

STATEMENT OF ENVIRONMENTAL EFFECTS

Alterations and Additions to
an existing Dwelling House
including Landscaping
Works and Alterations to
the Existing Seawall

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Palm Beach

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Statement of Environmental Effects

Alterations and Additions to an existing Dwelling House including Landscaping Works and Alterations to the Existing Seawall

1167 Barrenjoey Road, Palm Beach

Prepared under instructions from

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&

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1 Introduction

This statement has been prepared for Mr and Mrs Mills and Justin Long Design as part of the supporting documentation for a Development Application in relation to the property located at 1167 Barrenjoey Road, Palm Beach for alterations and additions to an existing dwelling house including landscaping works and seawall works.

Part of the site forms fronting Pittwater constitutes reclaimed Crown waterfront land and is subject to a license agreement with the NSW Department of Primary Industries. A copy of this license agreement is enclosed with the application documentation.

The design of the proposed alterations and additions is sympathetic to the existing works and provides a site-specific design response which respects the sites sensitive coastal location. The design maintains appropriate residential amenity in terms of privacy, solar access and view sharing.

In preparation of this document, consideration has been given to the following:

- Environmental Planning and Assessment Act, 1979;
- Pittwater Local Environmental Plan 2014;
- Pittwater Development Control Plan 2014;
- State Environmental Planning Policy No.71 (Coastal Protection);
- State Environmental Planning Policy (Building Sustainability Index) 2004.

In addition to the Statement of Environmental Effects, the application is also accompanied by the following:

- Survey prepared by Waterview Surveying Services;
- Architectural drawings including site plan, floorplans, elevations, sections, shadow diagrams, materials and finishes schedule, prepared by Justin Long Design
- Proposed Landscape Plan prepared by Justin Long Design
- Stormwater Management Plans prepared by Justin Long Design
- Arborist Report prepared by Footprint Green;
- Coastal Engineering Report prepared by Horton Coastal Engineering;
- Geotechnical Report prepared by Crozier;
- Basix Certificate prepared by Justin Long Design

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is

considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The application has considered and satisfies the various relevant planning controls applicable to the site and the proposed development;
- The proposed works are compatible with the desired future character of the locality;
- The proposed works will have a satisfactory impact on the environmental quality of the land and the amenity of surrounding properties;
- The site is assessed as suitable for the proposal, having regard to the relevant land use and planning requirements.

2 Site Analysis

2.1 Site Description and Location

2.1.1 The Site

The application relates to Lot 2, DP 830669, 1167 Barrenjoey Road, Palm Beach. The site (excluding the reclaimed land) has a total site area of 404.6 sqm. The site including the reclaimed land equates to 531.3sqm. With a frontage of 18.285sqm to Barrenjoey Road. The rear part of the site fronting Pittwater forms reclaimed Crown waterfront land and is subject to a license agreement with the NSW Department of Primary Industries. A location map is included as **Figure 1** and an extract of the survey is provided at **Figure 2**.



Figure 1: Site Location (Source: Six Maps)

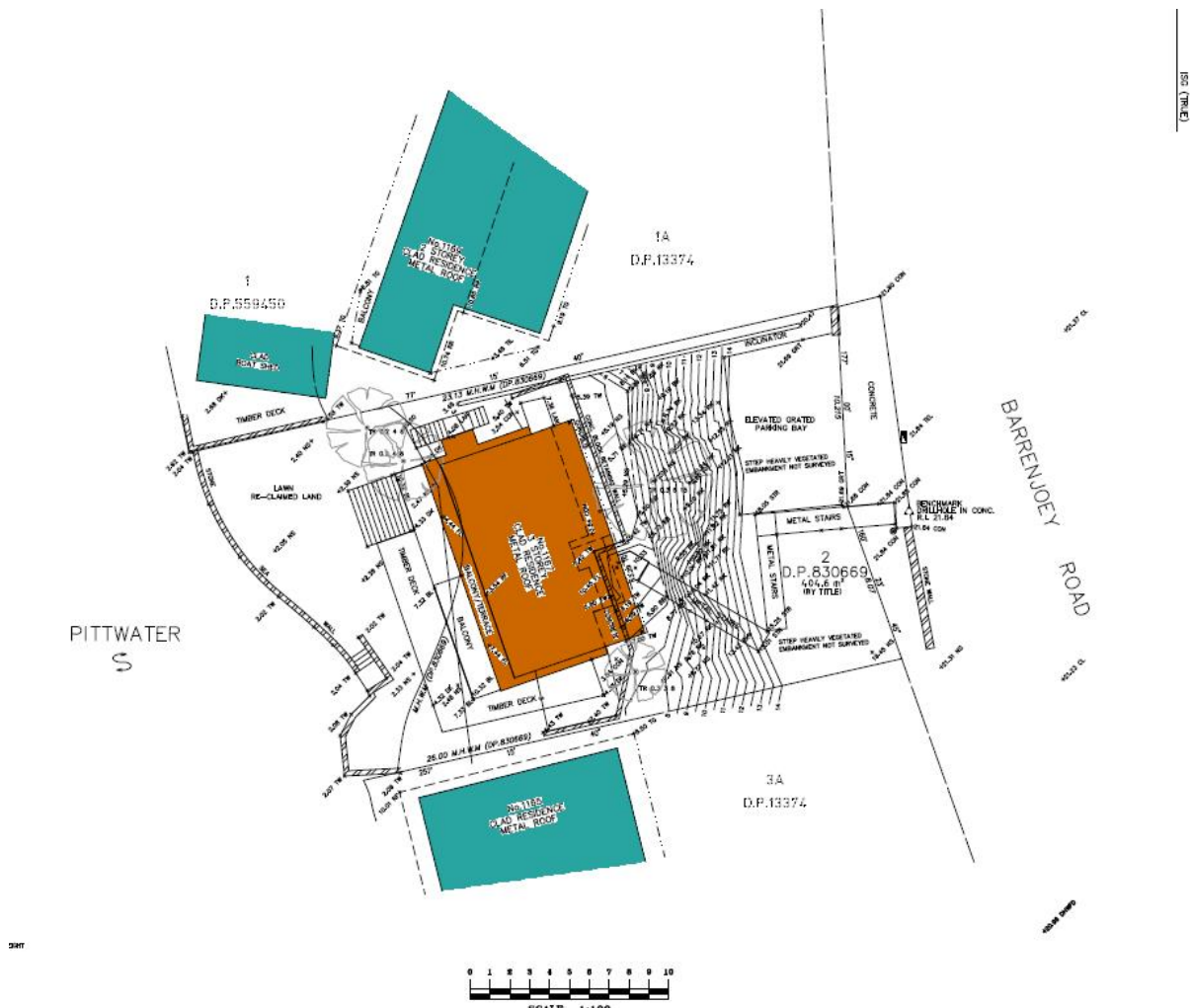


Figure 2: Extract of the Site Survey (source: Waterview Surveying Services).

The existing three storey dwelling is set directly into the cliff face, with an open elevated grated car platform providing off street car parking for three vehicles accessed via Barrenjoey Road. Pedestrian access from the car platform to the dwelling by metal stairs and a pedestrian inclinator, which is located to the northern boundary of the site.

The topography of the site falls away very steeply from the road and elevated car platform down towards Pittwater, by approximately 20 metres. The site contains six semi-mature trees, including one eucalyptus tree situated on the cliff face towards the rear of the dwelling house.



Figure 3: Existing photograph of the site as viewed from Pittwater



Figure 4: Existing second level deck



Figure 5: Existing ground level deck

2.1.2 The Locality

Development in the vicinity of the site predominately comprises dwelling houses of varied heights and scales set into the cliff escarpment. Development immediately to the north and south of the site contains two and three storey dwelling houses.

2.2 Zoning and Key Environmental Considerations

The site is zoned E4 Environmental Living pursuant to the Pittwater Local Environmental Plan 2014. The key environmental considerations of the site are identified as follows:

- Acid Sulfate Soils, Class 5;
- Land identified on the Councils Biodiversity Map;
- Geotechnical Hazard Map;
- Foreshore Building Line Map;
- Subject to Tidal Inundation;
- Foreshore Vegetation other than Mangroves;
- Area 1 of the Landscape Area Map

All of the above environmental considerations are discussed in the following sections of this report and addressed in the documentation accompanying this Development Application.

3 Description of Proposed Development

3.1 Details of the Proposed Development

This application proposes alterations and additions to the existing dwelling, including landscaping works.

The overall height of the dwelling will not substantially change, a three storey rear addition is proposed to the existing dwelling, which at the third floor, will slightly protrude beyond the existing roof ridge.

The proposal is depicted on architectural plans and montages prepared by Justin Long Design Architects (see Figure 3 & 4 below). The visual appearance in terms of the dwellings height, bulk and scale will remain predominately the same as viewed from Pittwater.

Specifically, the works comprise the following:

- **Ground Floor:** proposed rear stairwell addition, new laundry/pantry room off existing kitchen, new internal staircase replacing existing.
- **First Floor:** Low pitched roof over existing deck, new store room, widening of existing entry, new internal staircase replacing existing.
- **Second Floor:** proposed rear addition comprising an ensuite; new staircase, proposed bedroom, new deck area and new external stair connection to the parking platform area. Low pitched roof over existing deck below
- **Landscaping works:** Raise rear garden bed to RL2.92 and raise height of the seawall (north of the existing steps) to RL 2.92 to match the neighbouring properties. Creation of a garden bed and steps to raised garden level.

The proposed materials and finishes of the dwellings, incorporate a variety of natural timber and painted timber elements, sandstone pavers and louvers, utilising dark and earthy tones.

Four trees are proposed for removal across the site, with two trees to be retained with tree protection measures as recommended in the arborist report prepared by Footprint Green.

The existing stormwater drainage arrangements will not change as a result of the proposed works, as detailed on the stormwater drainage plan prepared by Justin Long Design. The existing stormwater outlets provided in the seawall are retained.

4 Existing Use Rights

Works are proposed within the W1 Natural Waterways which prohibits development for the purpose of a dwelling house. Clause 4.65 of the Environmental Planning and Assessment Act 1979 addresses 'existing use' and states that:

*In this Division, **existing use** means:*

- a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and*
- b) the use of a building, work or land:*
 - i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
 - ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

The original dwelling house was approved 24 August 1998 (Building approval number P0074/98), subsequently constructed and the use commenced. The survey plan indicates that portions of the existing dwelling encroach into the W1 Natural Waterways zone which reflect the approved works within this location.

The proposed works are a continuation of the historically approved use as a dwelling house, with such use not abandoned.

We have formed the considered opinion that the structures located with the W1 Natural Waterways zone benefit from existing use rights and as such the proposed works to these structures are proposed to be undertaken pursuant to those provisions.

5 Statutory Planning Framework

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 as amended. Those matters which are required to be addressed are outlined, and any steps to mitigate against any potential adverse environmental impacts are discussed below.

5.1 Pittwater Local Environmental Plan 2014

The Pittwater Local Environmental Plan 2014 is the principal local planning instrument applicable to the land. The relevant provisions of the LEP and the manner in which they relate to the site and the proposed development are assessed below.

5.1.1 Zoning and Permissibility

As previously noted the site is zoned E4 Environmental Living pursuant to the provisions of the Pittwater Local Environmental Plan 2014. The application relates to alterations and additions to an existing dwelling, with associated landscaping works.

Dwelling houses are permissible with consent in the zone. The specific objectives of the zone are identified as follows:

- *To provide for low-impact residential development in areas with special ecological scientific or aesthetic values;*
- *To ensure that residential development does not adversely affect 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 application relates to alterations and additions to an existing dwelling house. We have formed the considered opinion that the development is permissible in the zone and consistent with the zone objectives. Accordingly, there is no statutory impediment to the granting of consent.

The site is also zoned W1 Natural Waterways and development for the purpose of a dwelling houses (and ancillary to dwelling houses) is prohibited within this zone. As outlined above, the works within the W1 zone benefit from existing use rights and as such are permissible in this instance.

5.1.2 Height of Buildings

Pursuant to Clause 4.3 of the PLEP, the site is identified on the height of buildings map as having a maximum permissible height of 8.5 metres. Clause 4.3 (2D) stipulates that land on

the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10 metres if:

- (a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and*
- (b) the objectives of this clause are achieved, and*
- (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and*
- (d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.*

The proposed building footprint is situated on a slope that is in excess of 16.7 degrees (30%). An extract of the survey information and proposed floorplans demonstrates that the proposed building footprint is situated on a slope that is 32%. As such, the proposal may exceed 8.5 metres but not be more than 10 metres in height.

The existing dwelling exceeds the 10 metre (and 8.5 metre) height limit to portions of both the existing dwelling and as a result of the proposed works as indicated on the northern, southern and eastern elevation plans. With respect to the proposed works, an exceedance of the 10 metre height limit (by 400mm) occurs over the existing second floor deck area (proposed pergola structure and associated timber screen infills). These works constitute works beyond the 10 metre height limit.

Furthermore, it is noted that works within the W1 zone have a height limit of 4m which is mapped within the LEP. This ground level deck proposes a new low pitched roof and encroaches into the W1 zone. This roof structure is permissible under existing use rights however extends above the 4m height limit. For abundant caution, the following 4.6 request applies to this element also. The height of this roof is measured at 4.8m above existing ground level.

Clause 4.6 of PLEP 2014 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

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

Pursuant to clause 4.6(2) 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.

This Clause applies to the Clause 4.3 Height of Buildings Development Standard.

Clause 4.6(3) states that 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*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Clause 4.6(4) states 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 Director-General has been obtained.*

Clause 4.6(5) states that in deciding whether to grant concurrence, the Director-General 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 Director-General before granting concurrence.*

Zone and Zone Objectives

The subject property is zoned E4 Environmental Living pursuant to Pittwater Local Environmental Plan 2014. Dwelling houses are permitted with consent. The stated objectives of the E4 zone are as follows:

- *To provide for low-impact residential development in areas with special ecological scientific or aesthetic values;*
- *To ensure that residential development does not adversely affect 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 meets the relevant zone objectives given the outcome continues to provide for a detached dwelling house, which accords with surrounding residential land uses and responds to the steep topography of the land and its foreshore location. The proposed dwelling minimises the impact of hard surfaces, stormwater runoff and does not adversely impact on the foreshore or ecological characteristics of the locality. There are no statutory zoning or zone objective impediment to the granting of approval to the proposed development.

Height of Buildings Standard and Objectives

Pursuant to Clause 4.3 LEP 2014 the height of any building on the land shall not exceed a height of 8.5 metres. The objectives of this clause 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.*

Having regard to the stated objectives it is considered that strict compliance is both unreasonable and unnecessary for the following reasons:

- Despite the variations proposed to the building height controls the overall bulk and scale of the dwelling as viewed from Pittwater will continue to appear as three storeys and sit comfortably both within the established built form when viewed from Pittwater. The design of the alterations and additions abuts the cliff face and responds to the steep topography of the site.
- The roof element of the second level deck will sit on an existing frame and will not give rise to any adverse visual impacts to the scenic quality of the area when viewed from the water. The new deck roof at the ground floor level will also not give rise to any adverse visual impacts. Images of the existing decks are provided as figures 4 and 5 in this report.

- The height, bulk, scale of the dwelling is entirely consistent with the built form characteristics established by neighbouring dwellings and development generally within the sites visual catchment.
- Detailed site and design analysis has ensured that the additional height does not result in any adverse impacts on the amenity of the adjoining, adjacent or properties within the sites visual catchment in terms of solar access, visual bulk and privacy.
- The proposed works do not impede upon any established view lines from neighbouring properties or the street.
- Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of *Project Venture Developments v Pittwater Council (2005) NSW LEC 191* I am of the opinion that the impacts arising from the building height to neighbouring dwellings are acceptable and that most observers would not find the height of the proposed development offensive, jarring or unsympathetic in a streetscape context nor the built form characteristics of development within the sites visual catchment. Accordingly, it can be reasonably concluded that the proposal is compatible with its surroundings.
- Having regard to the planning principle established by *Veloshin v Randwick City Council [2007] NSWLEC 428* this is not a case where the difference between compliance and non-compliance is the difference between good and bad design.
- Having regard to *Four2Five Pty Ltd v Ashfield Council (2015) NSW LEC 1009* and clause 4.6 (3)(a) of PLEP 2014 I am of the opinion that compliance with the height of building standard contained within Clause 4.3 of MLEP 2014 is unreasonable and unnecessary in the circumstances of this application and the site given the relationship of the proposed height of the building to its neighboring sites; the absence of environmental impacts associated with the view impact or sunlight access to neighbouring dwellings.
- The proposal is in the public interest as it meets the objectives of the zone and the height of buildings controls in the LEP. The proposed works do not significantly alter the existing built form and its view from Pittwater.

Conclusions

Having regard to the clause 4.6 variation provisions we have formed the considered opinion:

- a) that the site specific and contextually responsive alterations and additions is consistent with the zone objectives, and
- b) that the site specific and contextually responsive development is consistent with the objectives of the building height standard, and

- c) that there are sufficient environmental planning and site specific urban design grounds to justify contravening the development standard, and
- d) that having regard to (a), (b) and (c) above that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case, and
- e) that given the design quality of the development, the sites location and context and the developments ability to comply with the zone and building height standard objectives that approval would not be antipathetic to the public interest, and
- f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning

As such we have formed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a building height variation in this instance.

5.1.3 Development within the Coastal Zone

Pursuant to Clause 5.5(3) of the LEP, development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that the proposed development will not:

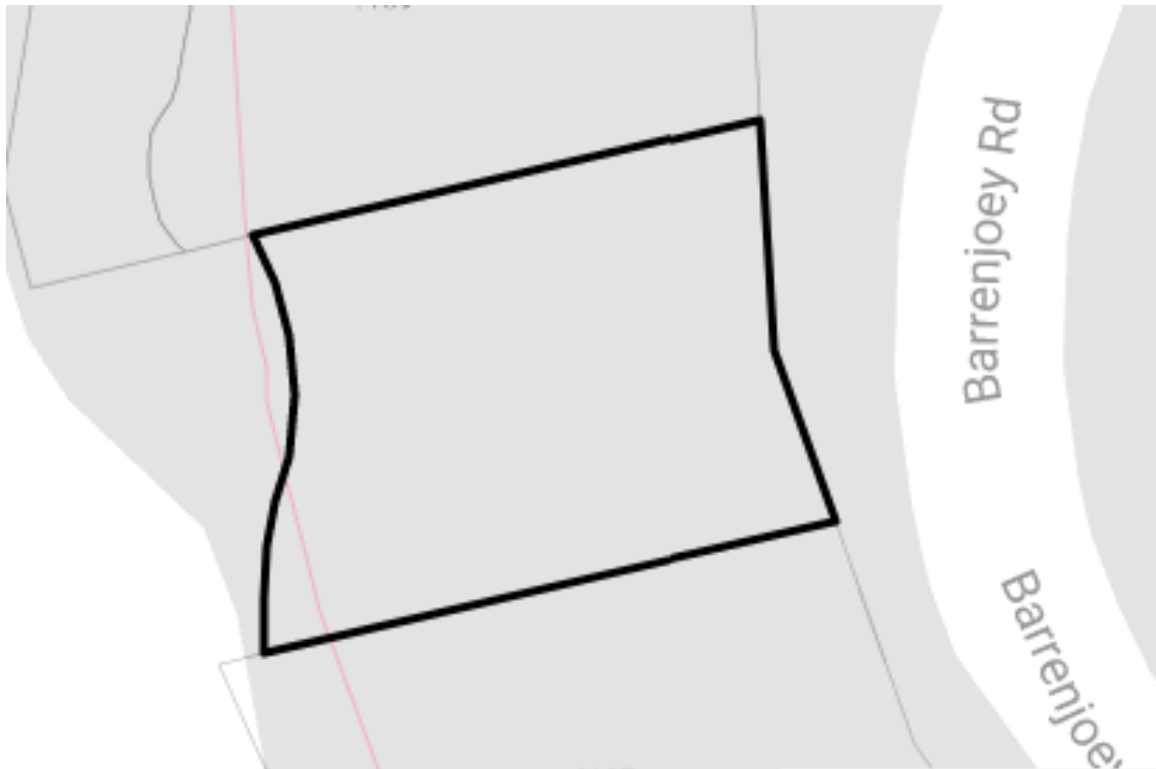
- Be significantly affected by coastal hazards, or
- Have a significant impact on coastal hazards, or
- Increase the risk of coastal hazards in relation to any other land.

A coastal engineering report prepared by Horton Coastal Engineering accompanies the DA.

The report details a number of recommendations to mitigate the risk of coastal hazards. The report concludes that the proposed development would not be significantly affected by coastal hazards or impact any estuarine processes.

5.1.4 Development below mean high water mark

Pursuant to Clause 5.7, the site is subject to tidal inundation. The coastal engineering report details that the Estuarine Planning Level (EPL) of 2.8 AHD and 3.2 AHD were adopted, the EPL is well below the deck floor level of 4.3 AHD and dwelling floor level of 4.4 AHD. On this basis, tidal inundation will not affect the habitable floor levels of the existing dwelling.



5.1.5 Acid Sulfate Soils

Pursuant to Clause 7.1 of the LEP, the site is located within Acid Sulfate Soils Area Class 5. A geotechnical report prepared by Crozier which demonstrates that as a result of the proposed works, acid sulfate soils are unlikely to be present.

5.1.6 Geotechnical Hazards

The site is located in a Geotechnical Hazard Area and a Landslip Hazard Area. A geotechnical report prepared by Crozier accompanies the application which demonstrates that the proposed development is suitable for the site, provided that the recommendations of the report are adhered to.

5.1.7 Limited Development on the Foreshore Area

Pursuant to Clause 7.8, the site is identified on the foreshore building line map as demonstrated in Figure 10 below:

Figure 10: Foreshore Building Line Map Extract – Pittwater Council

The existing dwelling partially encroaches within the foreshore building line and are permissible with existing use rights being applicable. The alterations and additions do not result in further encroachments within the foreshore building area (as demonstrated on the proposed ground floor plan). The works within the foreshore building line area are limited to landscape works only, including reconfiguring the timber and stone stairs from the deck to the lawn area, raising the level of the garden and increasing the height of the seawall.

Clause 7.8(2) states:

(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes:

(a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,

(b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).

The proposed works to the dwelling steps, landscaping and seawall located within the foreshore building line area are permissible, pursuant to Clause 7.8 (2) of the LEP.

5.1.8 Biodiversity Protection

The site is identified on the Councils biodiversity map. The site does not contain any threatened species, with the majority of the trees on the site categorised as being of low significance to medium significance. Four trees are proposed for removal with two trees recommended for retention with tree protection measures recommended in the arborist report prepared by Footprint Green.

5.2 Pittwater Development Control Plan 2014

Whilst the proposal relates to the subdivision of the site only, the future dwelling on Lot 2 will be subject to a future Development Application. The following relevant DCP controls have been addressed with respect to consideration of the proposed subdivision application.

5.2.1 Palm Beach Locality

The property is located within the Palm Beach Locality. The desired future character of the Palm Beach Locality will remain primarily a low-density residential area. The key objectives for the desired future character are identified as follows:

“The Palm Beach Locality will remain primarily a low density residential area characterised by two storey residences in a natural landscaped setting, interspersed by compatible land uses where appropriate. The locality will continue to be serviced by existing retail, community and recreational facilities. Future development will be consistent with public infrastructure capacity and environmental constraints.

Future development will maintain a distinct height limit below the tree canopy, and reflect the predominant scale and setbacks of existing development. Buildings will be designed to address the street and/or waterway, integrate with the public domain, and be at a “human scale”. Contemporary buildings will utilise façade modulation and/or incorporate shade elements, such as pergolas, verandas and the like. Building colours

and materials will harmonise with the natural environment and not dominate it. Development on hillsides and in the vicinity of ridge tops will integrate with the natural landscape and topography. Heritage items and conservation areas indicative of early settlement in the locality will be conserved.

The indigenous tree canopy will be retained and enhanced to assist development blending into the natural environment, to provide Koala feed trees and undergrowth for smaller animals, and to enhance wildlife corridors. The natural landscape, including rock outcrops, remnant bushland and natural watercourses, will be preserved. Existing and new development will be made safe from natural hazards.”

This report clearly demonstrates that the proposed alterations and additions are consistent with the desired future character of the Palm Beach Locality. The architect has responded to the client brief to provide modest alterations and additions to the existing dwelling which takes advantage of the site’s locational attributes and acknowledges the constraints and opportunities associated with the environmental characteristics of the site including the site’s steep topography, environmental attributes and Pittwater frontage. The alterations and additions will result in a high level of amenity for the occupants and maintain appropriate residential amenity to adjoining properties whilst contributing positively to the built form quality of the housing stock established within the Palm Beach Locality.

This report clearly demonstrates that the proposed development is a permissible form of development in the residential locality and is consistent with the desired future character of the Palm Beach Locality.

5.2.2 Landslip Hazard

Pursuant to Clause B3.1 a Geotechnical report has been prepared Crozier and is submitted with the application documentation. The report demonstrates that both sites are suitable for the proposed development and no geotechnical hazards will be created by the completion of the proposed development provided it is carried out in accordance with the requirements of the geotechnical report.

5.2.3 Preservation of Trees or Bushland Vegetation

Pursuant to Clause B4.22, the proposal includes the removal of trees to allow for the proposed development. An arborist report prepared Footprint Green accompanies the application which considers the acceptability of the proposed trees to be removed.

5.2.4 Stormwater Discharge into Waterways and Coastal Areas

Clause B5.11 permits the discharge of stormwater into the waterways (including Pittwater, Narrabeen Lagoon and creek systems) or any of its tributary watercourses and coastal areas will only be permitted from land directly adjoining a waterway or coastal area provided that it can demonstrated through a water management plan that:

- *Discharge to the public drainage system is not available*

- *Discharge over any bluff or cliff area will not cause instability*
- *The discharge system does not result in cliff/bluff/dune or shoreline erosion, sedimentation or water quality impacts*
- *The discharge system will minimise the visual/environmental impact of any drainage discharge structure along the foreshore.*

The application does not propose any change to the existing stormwater outlets. The two stormwater outlets located in the seawall will be retained. A stormwater drainage plan prepared by Justin Long Design demonstrates the stormwater drainage arrangements as a result of the proposed works.

5.2.5 Access and Parking

Pursuant to Clause B6.2, the existing off-street parking arrangements are to be retained.

5.2.6 Site Works Management

In accordance with Part B8 appropriate measures are to be undertaken to address the issues of construction impacts, erosion and sedimentation management, waste minimisation, site fencing and security.

The site being of adequate area and dimension does not impose any unusual construction or on-site material storage difficulties. The site works will be managed in accordance with the Protection of The Environment Operations Act 1997 with appropriate erosion and sedimentation control, construction fencing and air pollution controls being implemented.

5.2.7 Landscaping

Pursuant to Clause C1.1 the proposal includes enhanced landscaping works to the rear of the site, which includes additional tree planting. It is not possible to provide any additional planting to the site frontage, due to the steep topography of the site and associated cliff face.

5.2.8 View Sharing

Pursuant to Clause C1.3 all new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties. Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.

In relation to private views, the proposed alterations and additions to the existing dwelling will not impede on any established views from surrounding residential properties and will not result in any unreasonable impacts on the views available to surrounding properties.

5.2.9 Solar Access

In accordance with Clause C1.4 the main private open space of the dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st. Windows to the principal living areas of the proposal and windows to the principal living area of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st to at least 50% of the glazed area.

The orientation, layout and design of the proposed dwelling maximises the amount of solar access received to the principal living areas of the proposed dwelling and the main areas of private open space. These areas will receive a minimum of three hours of sunlight between 9am and 3pm on June 21st.

Shadow diagrams have been prepared by Justin Long Design. The shadow diagrams demonstrate that as a result of the proposed additions, the existing amount of sunlight obtained to No.1165 Barrenjoey Road, north facing windows will be retained, which is in accordance with this control.

5.2.10 Visual Privacy

Pursuant to clause C1.5 private open space, recreation areas and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9m by building layout, landscaping, screening devices or greater spatial separation. Elevated decks, verandas and balconies should incorporate privacy screens where necessary and should, where possible, be located at the front or rear of the building. Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

The proposed alterations and additions and associated deck areas are orientated either towards Pittwater (to the west) maximising Pittwater and district views or centrally within the site. Privacy screens and sunshades have been incorporated into the design of the houses where necessary. Landscaping and boundary fencing to the northern and southern boundaries is also incorporated to prevent any perceived direct overlooking.

5.2.11 Acoustic Privacy

The proposed alterations and additions have been designed to comply with Clause C1.6 of the policy and the relevant provisions of the Protection of the Environment Operations Act, 1997. The design elements incorporated into the development, including landscape treatments, will afford good levels of acoustic privacy to the neighbouring properties.

5.2.12 Private Open Space

Pursuant to Clause C1.7, a minimum area of 80sqm of private open space per dwelling at ground level, with no dimension less than 3 metres. No more than 75% of this private open space is to be provided in the front yard.

Within the private open space area, a minimum principal area of 16sqm with a minimum dimension of 4m and grade no steeper than 1 in 20 (5%). Dwelling are to be designed so that the private open space is directly accessible from the living areas and have good solar orientation.

The dwelling is afforded with significant areas of private open space in the form of decks and balconies, in excess of 80sqm. The private open space areas have been designed and orientated to optimise views and solar access and ensure that the private open space areas are directly accessible from living areas and will function as an extension of these internal living spaces. The area and dimension of these spaces fully comply with the minimum area and dimension requirements as detailed on Justin Long Design plans and will afford good levels of amenity to the dwelling.

5.2.13 Waste and Recycling Facilities

Pursuant to Clause C1.12 all waste and recycling receptacles will be stored within the property boundaries.

5.2.14 Character as viewed from a Public Place – Palm Beach Locality

Pursuant to Clause D12.1 the proposed alterations and additions accords with the desired future character of the Palm Beach Locality. The proposal provides for sympathetic and modest alterations and additions to the property which will result in a more functional layout, both internally and externally. The proposed additions are of a scale and height which positively responds to its coastal environment. The dwelling will continue to appear as three storeys as viewed from Pittwater. The proposed finishes utilise natural timber cladding and sandstone, which will complement the natural coastal setting and escarpment backdrop.

5.2.15 Scenic Protection

Pursuant to Clause D12.2 the works to the dwelling will still result in a similar built form appearance as viewed from Pittwater. The dwelling will continue to sit comfortably within the coastal setting. The modulated architectural style breaks down the scale of the dwelling, particularly when viewed from Pittwater. The proposal will not adversely impact on the visual amenity of the natural environment when viewed from Pittwater. The proposed dwellings accord with the desired future character of the locality.

5.2.16 Building Colours and Materials

The application is accompanied by a schedule of finishes. The development incorporates external colours, materials and finishes which are consistent with the predominant colours of development in the Palm Beach locality, which reflect the dark and earthy tones.

5.2.17 Front Building Line

Pursuant to Clause D12.5, the proposal maintains a front building line well in excess of the 6.5 metre requirement, comprising a front building line setback of approximately 8 metres to the corner of the proposed bedroom at the second floor. The dwelling is not visible from the streetscape, due to the steep topography of the site.

5.2.18 Side and Rear Building Line

Pursuant to Clause D12.6, sites within E4 Environmental Living are to maintain a 2.5 metre minimum side setback from one side and 1 metre to the other side boundary. The foreshore building line applies to the rear of the property

The northern side setback is retained as a result of the proposed works. A minor extension is proposed to the southern side boundary setback to allow for a deck extension and proposed pantry/utility room to be created. The setback to the southern side boundary varies from 1.441 metres to 442mm.

A variation the setback control to the southern side boundary is sought on achieving compliance with the outcomes of the control as follows:

- The proposed addition to the southern side does not significantly contribute to the overall bulk and scale of the existing dwelling.
- The proposed setbacks do not translate into unreasonable amenity impacts to neighbouring properties in terms of overshadowing, privacy, visual outlook and view impacts. Balconies and window positions have been appropriately located to the front and rear of the site and screened where necessary.

The proposed works are compliant with the foreshore building line control to the rear of the site.

5.2.19 Building Envelope

Clause D12.8 requires planes to be projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries to the maximum building height. As demonstrated on the elevation plans, the existing dwellings project through the side boundary envelope at certain points to the southern and northern elevations.

Clause D12.8 states that where the building footprint has a slope over 16.7 degrees (30%), a variation to this control will be considered on a merit basis. A variation to the building envelope control is sought on this basis given the slope of the site is in excess of 30% and for the following reasons:

- The proposed dwellings meet the desired future character of the locality;
- The proposed alterations and additions do not substantially add to the perceived bulk and scale of the dwelling. The dwelling remains as three storeys and is not visible from the streetscape.

- The proposal provides for the equitable preservation of views and vistas to and from public/private places;
- Privacy and amenity is maintained to surrounding residential properties;
- The vegetation on the site will be enhanced as depicted on the proposed landscape plan.

5.2.20 Landscaped Area – Environmentally Sensitive Land

The site is mapped as Area 1 on the landscape area map. Clause D12.10 requires that 60% of the total site area be landscaped area. The total site area (including the re-claimed land) is 531.3sqm. The total soft landscaped area which includes the reclaimed land is 235.95m², equating to 43.55%. The landscape area calculation without including the reclaimed land is 152.7m².

Given the steep topography of the site due to the siting of the dwelling to the cliff face and need to provide usable private outdoor space opportunities, there is limited opportunity to provide soft landscaping in between the parking platform and the dwelling.

A variation to the control is sought for the following reasons:

- The proposed landscaping regime will enable the establishment of appropriate planting within the rear and side setback areas which will provide a landscape setting to Pittwater.
- The arborist report identifies 5 trees to be removed including the existing mature eucalypt adjacent the parking platform. This mature tree is unable to be retained as its root system will be compromised due to evocation required associated with the works to the proposed dwelling. A replacement eucalypt tree is proposed in a similar position with a minimum 50L pot size. Three additional Banksia trees are also proposed in close proximity to offset the removal of this tree as identified on the proposed landscape plan.
- The site will continue to conserve and enhance native vegetation, topographical features and habitat for wildlife through the on-site planting of indigenous shrubs, medium size trees and ground covers.
- The site provides adequate open space areas on the site, with adequate dimensions to enable the establishment of low and medium lying shrubs and canopy trees of a size and density to assist and visually soften the proposed development.
- The proposed vegetation (once established) assisted with the retention of semi-mature trees, located within rear and side setbacks is appropriate in size, foliage, density and height to assist in maintaining privacy and amenity between adjoining residences.

5.2.21 Construction, Retaining Walls, Terracing and Undercroft Areas

Pursuant to Clause D12.13 the proposal includes reconfigured retaining walls to rear of the site to allow for the rear staircase addition. Part of the existing seawall (to the north of the existing steps) is also proposed to be increased in height raise height to RL 2.92 (an increase of 500mm to 900mm) to match the heights of the seawalls to the neighbouring properties.

5.2.22 Pittwater 21 Development Control Plan Compliance Table

A table demonstrating compliance with the relevant numerical provisions of the Pittwater 21 DCP 2014 is detailed as follows:

Control	Requirement	Proposed	Compliance
General Controls			
Development Type Controls			
Landscaping Clause C1.1	A minimum landscaped area of 60% of the site area shall be provided.	37.7% or 43.55% (including the reclaimed land)	No * Variation Requested
Solar Access Clause C1.4	Main private open space of the dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between	The proposed shadow diagrams prepared by Justin Long Design demonstrate compliance is achieved.	Yes

Control	Requirement	Proposed	Compliance
	9am and 3pm on June 21st. Windows to the principal living areas of the proposal and windows to the principal living area of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st to at least 50% of the glazed area.		
Private Open Space Clause C1.7	Minimum area of 80sqm of private open space per dwelling at ground level, with no dimension less than 3 metres. No more than 75% of this private open space is to be provided in the front yard	The proposed includes private open space areas in excess of 80sqm is achieved.	Yes
Palm Beach Locality Specific Development Controls			
Front Building Line D12.5	Development is to maintain a front building line of 6.5 metres or the established building line, whichever is greater.	A front building line of approximately 8 metres is proposed. The dwelling is not visible from the streetscape.	Yes
Side and Rear Building Line D12.6	Development is to maintain a minimum side building line of 2.5 metres to one side and 1 metre to the other side.	The existing northern side boundary setback is retained. The setback to the southern side boundary is 2.75m to the new external	Existing northern side setbacks retained. Yes

Control	Requirement	Proposed	Compliance
	Foreshore Building Line Applies.	staircase. The proposal is compliant with the foreshore building line.	Yes
Building Envelope D12.8	Projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries to the maximum building height.	Variation required due to the slope of the land (in excess of 30%).	No (Variation required)
Landscaped Area – Environmentally Sensitive Land D12.10	Total Landscaped Area is 60% of the total site area.	37.7% or 4.55% (including reclaimed land)	No (Variation Required)

5.3 State Environmental Planning Policy No.71 – Coastal Protection

State Environmental Planning Policy No. 71 Coastal Protection applies to land identified as being within the coastal zone as indicated on the map. The subject site is identified as being located within the coastal zone. As such the matters for consideration set out in Clause 8 of the policy are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies.

Pursuant to Clause 8 of the State Policy the matters for consideration are as follows:

(a) the aims of this Policy set out in clause 2; being,

(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and

Comment: The proposed development provides for alterations and additions to an existing three storey established dwelling consistent with the aims and intentions of Pittwater LEP and DCP 21. To that extent the fundamentals of the location provide simply for alterations and additions to an existing dwelling. The scale and form of the existing dwelling as a result of the proposed alterations and additions is not antipathetic to the locality given the presence of dwellings of a similar height and scale on neighbouring lots.

The application addresses itself to the particular environmental sensitivities of the site by reference to the details of the application in particular to the foreshore building alignment, preservation and augmentation of tree species on the sites. The details of the application address the drainage, siltation and other impacts potentially arising as a consequence of the landuse and development as proposed. These impacts are considered to be manageable and within the scope of the expected outcomes.

(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and

Comment: Foreshore access is currently unavailable across the frontage of this and the adjoining sites and there is no provision for future public access.

(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and

Comment: There are no opportunities for improving foreshore access in association with the proposed works.

(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and

Comment: Not applicable.

(e) to ensure that the visual amenity of the coast is protected, and

Comment: The site is visible from Pittwater. The dwelling has been designed to sit within its natural bushland, coastal setting. The visual impact arising from the proposed dwellings is not significant.

(f) to protect and preserve beach environments and beach amenity, and

Comment: Not applicable.

(g) to protect and preserve native coastal vegetation, and

Comment: The application addresses itself to the preservation and protection of established vegetation on the site. An arborists report is included in the application documentation detailing the proposed trees for removal and protection.

(h) to protect and preserve the marine environment of New South Wales, and

Comment: The proposal will not impact on the marine environment. During construction access appropriate protection measures put in place to control sedimentation arising from the construction process.

(i) to protect and preserve rock platforms, and

Comment: Not applicable.

(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and

Comment: The proposed works do not offend the principles of ecological sustainability. The development addresses itself to implications and standards associated with energy conservation in terms of its BASIX certification. The consequence of the development in terms of the material to be used in construction and the use of the land as proposed is not considered significant in terms of its future implications or consequences.

(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and

Comment: The development provides for two dwellings within the guidelines of the Council's Pittwater LEP and DCP 21. The prominence of this site and the size and scale as a result of the proposed alterations and additions is consistent with the scale of development in the vicinity of the site generally.

(l) to encourage a strategic approach to coastal management.

Comment: The proposal complies with the intent of the built form outcomes and controls contained within the applicable planning instruments, notably the applicable Pittwater LEP and Pittwater 21 DCP.

(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,

Comment: Existing public foreshore access is not available and the opportunity to provide for such an outcome is limited in the context of opportunities for public access to be facilitated and linked.

(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,

Comment: There are no opportunities to provide public pedestrian or disabled access along the foreshore.

(d) the suitability of development given its type, location and design and its relationship with the surrounding area,

Comment: The development maintains the scale, form and rhythm of development established both within the sites visual catchment and within the locality generally.

(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,

Comment: The proposed development does not result in shading impacts to the Pittwater foreshore.

(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,

Comment: The scenic quality of the foreshore is not compromised as a consequence of the works proposed.

(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,

Comment: There are no threatened species on the site.

(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats

Comment: Not applicable.

(i) existing wildlife corridors and the impact of development on these corridors,

Comment: See prior comments on landscape species selection and revegetation of the site.

(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,

Comment: Part of the existing sea wall is to be increased in height to match the height of the neighbouring sea walls. The dwelling is located above the estuarine Planning Level.

(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,

Comment: The physical works on the site do not materially alter the established relationship.

(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,

Comment: Not applicable.

(m) likely impacts of development on the water quality of coastal waterbodies,

Comment: Erosion and sediment control devices will be installed and maintained in accordance with the provisions of the Protection of the Environment Operations Act 1997.

(n) the conservation and preservation of items of heritage, archaeological or historic significance,

Comment: Not applicable.

(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,

Comment: Not applicable.

(p) only in cases in which a development application in relation to proposed development is determined:

(i) the cumulative impacts of the proposed development on the environment, and

Comment: Not applicable.

(ii) measures to ensure that water and energy usage by the proposed development is efficient.

Comment: Not applicable.

5.4 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the residential component of the development and aims to encourage sustainable residential development.

A BASIX certificate accompanies the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

5.5 Matters for Consideration Pursuant to Section 79c(1) of the Environmental Planning and Assessment Act 1979 as amended

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended). Guidelines (in *italic*) to help identify the issues to be considered have been prepared by the Department of Planning and Environment. The relevant issues are:

(i) The provision of any environmental planning instrument

The proposal is permissible and generally in conformity with the General, Development Type and Locality Specific Controls contained within Pittwater 21 Development Control Plan.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 79C of the Environmental Planning and Assessment Act, 1979. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent

(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

N/A

(iii) Any development control plan

Pittwater DCP applies

(iiia) Any Planning Agreement that has been entered into under Section 7.4 or any draft planning agreement that a developer has offered to enter into under Section 7.4, and

N/A

(iv) The Regulations (to the extent that they prescribe matters for the purposes of this paragraph), and

N/A

(v) Any Coastal Zone Management Plan (within the meaning of the Coastal Protection Act 1979)

N/A

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality,

Context and Setting

i. What is the relationship to the region and local context in terms of:

- *The scenic qualities and features of the landscape*
- *The character and amenity of the locality and streetscape*
- *The scale, bulk, height, mass, form, character, density and design of development in the locality*
- *The previous and existing land uses and activities in the locality*

The proposed alterations and additions to the existing dwelling are entirely commensurate with that established by adjoining development and development within the sites visual catchment with no adverse residential amenity impacts in terms of views, privacy or overshadowing.

ii. What are the potential impacts on adjacent properties in terms of:

- *Relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)*
- *visual and acoustic privacy*
- *views and vistas*
- *edge conditions such as boundary treatments and fencing*

These issues have been discussed in detail in the body of this report. The works have been designed such that the potential impacts are minimal and within the scope of the built form controls.

Access, transport and traffic:

Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:

- *Travel Demand*
- *dependency on motor vehicles*
- *traffic generation and the capacity of the local and arterial road network*
- *public transport availability and use (including freight rail where relevant)*
- *conflicts within and between transport modes*
- *Traffic management schemes*
- *Vehicular parking spaces*

Adequate vehicular access and parking arrangements are provided to each dwelling.

Public Domain

The proposed development will contribute positively to the public domain, as viewed from Pittwater. The dwelling is not visible from the street.

Utilities

Existing utility services will continue to service the dwelling.

Flora and Fauna

The application is accompanied by an arborist report.

Waste Collection

Normal domestic waste collection will continue to apply.

Natural hazards

The site is identified as being subject to tidal inundation and landslip geotechnical hazard area. These matters have been addressed in this report.

Economic Impact in the locality

The proposed development will not have any significant impact on economic factors within the area notwithstanding that it will generate additional employment opportunities through the construction period with respect to the proposed works.

Site Design and Internal Design

i) *Is the development design sensitive to environmental considerations and site attributes including:*

- *size, shape and design of allotments*
- *The proportion of site covered by buildings*
- *the position of buildings*
- *the size (bulk, height, mass), form, appearance and design of buildings*
- *the amount, location, design, use and management of private and communal open space*
- *Landscaping*

The impact of the proposal with respect to design and site planning is positive. The potential impacts are considered to be minimal and within the scope of the general principles, desired future character and built form controls.

ii) *How would the development affect the health and safety of the occupants in terms of:*

- *lighting, ventilation and insulation*
- *building fire risk – prevention and suppression*
- *building materials and finishes*
- *a common wall structure and design*
- *access and facilities for the disabled*
- *likely compliance with the Building Code of Australia*

The proposed development will comply with the provisions of the Building Code of Australia as required by Clause 98 of the Environmental Planning and Assessment Regulation 2000. There will be no detrimental effects on the occupants through the building design which will achieve the relevant standards pertaining to health and safety.

Construction

i) *What would be the impacts of construction activities in terms of:*

- *The environmental planning issues listed above*
- *Site safety*

The development will be carried out in accordance with the provisions of the Protection of the Environment Operations Act 1997. Normal site safety measures and procedures will ensure that no site safety or environmental impacts will arise during construction.

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

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development prohibitive*
- *Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*
- *Are utilities and services available to the site adequate for the development*
- *Are the site attributes conducive to development*

The site is located in an established residential area. The adjacent development does not impose any unusual or impossible development constraints. The proposed development will not cause excessive or unmanageable levels of transport demand.

(d) *Any submissions received in accordance with this act or regulations*

It is envisaged that Council will appropriately consider any submissions received during the notification period.

(e) *The public interest*

The architect has responded to the client brief to provide for alterations and additions to the existing dwelling which appropriately addresses the sites coastal setting whilst maintaining the amenity of the nearby residential properties. The development will provide a quality built form outcome on the site.

It is considered that the public interest is best served in providing certainty in the planning process through encouraging development of good design that satisfies the outcomes and controls contained within the adopted legislative framework. Accordingly, approval of the development would be in the public interest.

6 Conclusion

The proposal is permissible and in conformity with the intent of the development standards contained within Pittwater Local Environmental Plan 2014 as they reasonably relate to this form of development on this particular site and the built form guidelines contained within Pittwater Development Control Plan 2014, given the constraints imposed by the site's steep topography.

Favourable consideration is sought with respect to a variation pursuant to Clause 4.6 of the LEP with regards to the building height. The proposal maintains a three storey built form appearance to Pittwater, on this basis strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the attainment of an appropriate contextual fit and general paucity of residential amenity impacts. Existing use rights are applicable to the reclaimed lands under the Act.

It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The application has considered and satisfies the various relevant planning controls applicable to the site and the proposed development.
- The proposed alterations and additions are compatible with the desired future character of the locality.
- The proposed alterations and additions will have a satisfactory impact on the environmental quality of the land and the amenity of surrounding properties.
- The site is assessed as suitable for the proposal, having regard to the relevant land use and planning requirements.

Having given due consideration to the matters pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended, it is considered that there are no matters which would prevent Council from granting consent to this proposal in this instance.

ANNEXURE A:

1998 APPROVED STAMPED PLANS

