disturbance to natural landforms.*

Comment

The proposed stone paving is generally located at existing ground level and in an already modified portion of the site, therefore protecting the natural landform and minimising disturbance to the rest of the site.

- *To encourage building design to respond sensitively to natural topography*

Comment

As above, the location of the proposed stone paving sensitively responds to the natural topography and requires only minimal fill to create a level outdoor entertaining area in an already modified portion of the site.

Based on the above, the proposed development is consistent with the outcomes of the control and the non-compliance is supported on merit.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly effect 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**

### **Pittwater Section 94 Development Contributions Plan**

S94 Contributions are not applicable to 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 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

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 DA2018/1305 for Alterations and additions to an existing dwelling house on land at Lot 216 DP 15376, 256 Whale Beach Road, WHALE BEACH, Lot 101 DP 869216, 256 Whale Beach Road, WHALE BEACH, subject to the conditions printed below:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

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

#### a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp |             |                       |
|---|-------------|-----------------------|
| Drawing No.   | Dated       | Prepared By           |
| DA 000, Cover Page                                  | August 2018 | Sue Connor Architects |
| DA 100, Site Plan & Analysis, Rev 02                | 22/08/2018  | Sue Connor Architects |
| DA 101, Roof Plan, Rev 02                           | 22/08/2018  | Sue Connor Architects |
| DA 102, First Floor, Rev 02                         | 22/08/2018  | Sue Connor Architects |
| DA 103, Ground Floor, Rev 02                        | 22/08/2018  | Sue Connor Architects |
| DA 200, Sections, Rev 02                            | 22/08/2018  | Sue Connor Architects |
| DA 300, Elevations South, Rev 02                    | 22/08/2018  | Sue Connor Architects |
| DA 301, Elevations East, Rev 02                     | 22/08/2018  | Sue Connor Architects |
| DA 302, Elevations West, Rev 02                     | 22/08/2018  | Sue Connor Architects |
| DA 303, Elevations North, Rev 02                    | 22/08/2018  | Sue Connor Architects |

#### Engineering Plans

| Drawing No.                    | Dated      | Prepared By           |
|--------------------------------|------------|-----------------------|
| DA 401, Sediment Control Notes | 30/07/2018 | Sue Connor Architects |

| Reports / Documentation – All recommendations and requirements contained within: |            |                                    |
|--|------------|------------------------------------|
| Report No. / Page No. / Section No.  | Dated      | Prepared By                        |
| BASIX Certificate (Cert No. A321757_02)  | 30/07/2018 | Sue Connor Architects              |
| Bush Fire Assessment Report (Ref: 1807PAN.WHA.WHA1.0)                            | July 2018  | Roger Fenwick Bush Fire Consultant |
| Geotechnical Investigation (Ref: J1859)  | 01/08/2018 | White Geotechnical Group           |

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

| Waste Management Plan |            |   |
|-----------------------|------------|---|
| Drawing No/Title.     | Dated      | Prepared By                                       |
| Waste Management Plan | 01/08/2018 | Vaughan Milligan<br>Development Consulting<br>P/L |

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 (DACPLB09)

### 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) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

- (k) 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 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.
- (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. (DACPLB10)

## **FEES / CHARGES / CONTRIBUTIONS**

### **4. Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security 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, 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

5. **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 White Geotechnical; Group dated 1 August 2018 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.

6. **Structural Adequacy and Excavation Work**

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

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

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

Reason: To provide public and private safety.

7. **Compliance with Standards**

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

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

8. **External Finishes to the Vergola**

The external colours and materials to the vergola shall be dark and earthy tones, non-glare and of low reflectivity. White, light coloured, red or orange roofs and walls are not permitted. The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

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

9. **Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

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

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

10. **Maintenance of Road Reserve**

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

Reason: Public Safety.

11. **Building materials, sedimentation**

No building materials or other materials are to be placed on or enter areas of bushland, wetland, saltmarsh, seagrass or foreshore vegetation. Appropriate sediment fencing is to be installed.

Reason: Environmental Protection

12. **Tree Protection - Arborist Supervision of Works & Tree Pruning Requirements**

All works within 5 metres of the existing trees to be retained (prescribed trees under the Pittwater DCP 2004) including pruning, demolition (including demolition of existing retaining wall), excavation, civil works, fencing and the like must be carried out by hand under the direct supervision of an experienced and minimally AQF Level 5 qualified Arborist.

Should roots larger than 50mm be encountered all excavation works are to cease immediately and a qualified Arborist is to advise on the impacts of the roots removal on the tree's survival and report to the Principal Certifying Authority prior to works recommencing. If tree roots are present, a pier and beam method of footing construction is to be adopted so as to bridge/span any identified lateral roots.

Any required branch pruning works (such as clearance for extension roof to rear) shall be carried out prior to works commencing and by minimally AQF Level 3 Arborist.

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

13. **Stockpiling of Topsoil**

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

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

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

14. **Required screen planting**

Screen planting is to be provided along the common boundary with No. 254 for the extent of the proposed stairs and landing, consisting of native shrub planting capable of attaining 3 metres in height at maturity, installed at nor more than 900mm apart, and planted at minimum 45 litre.

Reason: preservation of landscape amenity and visual privacy.

15. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

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

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

17. **Landscape maintenance**

Any existing landscaping required to be retained together with any additional landscaping required by this Consent is to be maintained for the life of the development.

Landscape works shall be maintained for a minimum period of 12 months following practical completion. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

18. **Retention of Natural Features**

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

**Reason:** To ensure the retention of natural features.

19. **Tree Retention**

In accordance with Pittwater 21 DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan authored by CMS Surveyors, drawing no. 17726detail, dated 30/4/2018 shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development

areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.

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

20. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

**Reason:** Weed management.

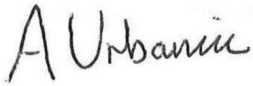
21. **Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

**Reason:** To protect Aboriginal Heritage.

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

**Signed**



**Adam Urbancic, Planner**

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



**Rodney Piggott, Manager Development Assessments**