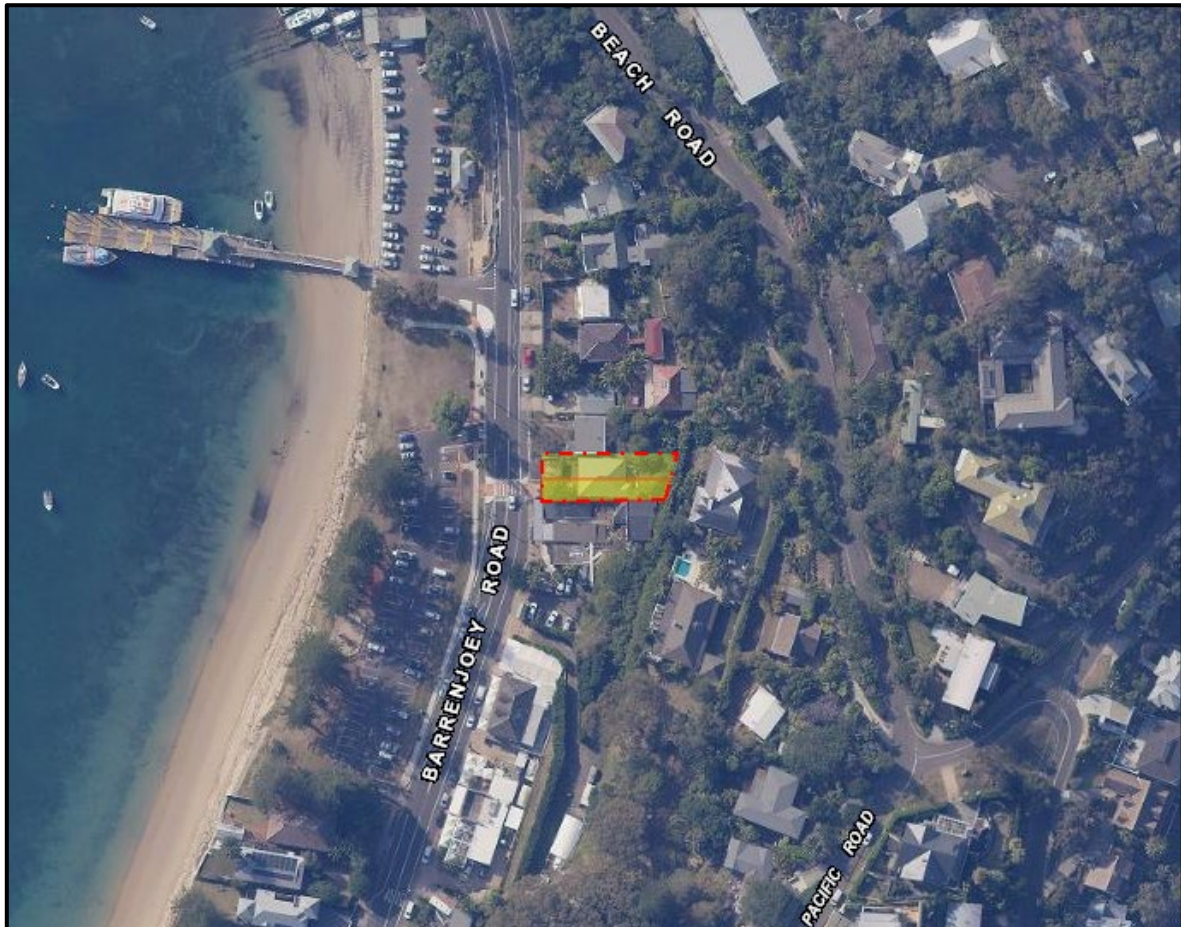


## STATEMENT OF ENVIRONMENTAL EFFECTS



**SITE:** Lot 7 DP 14538  
Lot 8 DP 14538  
1120 Barrenjoey Road  
Palm Beach

**APPLICANT:** Drafting Help

**PROPOSAL:** Conversion of an existing dual occupancy into a single dwelling house, and construction of a third storey.

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## INTRODUCTION

This Statement of Environmental Effects is submitted to Northern Beaches Council in accordance with the Environmental Planning and Assessment Act 1979, in support of a development application for the conversion of an existing two storey dual occupancy development to a single dwelling with additional third storey.

The proposed works include:

Lower floor:

- Removal of kitchen
- Replacement of bedroom with storage
- Construction of a lift to connect lower floor and ground floor

Ground floor:

- Replacement of two bedrooms with study and tv room
- Demolition of several internal walls to allow for an open-planned lounge, family, dining and tv room
- Minor internal reconfiguration to allow for internal staircase to proposed first floor

First floor:

- First floor addition to allow for relocated bedrooms from lower and ground floor, additional bedroom and bathrooms as well as a balcony facing the street frontage

The subject site comprises two allotments; lot 7 & 8 and is located on the eastern side of Barrenjoey Road. The subject site is generally rectangular in shape with a frontage of 12.19m, an average depth of 37.535m and a total land area of 457.7m<sup>2</sup>. The lots currently contain a two storey development comprising two separate domiciles. The dual occupancy development is to be converted into one single dwelling as part of the proposed works.

No trees are required to be removed in order to site the proposed works. Existing vegetation to the front and rear of the allotment is to be retained in order to maintain the landscape character of the area.

All necessary services are available on the site. The site has a significant fall to the street boundary with drainage to be directed to the existing drainage collection system.

The surrounding neighbourhood is currently undergoing an urban renewal phase, setting a contemporary streetscape theme that consists of predominately two and three storey dwellings.

The following sections of this statement address the likely impact of the proposal on the environment.

## ENVIRONMENTAL EFFECTS

The following sections address the matters for consideration as listed in Part 4 Section 4.15 of the Environmental Planning & Assessment Act 1979. A comment is provided against each relevant matter.

### **(a)(i) Relevant environmental planning instruments**

#### **State Environmental Planning Policy (Building Sustainability Index) 2004**

The proposed development has been designed with a high degree of consideration toward energy efficiency and sustainability. A BASIX Certificate has been prepared with the requirements to be implemented during construction and prior to occupation. The development is considered to achieve the aims and objectives of this policy.

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

##### Chapter 4 – Remediation of Land

##### Clause 4.6 Contamination and remediation to be considered in determining development application

- (1) *A consent authority must not consent to the carrying out of any development on land unless—*
- (a) it has considered whether the land is contaminated, and*
  - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The subject site is within an existing area historically utilised for residential purposes. No previous land uses are known to have occurred on the site that would result in potential land contamination. No further assessment is considered necessary in this instance.

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

##### Division 17 Roads & Traffic

##### Subdivision 2 – Development in or adjacent to road corridors and road reservations

##### 2.118 Development with frontage to classified road

- (1) *The objectives of this section are—*
- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*

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

The subject site has a frontage to a classified road, Barrenjoey Road. The proposed alterations and floor addition to the existing dwelling is not anticipated to compromise the function or quality of Barrenjoey Road due to its setback distance from the front façade and appropriate scale for a three storey development in an established residential area. Existing parking and vehicular access remain unchanged by the proposal. The siting and design of proposed alterations and additions will ensure minimal noise, construction emissions and safety issues to Barrenjoey Road. Consideration has been given to the appropriate siting of the addition so that it is not impacted heavily by traffic noise and emissions from the classified road. The proposed development is considered to be suitable for the subject site and Barrenjoey Rd.

#### **Pittwater Local Environmental Plan 2014**

The subject site is zoned C4 Environmental Living pursuant to Clause 2.1 of Pittwater Local Environmental Plan 2014.

The existing development is identified as a dual occupancy however it is being converted to a dwelling house. Therefore, the remainder of the report will refer to the proposed development as a dwelling house.

The proposed development is defined in the Plan as a “dwelling house” being “a building containing only one dwelling”.

The identified zone permits the development of a dwelling house subject to development consent from Council.

#### **Clause 2.3 Zone objectives and land use table**

The objectives of the C4 Zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*

- To provide for residential development of a low density and scale integrated with the landform and landscape.
- To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.

The proposed alterations and additions to the existing dwelling is suitably located on the allotment to ensure there is minimal impact on the surrounding properties and the character of the area. No significant vegetation is required to be removed to site the proposed works. The proposed development is a suitable development for the site and is considered to meet the objectives of the C4 zone.

#### Clause 4.3 Height of Buildings

<i>Requirement</i>	<i>Provision</i>	<i>Compliance</i>
8.5m	10.746m	No – refer to 4.6

#### Clause 4.4 Floor Space Ratio

<i>Requirement</i>	<i>Provision</i>	<i>Compliance</i>
N/A	N/A	N/A

#### Clause 4.6 Exceptions to development standards

Please refer to Appendix 1.

#### Clause 5.10 Heritage Conservation

Upon reference to Schedule 5 in relation to local, State or Regional items of heritage significance including conservation areas, it was revealed that the subject property was not identified as having heritage significance however is located opposite to two local heritage items; Palm Beach Wharf and Norfolk Island Pines.

The existing streetscape character of Barrenjoey Road and the surrounding area consists of a mix of two and three storey dwellings with a variety of contemporary and more traditional designs. The existing dwelling complements the streetscape, and the proposed additions are designed to complement and blend with the existing dwelling design so as to not drastically impact the overall visual appearance of the dwelling. It is not considered necessary for the proposed alterations and additions to be constructed of a certain style and its siting will not result in any impact on the significance of the heritage item.

The proposed development is not anticipated to have any detrimental impact on the heritage significance of Barrenjoey Road and the surrounding heritage items. Therefore, the proposal will be in keeping with the existing dwelling and surrounding developments within the street, and is considered to complement the streetscape.

#### Clause 7.1 Acid sulfate soils

The subject property is identified as being affected by Class 5 Acid Sulfate Soils. The proposal is not considered to lower the water table by 1 meter and requires no excavation as the proposed works are located within the existing footprint of the dwelling.

#### Clause 7.2 Earthworks

All works are within the footprint of the existing dwelling therefore no earthworks are proposed as part of the development.

#### Clause 7.3 Flood planning area

The subject site is not known to be located within a flood planning area.

#### Clause 7.10 Essential Services

All necessary services are available on the site including access to water, sewer, telecommunications and electricity.

\* \* \*

#### Conclusion with respect to LEP requirements

The proposal satisfies the objectives and requirements of the PLEP 2014.

### **(a)(ii) Relevant draft environmental planning instruments**

There are no known draft environmental planning instruments that would prevent the subject development from proceeding.

### **(a)(iii) Relevant development control plans**

#### **Pittwater Development Control Plan No. 21**

DCP is divided into several sections of generic and individual locality based controls. The subject site is located within the Palm Beach Locality. Assessment of the subject proposal against DCP No.21 is provided as follows;

#### SECTION A

#### A4.12 Locality character statement – Palm Beach Locality

#### Context (extract)

*Until the early 1900s, the locality remained a tiny settlement of isolated farms and fishermens cottages. In 1912, land was subdivided and Palm Beach became a popular holiday destination, its popularity increasing with the development of the*

Palm Beach Golf Course in 1920. The Barrenjoey peninsula remained a popular camping area until it was closed in the 1960s. Residential development and permanent occupation of dwellings increased from the 1960s, although the area still remains a secluded peninsula at the northern point of Pittwater. Barrenjoey Headland at the northernmost point of Pittwater was host to a Customs House from 1843, and Barrenjoey Lighthouse from 1881, which remains today.

Since that time, the locality has developed into a predominantly low-density residential area, with dwellings built along the ridges, slopes and lowlands. The locality is characterised mainly by two-storey dwelling houses on 750-1,400 square metre allotments, with allotments of 550-650 square metres (some smaller blocks may exist) adjoining the waterfront to the west. The residential areas are of a diverse style and architecture, a common thread being the landscaped, treed frontages and subdued external finishes. In the vicinity of Ocean Rd, the informal and casual nature of the parking carriageway and pedestrian pathway adds to the relaxed beach character of the locality and should be retained. Medium density housing concentrates around the Palm Beach neighbourhood retail centre on Barrenjoey Road.

Residents and visitors are attracted to the Palm Beach Locality by its natural beauty, by the relatively unspoilt nature of the region and by the relaxed seaside atmosphere of the locality. To the west is the Pittwater waterway, to the east the ocean beaches and headlands, with a spur running north south ending in a bluff at the sand isthmus that ties Barrenjoey Headland to the mainland. Here it is an easy walk over the sand dunes from the protected water of Pittwater to the ocean beach. Due to the topography, significant views can be obtained through all points of the compass. Conversely, the slopes and ridge tops of the locality are visually prominent.

The locality is serviced by two neighbourhood retail centres at the intersect of Barrenjoey Road and Iluka Avenue, opposite the public wharf, Ocean Road; and the intersection of Whale Beach Road and Surf Road, where the bus service terminates. The public wharf provides a vital link for the Upper Western Foreshore communities, as well as a regular ferry service to these communities and further afield including Patonga and Gosford. The locality also contains Barrenjoey Lighthouse, Palm Beach RSL, Palm Beach SLSC, and recreational facilities including Palm Beach Golf Course, rock baths, beaches, Governor Phillip Park, McKay Reserve and other reserves.

Barrenjoey Lighthouse, remnants of Customs House, houses, vegetation, and other structures in the vicinity of Barrenjoey Headland, Barrenjoey Road, Bynya Road, Florida Road, Ocean Road, Northview Road, Palm Beach Road, Pacific Road, Sunrise Road, and beach and waterfront reserves, indicative of early settlement in the locality, have been identified as heritage items. Land in Florida Road, Ocean Road, and Sunrise Road, indicative of early subdivision patterns and built form, have been identified as heritage conservation areas.

The Palm Beach locality gives the impression that much of the native vegetation has been retained. Bushland reserves predominate. Native plants proliferate in private gardens. The natural fall of the land has been preserved in most cases with retaining walls and terracing kept to a minimum. A few poor exceptions to this are located at the northern end of Ocean Road. The retention of the natural features and native plants within private gardens should be encouraged, and help to reinforce the natural beauty of the area the main characteristic of the locality. The natural features of the locality result in a high risk of bushfire, landslip, flood, coastal (bluff) hazard, and estuary wave action and tidal inundation.



*The major roads within the locality are Barrenjoey Road, Florida Road, Ocean Road, and Whale Beach Road. Barrenjoey Road is the primary access road from the south. Several pedestrian links and pathways exist within the locality.*

The proposed development is to be located on a 457.7m<sup>2</sup> existing allotment being in keeping with the typical size for the area. No trees are identified for removal with the existing landscaping to the front and rear of the allotment to be retained to ensure the landscape character of the area is maintained.

The proposed development is considered to be consistent with the existing and intended character of the area and the character of Barrenjoey Road. The design and style chosen is desired by the market today being of a contemporary nature using appropriate building materials which ensures that the built form will not be out of place and will not detract from the amenity of surrounding properties.

The proposal does not present any detriment to views or streetscape setting and environmental issues are considered to be satisfactorily addressed.

This development application is supported by all the necessary documentation to address the relevant environmental triggers of this Plan, such as landscaping and stormwater plans.

#### Desired Character (extract)

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

*Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.*

*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.*

*The design, scale and treatment of future development within the commercial centres will reflect a 'seaside-village' character through building design, signage and landscaping, and will reflect principles of good urban design. Landscaping will be incorporated into building design. Outdoor cafe seating will be encouraged.*

*A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.*

*Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.*

*Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.*

*Palm Beach will remain an important link to the offshore communities.*

The erection of the proposed alterations and additions will meet with the objectives of the low-density residential character of the area and is in a similar styling to development already constructed within the locality. The proposed works are considered to be in keeping with the existing dwelling design and developments throughout the surrounding area and remains below the dominant tree canopy height.

No trees are to be removed as part of the proposed ancillary works with existing landscaping to be retained to the front and rear of the allotment to ensure the landscape character of the area is maintained.

Consideration has been given to the natural features and character of the surrounding area of the site during the design selection process with the proposed works considered to be the most suitable development for the site.

The overall design of the alterations and additions has given consideration to the sites environmental constraints, the amenity of neighbouring properties, views obtained from the site and the streetscape.

The proposed dwelling is considered to be in keeping with the desired character of the Palm Beach area.

## SECTION B

### B1 Heritage Controls

The subject property is not identified as an item of heritage significance however is located opposite to two local heritage items; Palm Beach Wharf and Norfolk Island Pines.

The existing streetscape character of Barrenjoey Road and the surrounding area consists of predominately two and three storey dwellings with a variety of contemporary and more traditional designs. The existing dwelling complements the streetscape, and the proposed additions are designed to complement and blend with the existing dwelling design so as to not drastically impact the overall visual

appearance of the dwelling. It is not considered necessary for the proposed alterations and additions to be constructed of a certain style and its siting will not result in any impact on the significance of the heritage item.

The proposed development is not anticipated to have any detrimental impact on the heritage significance of Barrenjoey Road and the surrounding heritage items. Therefore, the proposal will be in keeping with the existing dwelling and surrounding developments within the street, and is considered to complement the streetscape.

### B3 Hazard Controls

The subject property is not identified to be located within a bushfire prone area.

The subject property is identified as being affected by Class 5 Acid Sulphate Soils. The proposal is not considered to lower the water table, however no excavation works are required as all works are to be within the existing footprint. The development is not anticipated to have any specific requirement in respect to Acid Sulfate Soils.

The subject site is not known to be located within a flood planning area.

### B4 Controls Relating to the Natural Environment

The subject site is not identified as being within an area of environmental significance.

### B5 Wastewater management

Drainage from the subject site is to be directed to the existing drainage collection system.

### B6 Access and Parking

The existing driveway access is considered to be suitable to be retained.

<i>Requirement</i>	<i>Provision</i>	<i>Compliance</i>
Driveway width at boundary to be maximum of 3.0m	Existing driveway unchanged. No new driveway proposed.	Yes
Driveway width at kerb to be maximum of 3.5m	Existing driveway unchanged No new driveway proposed.	Yes
Required parking spaces per dwellings (not secondary dwelling) 1 bedroom – 1 space 2 bedrooms + - 2 spaces	2 parking spaces retained within the existing hardstand parking area.	Yes
Min. enclosed garage dimensions - 3.0m x 6.0m	No garage proposed.	N/A

## B8 Site works management

No site works are proposed as part of the development as the all works are to be within the footprint of the existing dwelling. Sediment and Erosion Control Plan not considered necessary in this instance.

## SECTION C Development type controls

### C1 Design Criteria for Residential Development

<i>Requirements</i>	<i>Provision</i>	<i>Requirement</i>
<u>C1.1 Landscaping</u> 60% of front setback to be landscaped.	Existing landscape area forward of the building line unchanged by the proposed development. >60% landscaped.	Yes
<u>C1.2 Safety &amp; security</u> Be able to view visitor at front door without opening it.  Casual surveillance of front yard.  Adequate lighting provided to minimise possibility of damage. Lighting to minimise annoyance to neighbours.	The proposed development is not anticipated to result in any loss of safety and security to the existing dwelling. Sight lines from the existing dwelling to the street are maintained by the development with adequate lighting provided within the front yard to permit access without annoyance to neighbours.	Yes
<u>C1.3 View sharing</u>	The proposed development is not anticipated to have any unreasonable impact on views of surrounding properties. Any views obtained along the street and through the site can still be obtained due to appropriate setbacks and topography of the site.	Yes
<u>C1.4 Solar access</u> 3hrs to POS of proposed and adjoining 9am-3pm.  3hrs to 50% glazing of proposed and adjoining living area windows.	3hrs solar access maintained to the existing dwelling and adjoining dwellings due to appropriate setbacks and height of the proposed development. Shadows cast from the proposed development are not beyond anticipated levels for a three storey development and on an allotment with north to the side boundary.	Yes  Yes

<u>C1.5 Visual privacy</u>	No detrimental loss of visual privacy anticipated from the proposed development. Primary living/dining area remains orientated to the street frontage. Side setbacks remain unchanged by the proposal in order to maintain adequate privacy and amenity of neighbouring properties. Proposed 1 <sup>st</sup> floor side windows minimised as much as possible without resulting in excessive bulk to the side elevations. 1 <sup>st</sup> floor windows predominately relate to bedrooms and bathrooms which are deemed as low trafficable areas, helping to minimise privacy intrusion to adjoining properties. Existing living areas are appropriately setback and offset from adjoining living and POS areas.	Yes
<u>C1.6 Acoustic privacy</u>	No significant noise source within direct proximity of the subject site.	Yes
<u>C1.7 Private open space</u> 80m <sup>2</sup> POS Min dimension 3m Max 75% POS in front yard Principal area 4m x 4m Accessed via living area. POS to have good solar orientation POS to include provision of clothes drying facilities.	Existing POS areas are maintained by the proposed development.	Yes
<u>C1.9 Accessibility</u>	Appropriate access to and from the site is maintained.	Yes
<u>C1.12 Waste and recycling facilities</u>	Adequate area continues to be available for bin storage within the site.  Waste Management Plan provided for Council's consideration.	Yes  Yes
<u>C1.17 Swimming Pool Safety</u> Swimming Pool fencing and warning notices (resuscitation chart) shall be manufactured, designed, constructed, located and maintained in accordance	N/A – swimming pool does not form part of the proposed development.	N/A

with the <i>Swimming Pools Act 1992</i> and regulations. The fencing and warning notices (resuscitation chart) shall be permanent structures.		
<u>C1.20 Undergrounding of utility services</u>	Necessary services/utilities can be provided for the proposal.	Yes

## SECTION D Locality specific development controls

### D12 Palm Beach Locality

#### D12.1 Character as viewed from a public place

Site and area analysis has revealed that numerous developments of a similar style and design to the subject proposal have occurred within the area gradually setting a contemporary development theme.

The ancillary development to the existing dwelling has been effectively characterised and blends with the existing dwelling design to ensure streetscape appearance is maintained. Streetscape presence is reinforced through siting of the proposed development.

The high quality design of the development will ensure the visual bulk of the works is minimised as much as practical for a site containing a three storey dwelling with lower level.

Based upon the design of the ancillary development and the nature of the proposal relative to the intended surrounding properties, it is considered that the residence will appropriately blend with the intended future character of Barrenjoey Road.

The proposed dwelling will successfully contribute to the streetscape and landscape character of the locality.

#### D12.2 Scenic Protection - General

The proposed development is not considered to have any detrimental impact on the scenic character of the area. The proposed development is designed with contemporary design elements to complement the existing dwelling and changing character of the area.

#### D12.3 – 12.13 Palm Beach Locality Residential Sectors

This section of the DCP applies to all land within the Palm Beach Locality and provides controls for sector planning (subdivision and layout) and built form. An assessment of the proposed development against the built form controls of this section of the DCP is provided in the following compliance table;

<u>Design Guidelines</u>	<u>Proposed</u>	<u>Compliance</u>
<u>D12.5 / Front Building line</u> Land zoned R2, R3 or C4 adjoining Barrenjoey Road – 10m or established building line, whichever is greater  All other land zoned R2, R3 or C4 – 6.5m or established building line, whichever is greater.	Existing front setback to the dwelling unchanged by the proposal.  N/A	N/A  N/A
<u>D12.6 / Side and rear building line</u> Land zoned R2, R3 or C4: 2.5m to one side; 1.0m to other side.  6.5m to rear (except land in foreshore)	Side setbacks unchanged by proposal. 1 <sup>st</sup> floor addition provides setbacks in keeping with existing dwelling – 1.245m and 1.205m retained.  11.115m rear setback maintained by proposal.	Merit consideration.  Yes
<u>D12.8 Building envelope</u> 3.5m above ngl on side boundaries, inward at 450 to max. height. (eaves permitted outside)	Proposed addition outside building envelope.	No – see below.
<u>D12.8 / Landscaped Area – General</u> Landscape area min = 50%	N/A to C4 zone	N/A
<u>D12.10 / Landscaped Area – Environmentally Sensitive Land</u> Landscape area min. = 60%	Landscaped area unchanged by proposal – 40%.	Merit consideration.
<u>D12.11 Fences - General</u>	No front fencing proposed.  Internal dividing fences to be retained / replaced as required.	N/A  Yes
<u>D12.13 / Construction, retaining walls, terracing and undercroft areas</u> Retaining Walls visible from street ideally of sandstone or similar materials.  Undercroft areas limited to 3.5m and provided with landscaping.	No retaining walls proposed.  No new undercroft areas proposed.	N/A  N/A

### Variations

Building envelope – Council's policy requires that the proposed development is to be contained within the 3.5m building envelope. Part of the proposed 1<sup>st</sup> floor addition is sited outside the building envelope, thus requiring a variation to this control.

The existing dwelling on the allotment is not entirely contained within the building envelope due to the narrow site and steep topography. It is understood that, for building footprints situated on significantly sloped sites, variations to this control will be considered on a merits basis.

The proposed development maintains existing side setbacks and contains a roof form to match existing. Providing a development that is entirely contained within the building envelope would not be possible on the subject site. Retaining the existing dwelling and architectural styling also makes the strict compliance with building envelope unviable in this instance.

The non-compliance creates no additional adverse visual impact to the streetscape and is considered to be in context with the built form envisaged for the area. The dwelling is not considered to create shadows beyond that anticipated for a three storey dwelling with north to the side boundary. Privacy of the adjoining properties will not be compromised as a result of the requested variation as living area windows remain offset and setback from neighbours. Further, the proposed additional storey contains bedrooms and bathrooms which are deemed as low trafficable areas, helping to minimise privacy intrusion.

The proposed design can satisfy the objectives of the clause and the non-compliance is considered acceptable in these circumstances. It is requested that the variation be supported in this instance.

\* \* \*

#### Conclusion with respect to DCP requirements

The proposal is considered to generally satisfy the objectives of the relevant development controls relating to dwellings, as contained within DCP No. 21.

#### **(b) Likely impacts of the development, including environmental impacts on both the natural and built environment of the locality.**

The following matters are considered relevant when considering onsite impacts:

##### **Siting and Design**

The proposed contemporary development will be compatible with surrounding developments, and is considered consistent with a typical residential site in a well-established suburban location.

The siting of the ancillary works maintains existing boundary setbacks, retaining existing spatial separation and openness between buildings.

With respect to external appearance, the design of the proposed development is consistent with other contemporary residential buildings within the locality and will complement the streetscape. The front façade comprises different building elements feature and varied roof forms. In this way, the proposal provides varied shadow lines due to the different construction elements and finishes.



### **Noise and Vibration**

All construction work will be undertaken during hours specified within the development consent and/or normal construction hours. No vibration during construction is expected. Noise generated from the dwelling after occupation will be of residential scale only.

### **Waste Minimisation**

All waste will be deposited within the waste receptacle in accordance with the waste management plan attached to this application.

### **Noise and Vibration**

All work will be undertaken during hours specified within the development consent. No vibration damage is envisaged occur during construction.

### **(c) The suitability of the site for the development**

The subject site is within an established residential area, within reasonable driving distance to local commercial, retail and transport facilities. The existing road network provides easy access to all locations.

The ancillary works to the existing dwelling, the subject of the application, can be constructed with all services necessary and has been designed to suit site constraints and the character of the surrounding area.

The development is permissible with development consent under the provisions of Pittwater LEP 2014, and generally satisfies the objectives of the relevant development control plans as discussed above.

### **(d) Any submissions made in accordance with this Act or the regulations**

Council will consider any submissions received during the relevant notification period for this development application.

### **(e) Public interest**

As the proposal can satisfy the objectives of all relevant planning instruments and development control plan, approval of the subject dwelling is considered to be in the public interest.

## CONCLUSION

The proposed ancillary works is permissible with development consent under the provisions of Pittwater Local Environmental Plan 2014, and can satisfy the objectives within Pittwater DCP No.21.

It is considered that alterations and additions to an existing dwelling will complement and blend with the existing, and likely future character of this section of Palm Beach. The proposal is not anticipated to have any detrimental impact on the surrounding natural or built environment.

Reviewed by:



Lily Gibson  
Student Town Planner  
**Urban Planning & Building Consultants**  
18 May 2022



Maxine Booth (B.UrbRegPlan & MPIA)  
Principal Town Planner

## **APPENDIX**

## **Appendix 1 – Clause 4.6 Variation Overall Height**

It is requested that Council consider the following request for a variation under the provisions of Clause 4.6 of *Pittwater Local Environmental Plan 2014 (PLEP2014)* during assessment of this application:

### Pittwater Local Environmental Plan 2014

#### 4.6 Exceptions to development standards

*(1) The objectives of this clause are as follows—*

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6 of the LEP - Exceptions to development standards provides the opportunity for Council to vary the controls based on the merits of the application. It is considered that the current application satisfies the Clause 4.6 criteria in the LEP, and therefore should be supported, as detailed below.

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

The overall height development standard is not expressly excluded from the operation of Clause 4.6.

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*  
*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

As discussed below, it is unreasonable and unnecessary to require compliance with the overall height control as all key Clause 4.6 requirements are satisfied despite the non-compliance.

The proposed floor addition height exceeds the maximum permitted building height for the development by 2.246m. It is considered that the application, and in particular the proposed building height, should be supported as:

The subject site is zoned 'C4 Environmental Living' under Clause 2.1 of the PLEP2014.

The objectives of the zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

The proposed development will maintain a low-density residential dwelling being compatible with the existing and future character of the locality. The proposed development has been designed to meet the day to day needs of the residents and is provided with appropriate services and facilities. Furthermore, the dwelling is designed to provide a high level of amenity for adjoining residents whilst considering the natural restraints of the site.

The proposal, including building height variation, is consistent with the objectives of the C4 Environmental Living zone in that the proposal will continue to provide low-impact residential development, that the proposal maintains overall landscaped area and vegetated character of the site, and that solar access continues to be available to the subject site and existing neighbouring developments.

Therefore, the proposal is considered to meet the objectives of the C4 Zone.

The objectives of Clause 4.3 are:

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (c) to minimise any overshadowing of neighbouring properties,*
- (d) to allow for the reasonable sharing of views,*
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

The objective of this control is understood to be a measure to ensure the dwelling does not have an unreasonable impact on adjoining properties or the streetscape by way of overshadowing, overlooking or visual bulk.

The 2.246m non-compliance is the direct result of the topography of the allotment, with a significant fall through the site it is difficult to site the proposed addition without a level of non-compliance to the height provisions. It is considered that some level of variation is anticipated on allotments such as the subject site where the allotment has a significant fall to the street and the need to site the proposed works over existing ground floor walls for structural integrity. Thus, providing a compliant proposal would render re-development of the existing dwelling unviable.

The proposed addition has been designed with consideration given to the existing topography on the site and the existing overall streetscape character. The proposed design incorporates a first floor addition and internal works to modernise the dwelling, increase its lifespan and enhance internal amenity.

The required variation only relates to the southern front portion of the proposed addition. The variation will not detrimentally impact on the amenity of the adjoining properties given the articulated design, adequate side and rear setbacks and building separation distances along with the orientation of the site which will allow for a reasonable level of solar access to living areas and private open space areas of the adjoining properties. The windows proposed to the upper floor bedrooms are not likely to provide opportunities for overlooking as they are appropriately designed, setback and offset. The shadows cast by the proposed development will not have an overall negative impact upon the adjoining properties, whilst there is still some overshadowing, the POS of the adjoining property will have a reasonable level of solar access throughout the day.

The front façade and material choices are anticipated to be in keeping with recent development throughout the area and will help to enhance the character of the street which contains dwelling streetscape appearances of one, two and three storey dwellings. The visual bulk of the proposed addition as viewed from the adjoining dwellings is not considered to be excessive as a result of the variation given the increased setback from front building line, appropriate roof form, articulation provided throughout the design as well as the existing landscaping to the front and sides of the proposal to further reduce the bulk of the development. As there is no perceived impact on the streetscape character of the area or the amenity of adjoining properties beyond that of a compliant proposal, the dwelling is considered to be able to meet the objectives of the height control despite the numerical non-compliance.

In the circumstances of this particular case, it is considered that strict compliance with the overall height requirements of Pittwater Local Environmental Plan 2014 is considered unreasonable and unnecessary as the alterations and additions to an existing dwelling has been designed to reduce the height as much as possible, whilst still providing a design which is in keeping with the existing dwelling and the residents' needs. The increase in height proposed for the residence is the direct result of the topography and is consistent with the development theme in the surrounding area. Despite the non-compliance the proposed development can still attain the objectives of the Environmental Planning and Assessment Act 1979, C4 Environmental Living and the subject development standard.

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

The requested variation relates to Clause 4.3(2) as shown below:

*(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The subject site is identified to have a maximum building height of 8.5m. However it is also noted that Clause 4.3(2D) provides flexibility in the maximum height for land with a maximum building height when the slope of the land exceeds 16.7 degrees (or 30%) where the consent authority is satisfied that the portion of the building above the maximum height is minor.

In this instance the proposed development provides a maximum building height of 10.746m is proposed requiring a 2.246m variation to the 8.5m development standard and a 746mm variation to the 10m development standard. The requested variation is restricted to the south-western corner of the proposed addition where there is a significant site fall. The area of the non-compliance relates to a small portion of the south-western corner of the dwelling, and will not detrimentally impact on the amenity of the adjoining properties and is in keeping with the established context of the streetscape.

The increase to the overall building height is considered to have minimal impact on the overall development in terms of bulk and scale appearance, due to the maximum building height positioned to the front of the dwelling and screened by suitable landscape planting forward of the building line. The proposed development is not considered to be excessive in size, having been designed to include extensive articulation, increased front setback from existing building line and the retainment of suitable existing landscaping that follows the topography of the allotment and softens the visual bulk of the development. The proposed development is in keeping with surrounding developments in an area where the overall height control appears to have been abandoned due to the topography of the allotments. Further the proposed development provides a suitably sized dwelling in keeping with developments of the surrounding area.

The proposed alterations and additions is considered to be a reasonable development for the site as three storey dwellings are considered to be a suitable use of the land. The variation directly relates to the topography of the land. Reducing the overall building height of the dwelling is not considered feasible as the reduction in height would detrimentally impact the amenity of the development through reducing ceilings heights that have been minimised as much as practical whilst considering the existing dwelling. Reducing the proposed building height would also result in a development that does not complement the existing dwelling structure and design.

Despite the variation the proposed continuation of low density residential land use is considered to be an orderly and economic use and development of the land in an established residential area where increased residential dwelling has set a theme for dwellings in this area of Palm Beach.

The variation will result in a maximum increase in height by 2.246m from the permitted overall height. The development will not be visually excessive in size due to maintaining appropriate setbacks, stepping of the front façade, as well as suitable existing landscaping to screen the development from the streetscape and neighbouring properties. The proposed development provides a suitably sized addition to an existing dwelling in keeping with adjacent developments on Barrenjoey Road and in the surrounding area.

Whilst being numerically non-compliant with the height of buildings control the proposed development is not anticipated to detrimentally impact the streetscape or surrounding developments by way of solar access or privacy. In fact, the proposed development will result in an improved amenity and streetscape appearance as a result of the urban renewal development and by ensuring that the bulk and scale of the development is consistent with surrounding developments.

The objects of the Environmental Planning and Assessment Act 1979 are understood to be as follows:

### 1.3 Objects of Act

*The objects of this Act are as follows—*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The most relevant objects to this development are objects 1.3(c), 1.3(g) and 1.3(h) as outlined above.

The proposed development relates to alterations and additions to an existing dwelling within a residential setting. Allowing alterations and additions to an existing dwelling, despite the numerical non-compliance with the height of buildings provisions, ensures that the dwelling can be retained on the site whilst providing improved internal amenity and an improvement to the life span of the built form. Further, allowing the increase in building height ensures that the existing dwelling is enhanced which is considered to promote orderly and economic use and development of the land.

Allowing the updating of existing dwellings through alterations and additions within residential area ensures that a range of dwelling and development types are available for residential occupation. The design of the proposed development is for the alteration and addition to an existing built form which promotes good design through improved functionality of the floor plan. Further the proposed alterations and additions provide increased areas within the design ensuring that the amenity of the development is enhanced as a result of the development.

The design of the proposed development has given consideration to the streetscape locality, surrounding development along with the orientation of the allotment during the design process. The development appropriately addresses the street frontage and provides visual bulk in keeping with recent development throughout the Palm Beach area. Consideration of these key aspects promotes good design through a



high quality architectural development. Further the proposed alterations and additions has been designed to provide high level of amenity to the development and future occupants of the dwellings.

Whilst “environmental planning grounds” are not separately defined within the EP&A Act 1979 the proposed development is considered to provide orderly and economic use and development of the land through retention of an existing dwelling. Further the proposal meets good design principals and enhanced amenity of the dwelling through additional bedroom and living spaces without detrimentally impacting the surrounding development by way of visual bulk, privacy, amenity and solar access.

- (4) Development consent must not be granted for development that contravenes a development standard unless—*
- (a) the consent authority is satisfied that—*
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) the concurrence of the Planning Secretary has been obtained.*

The proposal is able to satisfy 3(a) and 3(b) as discussed above, therefore the proposed development is considered to being the public interest. Further the proposed alterations and additions are orderly and economic use and development of the land whilst providing good design and amenity for the occupants of the development.

- (5) In deciding whether to grant concurrence, the Planning Secretary must consider—*
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) the public benefit of maintaining the development standard, and*
  - (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

There is considered to be no public benefit in refusing the application (for the reasons stated above) so as to ensure that full compliance with the maximum height of buildings control is achieved. The contravention of the standard does not raise any matters of state or regional significance nor would it be detrimental to the site or surrounding area.

Accordingly, Council's agreement is sought to the proposed variation in maximum overall building height for the site.