

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2022/1732 |
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| Responsible Officer: | Kimberley Kavwenje (Consultant Planner) |
| Land to be developed (Address): | 1015 Barrenjoey Road, Palm Beach |
| Proposed Development: | Alterations and additions to a dwelling house |
| Zoning: | C4 Environmental Living |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | John David Boyd |
| Applicant: | John David Boyd |

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| Application Lodged: | 20/10/2022 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential – Alterations and additions |
| Notified: | 27/10/2022 to 10/11/2022 |
| Advertised: | Not advertised |
| Submissions Received: | Five (5) |
| Clause 4.6 Variation: | No |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$951,500 |
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EXECUTIVE SUMMARY

Development Application (DA2022/1732) is for alterations and additions to the existing dwelling on land at 1015 Barrenjoey Road, Palm Beach (Lot 54 in DP 14682). The site is zoned C4 Environmental Living under *Pittwater Local Environmental Plan 2014* (PLEP 2014) and the proposed development is permissible with consent.

The DA was notified for a period of 14 days in accordance with Council's Community Participation Plan and five (5) submissions were received during that time. The application is referred to the Northern Beaches Development Determination Panel (DDP) due to the number of submissions received.

The DA has been assessed against the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979), *Environmental Planning and Assessment Regulation 2021* (EP & A Regulations 2021), relevant environmental planning instruments (EPIs) and Council policies.

The application was amended to delete the proposed swimming pool and siting of the proposed additions at the front of the site, due to issues being identified with the proposed swimming pool being inconsistent with the character of the surrounding area and works within the front setback having an adverse impact.

As a result of the amendments undertaken, the development is suitable for the site and does not result in any significant adverse impacts. The development has been considered in accordance with Section 4.15 and it is recommended the application be approved subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

Development consent is sought for alterations and additions to the existing dwelling including a swimming pool on land at 1015 Barrenjoey Road, Palm Beach. The proposed works include:

- First Floor RL5.065 additions comprising rumpus room, two (2) guest bedrooms and bathroom (**Figure 1**).
- Addition of swimming pool, decking and associated landscaping works at the rear of the site

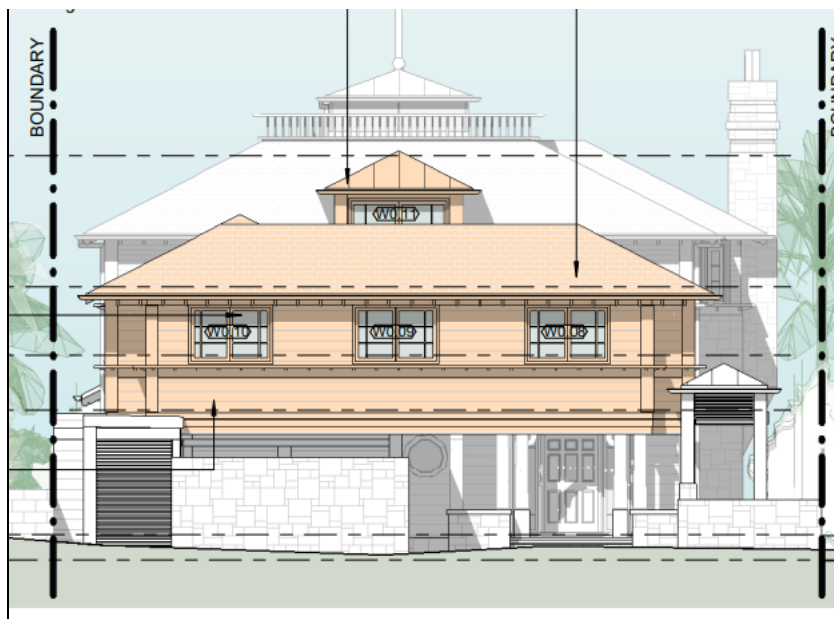


Figure 1 North-eastern elevation

Amended plans 31 January 2023

- Deletion of the proposed swimming pool and associated works in rear
- Increase in front setback by additional 2800mm
- Increase in northern building line of proposed rumpus room over existing driveway
- Amendment to roof to lower by 200mm
- Increase landscaped area with additional planting within front setback
- Modification to the first floor additions comprising one (1) guest bedroom, a bathroom and an open floor dining & living area.

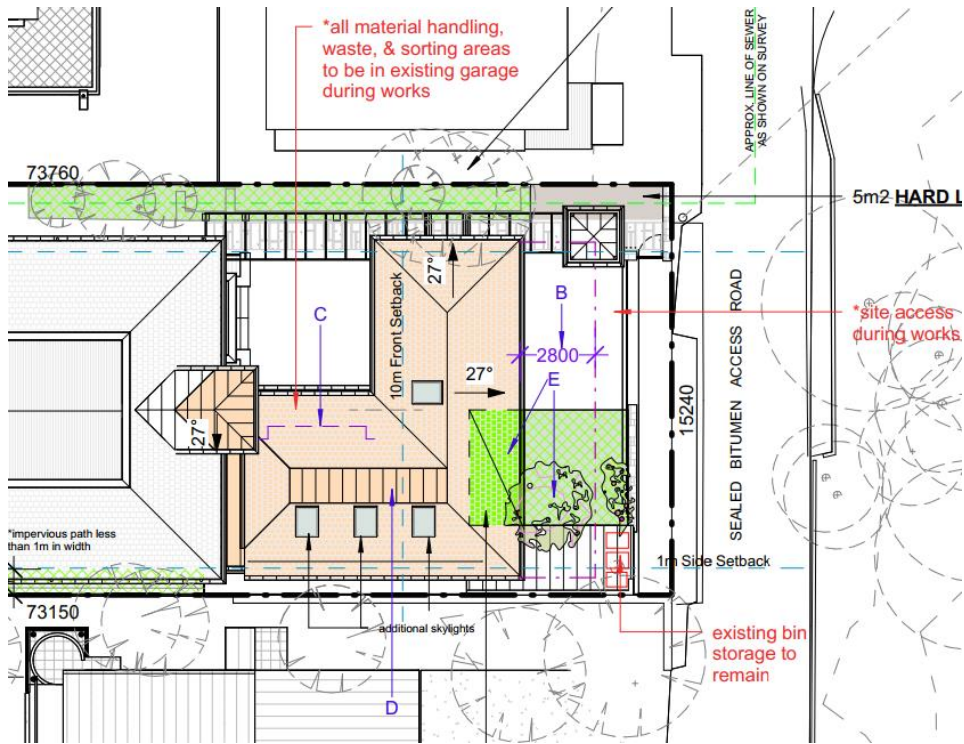


Figure 2 Extract of Amended Site Plan showing proposed first floor additions

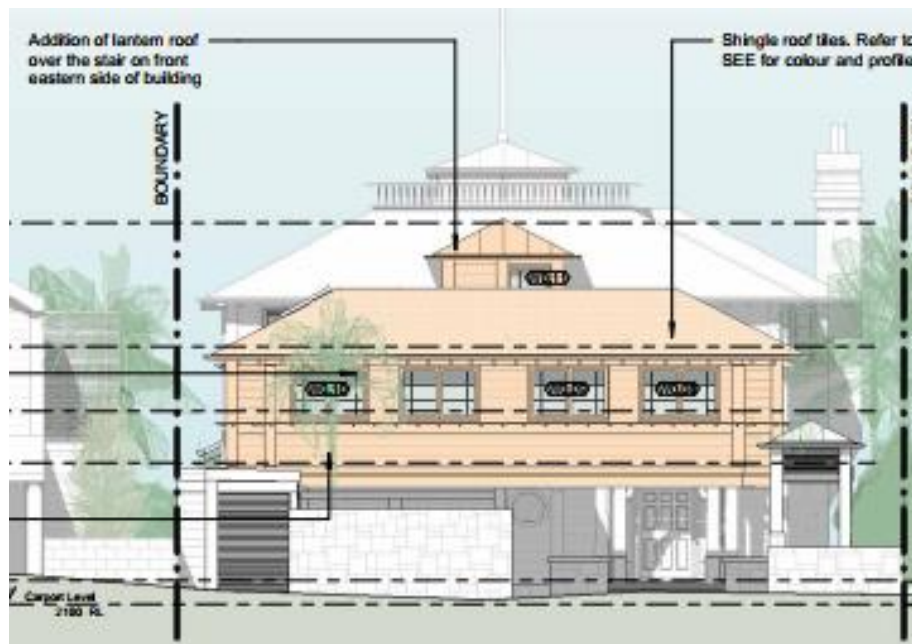


Figure 3 Amended front elevation illustrating proposed first floor additions

The amendments undertaken have reduced the environmental impact upon adjoining properties and public open space compared to the original proposal. The application was therefore not required to be renotified in accordance with the Northern Beaches Community Participation Plan.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

The Application as lodged proposed construction of a swimming pool. As a result of concerns raised by Council, the Application was amended to delete the proposed swimming pool and amend the design of the works and increasing the front setback. The assessment issues are summarised below:

- Pittwater 21 Development Controls Plan – C1.1 Landscaping
- Pittwater 21 Development Controls Plan – D12.5 Front Building Line
- Pittwater 21 Development Controls Plan – D12.8 Building Envelope
- Pittwater 21 Development Controls Plan – D12.10 Landscaped area – Environmentally Sensitive Land

SITE DESCRIPTION

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| Property Description: | Lot 54 DP 14682 1015 Barrenjoey Road, Palm Beach |
| Detailed Site Description: | <p>The site is 1015 Barrenjoey Road, Palm Beach (Lot 54 Deposited Plan 14682). The site is rectangular in shape and has a surveyed area of 1119m² with a frontage of 15.24 metres to Barrenjoey Road and a depth of 73.15 metres along the south eastern side boundary and 73.76 metres along the north western side boundary. The south western boundary is the mean high water mark and presents to Sandy Beach and Pittwater foreshore.</p> <p>The site is located on the south-western side of Barrenjoey Road, between the road and Pittwater foreshore, at the southern end of Sandy Beach.</p> <p>The site typically slopes gently in a south-westerly direction from the road to the beach, with surface levels falling from approximately RL 2.0 to about RL 1.5 AHD</p> <p>The site does not have a direct frontage to Barrenjoey Road and is located below the road level, separated by a road</p> |

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| | <p>reserve with access to the site provided via a private road which runs parallel to Barrenjoey Road.</p> <p>The site presently accommodates a two-storey dwelling, with vehicular access from the private road to a three (3) car garage which presents to the north western side boundary. The dwelling contains rear decking accessed from the ground floor. There is a detached outdoor beach pavilion with shower room and WC and bbq facilities at the rear of the site. Site works also include retaining walls and paving.</p> <p>The site is located within the C4 Environmental Living zone pursuant to PLEP 2014. The site is mapped as being bush fire affected, subject to acid sulfate soils and flooding.</p> <p>The site contains existing vegetation along the side boundaries.</p> |
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Figure 4 Aerial photograph of site

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by single dwellings to the north west, south east and on the opposite side of Barrenjoey Road to the north east. The land to the south west is a grassed area adjoining Sandy Beach which runs parallel to the foreshore and Pittwater waterway.

The surrounding built form of adjoining properties consists of a three-storey sandstone and rendered unit block of three and a two-storey cottage to the north west and a two storey rendered residence to the south east. A timber jetty exists to the west servicing the residents at 1-3 Snapperman Lane.

SITE HISTORY

A search of Council's records has revealed the following relevant history:

- **Development Application N0209/08** for demolition of existing single storey cottage and construction of a new two storey rendered masonry and timber dwelling including basement level carparking and associated landscaping was approved on 29 August 2008.
- **Development Application N0678/10** for demolition of existing single storey cottage and construction of a new two storey masonry and timber dwelling with a small basement, detached outdoor beach pavilion with a storage basement and associated landscaping was approved on 23 February 2011.

This consent was amended under modification application **N0678/10/S96/1** by extending the building footprint of the dwelling by 2.5m, internal alterations and modifications to windows which was approved on 9 September 2013.

The dwelling on site was constructed under this approval.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

| Section 4.15 'Matters for Consideration' | Comments |
|--|---|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “Environmental Planning Instruments” in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | There are no current draft environmental planning instruments. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Pittwater Development Control Plan 2021 applies to this proposal. |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the regulations | <p><u>Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29(1)</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 104</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested 16 December 2022. The contents of the correspondence included:</p> <ul style="list-style-type: none"> - Clarification of the structure within the north-east corner is an unauthorised structure. - Raising concerns with the: <ul style="list-style-type: none"> o front setback proposed; |

| Section 4.15 'Matters for Consideration' | Comments |
|--|---|
| | <ul style="list-style-type: none"> ○ removal of landscaping that is necessary to accommodate the additions; ○ Exceedance of the building envelope; ○ Proposed swimming pool due the visual impact when viewed from the foreshore. <p><u>Clause 61 (1)</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69 (2)</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the <i>Home Building Act 1989</i>. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report. |
| Section 4.15 (1) (e) – the public interest | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is mapped as Category 1 Bushfire Vegetation, being bushfire prone land (**Figure 5**). In accordance with the provisions of Section 4.14 of the Environmental Planning and Assessment Act 1979, Council has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment. The application has been supported by a Bushfire Risk Assessment and Certificate issued by Bushfire Planning Services that states the development conforms to relevant specifications and requirements. As such, the proposal did not require a referral to the Rural Fire Service.

The proposed seeks consent for alterations and additions to the existing dwelling. The report identifies a BAL-12.5 and that the development does not rely upon alternative solutions. The development is consistent with the Planning for Bushfire Protection 2019.

Council has considered the measures to be taken with respect to the protection of persons, property and the environment from danger that may arise from a bush fire. Appropriate conditions that adopt the recommendations of the Bush Fire Risk Assessment Report and Certificate have been applied.



Figure 5 Northern Beaches Bush Fire Prone Land Map 2020

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 27/10/2022 to 10/11/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Northern Beaches Community Participation Plan.

As a result of the public exhibition of the application Council is in receipt of five (5) submissions.

| Name: | Address: |
|-------------------|--------------------------------------|
| Mr Terry McDowell | 102 Pacific Road PALM BEACH NSW 2108 |
| Withheld | NSW |
| Withheld | PALM BEACH NSW 2108 |
| Withheld | SYDNEY NSW 2000 |
| Withheld | PALM BEACH NSW 2108 |

It is noted that issues raised within the submissions were specifically associated with the proposed pool located to rear of the existing dwelling. The amended proposal deleted the swimming pool. The proposed works are now limited to the first-floor additions towards the northern side of the dwelling house.

Notwithstanding the above, the following issues were raised in the submissions:

- **Inadequate notification and the area should be extended**
- **Loss of privacy amenity (visual and acoustic)**
- **Visual Impact**
- **Inconsistency with foreshore character**
- **Undesirable precedent**
- **Non compliant landscaped area**
- **Suitability of the site**
- **Potential view loss**

The above issues are addressed as follows:

- **Inadequate notification and the notification area should be extended**

Comment: The application was notified in accordance with the Northern Beaches Community Participation Plan. Under this Plan, the application was notified for 14 days between 27 October 2022 and 10 November 2022. The notification area aligned with the requirements of the Community Participation Plan.

The amended plans were not required to be notified as it is the opinion of Council, that the changes undertaken which included the deletion of the swimming pool and reduction in the size of the additions resulted in a lesser or reduced environmental impact.

- **Loss of privacy amenity (visual and acoustic)**

Comment: The concerns relating to the loss of privacy were related to the proposed swimming pool. The submissions did not raise concern regarding the first-floor additions. The swimming pool has been deleted and consent is no longer sought for a swimming pool.

The amended plans have deleted the balcony within the north western elevation. The proposal has reduced the number of openings to two (2) being W0.03 and W0.04 (**Figure 6**). The windows are setback 8.285 metres from the boundary and do not result in any adverse privacy impacts to the adjoining property at 1017 Barrenjoey Road. The windows W0.02 and W0.12 are associated with a hallway with floor level RL5.065 AHD (sight line RL6.565 AHD) with the openings within 1017 Barrenjoey Road openings having a lintel height RL5.83 AHD at ground floor. The first-floor openings have a sill height RL7.89 AHD and lintel height RL8.66 AHD. Due to the relative levels, the openings do not result in any adverse privacy impact.

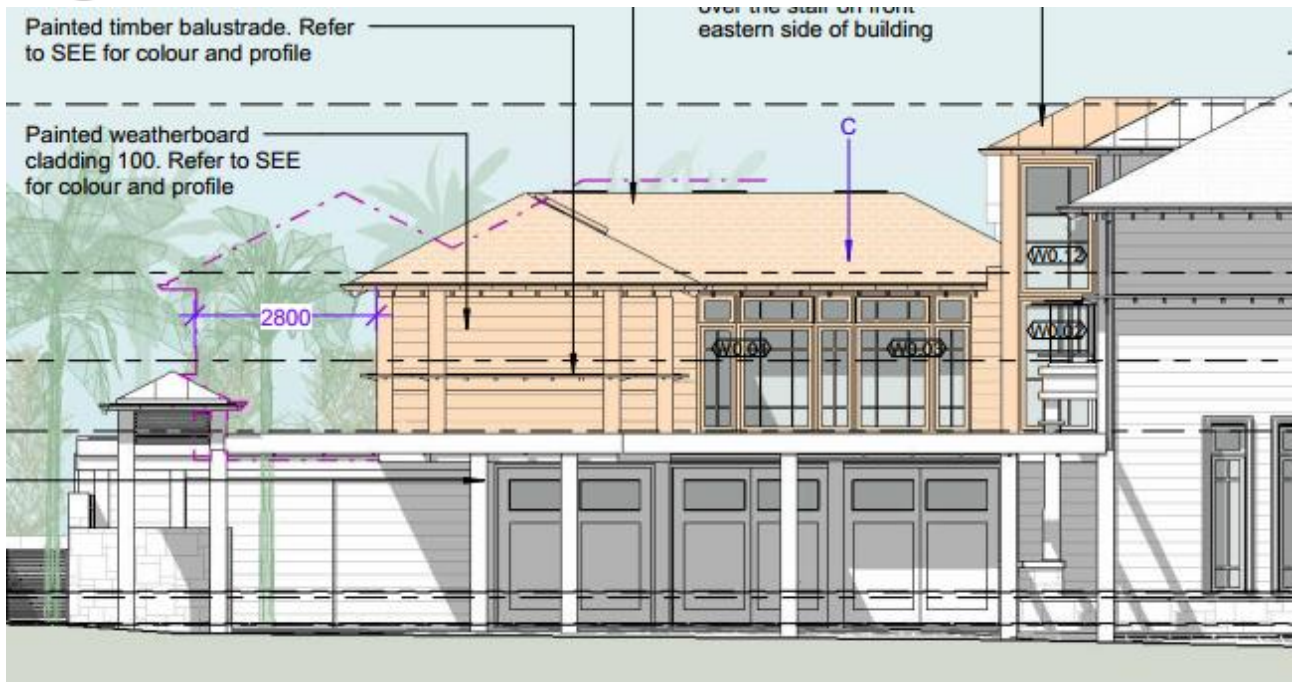


Figure 6 Extract of North-western elevation

The proposal includes windows within the south western elevation associated with Bedroom 2 (shown in **Figure 7**) The windows are associated with a bedroom with a calculated sill height of RL6.0 AHD. The proposed openings are orientated internally within the site and do not directly align with openings within the adjoining dwelling. The proposal does not result in any adverse privacy impact to the adjoining property.

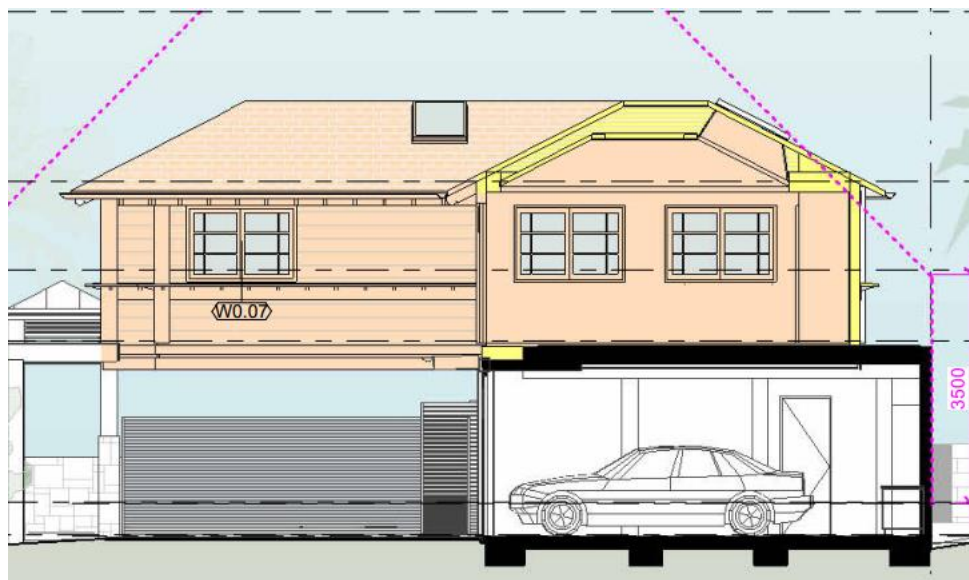


Figure 7 Extract of internal south-western elevation

The proposal is not considered to generate any additional noise than expected in a low-density residential area.

- **Visual Impact**

Comment: The concerns regarding visual impact were associated with the proposed pool. Development consent is no longer sought for the swimming pool. The proposed additions to the dwelling are not considered to result in any significant adverse visual impacts. A detailed assessment of the built form and scale is provided within the PLEP and P21 DCP discussion of this report.

- **Inconsistency with foreshore character**

Comment: No building works are proposed within the Foreshore Building Line as the swimming pool has been deleted from the application. The proposed additions are sited behind the Foreshore Building Line and will not be readily discernible from foreshore area as the works are sited below the existing ridge height of the dwelling. As such, the character from the foreshore is unchanged.

- **Undesirable precedent**

Comment: There was concern that the proposed swimming pool would set a precedent for properties adjoining the foreshore to construct a similar pool. The provision of a swimming pool would be inconsistent with the surrounding character which does not include provision of swimming pools within the foreshore area. The swimming pool has been deleted from the application.

- **Non-Compliant Landscape Area**

Comment: The development includes a non-compliance with the minimum 60% of the front setback landscaped area required to be provided within the front of buildings as described in Part C1.1. The control requires a landscape area of 41.64m². The landscaped area proposed within the front of the dwelling is 19.14m², resulting in 45.9% of the front of buildings (between the front boundary and any built structures) being landscape area and is non-compliant.

The Control within Part D12.10 requires that 60% of the site area is to be landscaped area, however the development proposes a landscaped area of 41.7% (47.7% including hard landscaping).

The amended plans submitted show that the swimming pool within the rear yard has been deleted and the proposed works are limited to the first-floor additions towards the northern side of the dwelling. These additions are to be cantilevered over the landscaped area within the front setback and results in a minor reduction of 8m² of landscaped area. This is not considered to be unreasonable, given the site accommodates 534m² of landscaped area.

Despite the non-compliance with Part C1.1 and Part D12.10, it is considered that the minor reduction is an acceptable outcome on the basis there is sufficient space within the front setback for the planting of a canopy tree (as shown on the landscape plan). Furthermore, the conditions towards the rear of the dwelling will remain unchanged, therefore maintaining the existing landscaping treatment that is visible from Sandy Beach foreshore and Pittwater waterway.

- **Suitability of Site**

Comment: The swimming pool would be unsuitable within the foreshore area and has subsequently been deleted. The proposed alterations and additions to the dwelling are considered to be suitable for the site.

- **Potential view loss**

Comment: The Development Application received five (5) unique submissions from adjoining properties relating to a loss of views. The rear south western aspect of the subject site and neighbouring properties have uninterrupted views to the waterway. The concerns were associated with the proposed pool within the rear setback. The Application has been amended to delete the swimming pool, fill and associated landscaping,

The proposed first floor addition is located towards the front north eastern boundary of the site. The proposed additions therefore do not interfere with view corridors to the waterway. The proposed additions are also sited below the existing ridge height, complies with the height development standard and does not result in any adverse interruption of views available from the high side of Barrenjoey Road or adjoining properties.

The proposal has been considered in accordance with the controls of C1.3 View Sharing and does not result in any significant or adverse impacts upon view corridors.

REFERRALS

| Internal Referral Body | Comments |
|--|--|
| Natural Environment Referral – Coastal Response | Supported, without Conditions Natural Environment Referral has no objection with this DA. It has been supported without conditions. |
| Heritage Referral Response - Aboriginal Heritage Officer | Supported, subject to Conditions The Heritage Referral has no objection to the DA, subject to one condition of consent relating to a precautionary condition in the event aboriginal objects are found during construction. |
| Water Management Officers | Supported, subject to Conditions No objections subject to recommended conditions. |
| Environmental Health Referral – Acid Sulfate Soils | Supported, subject to Conditions The subject site is classified as class 3 acid sulphate soils in accordance with the Pittwater Local Environmental Plan 2014. Preliminary testing has revealed the potential presence of Acid Sulfate Soils and accordingly, an Acid Sulphate Soils Management Plan has been supplied with the proposal documentation. Environmental Health supports the proposal and recommends the inclusion of appropriate conditions of consent to manage acid sulphate soils. |

| External Referral Body | Comments |
|------------------------|---|
| Ausgrid | Supported, without conditions Ausgrid does not have any objections for the proposed development. The applicant is to note development requirements near existing electrical assets. |

Coastal Management Act 2016

The site is mapped as being within Coastal Environment Area Map (**Figure 8**) and Coastal Use Area Map (**Figure 9**) and subject to the provisions of SEPP (Resilience and Hazards) 2021. As such, the proposal is subject to consideration of the Coastal Management Act 2016 (**CM Act**), and is identified as being within the following areas:

- Coastal environment area

Clause 8 of the CM Act identifies the **coastal environment area** means the land identified by a State environmental planning policy to be the coastal environment area for the purposes of this Act, being

land containing coastal features such as the coastal waters of the State, estuaries, coastal lakes, coastal lagoons and land adjoining those features, including headlands and rock platforms.



Figure 8 Coastal Environment Area Map - SEPP (Resilience and Hazards) 2021

- Coastal use area

Clause 9 of the CM Act identifies The **coastal use area** means the land identified by a State environmental planning policy to be the coastal use area for the purposes of this Act, being land adjacent to coastal waters, estuaries, coastal lakes and lagoons where development is or may be carried out (at present or in the future).



Figure 9 Coastal Use Area Map - SEPP (Resilience and Hazards) 2021

The aim of this policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the CM Act. The objects of the CM Act are as follows:

The objects of this Act are to manage the coastal environment of New South Wales in a manner consistent with the principles of ecologically sustainable development for the social, cultural and economic well-being of the people of the State, and in particular—

- (a) *to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience,*

Comment: The proposed dwelling alterations and additions do not change the existing land use; therefore, it is unlikely that the development would result in any pollutants entering the waterway other than what would ordinarily be expected in a residential area. The proposal is unlikely to result in any significant impacts upon the natural character, scenic value, biological diversity or ecosystem integrity and resilience.

- (b) *to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety,*

Comment: The proposal would not impact upon the social or cultural values of the coastal zone. The proposal is contained within the boundaries of the residential allotment and would not impact upon public access to the foreshore or the waterway.

- (c) *to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone,*

Comment: The proposal is not expected to result in any significant impacts upon the Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone. The site is not identified as being a place of significance or containing any items of significance.

- (d) *to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies,*

Comment: The proposed dwellings' alterations and additions is considered to not significantly impact upon the economic importance or vitality of the coastal zone.

- (e) *to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*

Comment: The proposal is considered to be consistent with the principles of ecologically sustainable development given the concerns held regarding the BASIX Certificate, tree impacts and stormwater management.

- (f) *to mitigate current and future risks from coastal hazards, taking into account the effects of climate change,*

Comment: The proposal is not inconsistent with this objective.

- (g) *to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and*

Comment: The local and regional effects of coastal processes are recognised. The subject site does have direct frontage to the waterway, however works are confined to the northern portion of the existing dwelling house. Hence, the development does not include any earthworks or other development along the foreshore. It is unlikely to have any impact upon coastal processes, and the development would not result in the site being any more susceptible to coastal hazards.

(h) *to promote integrated and co-ordinated coastal planning, management and reporting,*

Comment: The assessment considers the relevant coastal planning legislation. The object is satisfied in this regard.

(i) *to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events,*

Comment: The object is satisfied.

(j) *to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities,*

Comment: The application is subject to the consideration of the Coastal Management Act 2016 and the Environmental Planning and Assessment Act 1979. The relevant legislation has been considered in this report. The object is satisfied in this regard.

(k) *to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions,*

Comment: The application was notified in accordance with the Regulations and the Northern Beaches Council Community Participation Plan. There were five (5) objections received that were concerned with the swimming pool location. The pool has since been deleted from the plans.

(l) *to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone,*

Comment: The proposal would likely not prevent any future acquisition.

(m) *to support the objects of the Marine Estate Management Act 2014.*

Comment: The object of the Marine Estate Management Act 2014 are as follows:

- (a) *to provide for the management of the marine estate of New South Wales consistent with the principles of ecologically sustainable development in a manner that—*
 - (i) *promotes a biologically diverse, healthy and productive marine estate, and*
 - (ii) *facilitates—*
 - *economic opportunities for the people of New South Wales, including opportunities for regional communities, and*
 - *the cultural, social and recreational use of the marine estate, and*
 - *the maintenance of ecosystem integrity, and*
 - *the use of the marine estate for scientific research and education,*
- (b) *to promote the co-ordination of the exercise, by public authorities, of functions in relation to the marine estate,*

- (c) *to provide for the declaration and management of a comprehensive system of marine parks and aquatic reserves.*

Comment: The proposal is not inconsistent with the objects of the Marine Estate Management Act 2014.

Given the site is located in the coastal environment area and the coastal use area, the objectives of the relevant clauses have been considered below:

Clause 8 Coastal Environment Area

The management objectives for the coastal environment area are as follows:

- (a) *to protect and enhance the coastal environmental values and natural processes of coastal waters, estuaries, coastal lakes and coastal lagoons, and enhance natural character, scenic value, biological diversity and ecosystem integrity,*

Comment: The proposed dwelling alterations and additions do not change the existing land use, therefore it is unlikely that the development would result in any pollutants entering the waterway other than what would ordinarily be expected in a residential area. The proposal is unlikely to result in any significant impacts upon the coastal environment, scenic value, biological diversity or ecosystem integrity.

- (b) *to reduce threats to and improve the resilience of coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change*

Comment: The proposal would not pose any significant threats upon the waterway, nor would it affect the opportunities to respond to climate change.

- (c) *to maintain and improve water quality and estuary health*

Comment: The proposal does not alter the existing use of the site and the use of the dwelling house would be unlikely to result in any significant impacts upon water quality.

- (d) *to support the social and cultural values of coastal waters, estuaries, coastal lakes and coastal lagoons*

Comment: The proposal would not impact upon the social or cultural values of the coastal environment area. The proposal is contained within the boundaries of the residential allotment and would not impact upon public access to the foreshore or the waterway.

- (e) *to maintain the presence of beaches, dunes and the natural features of foreshores, taking into account the beach system operating at the relevant place*

Comment: The proposed works are located entirely within the site, approximately 42 metres from the foreshore. The proposal would not impact upon the natural features of the foreshore.

- (f) *to maintain and, where practicable, improve public access, amenity and use of beaches, foreshores, headlands and rock platforms.*

Comment: The proposal is contained within the boundaries of the subject site and would not impact upon public foreshore access. It is not practicable to improve public access for the subject application for additions to a private residential dwelling.

Clause 9 Coastal Use Area

(2) *The management objectives for the coastal use area are as follows:*

(a) *to protect and enhance the scenic, social and cultural values of the coast by ensuring that:*

(i) *the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast*

Comment: The dwelling does not exceed the maximum height and number of storeys prescribed by PLEP 2014 and P21 DCP.

(ii) *adverse impacts of development on cultural and built environment heritage are avoided or mitigated*

Comment: The proposal does not result in an unacceptable impact upon any local heritage items.

(iii) *urban design, including water sensitive urban design, is supported and incorporated into development activities*

Comment: The design of the dwelling is not inconsistent with urban design principles.

(iv) *adequate public open space is provided, including for recreational activities and associated infrastructure*

Comment: The proposal does not impact upon any public spaces.

(v) *the use of the surf zone is considered*

Comment: The proposal does not impact upon the surf zone.

(b) *to accommodate both urbanised and natural stretches of coastline.*

Comment: The site is located within an urbanised area of the coastline. The proposal would not impact upon any natural stretches of coastline.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this DA.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS)

State Environmental Planning Policy (Resilience and Hazards) 2021 (RH SEPP)

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

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

Comment: The development is proposed at the first-floor level towards Barrenjoey Road; therefore, it will not adversely compromise the values listed in Section 2.10(1).

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

Comment: The proposed development has been sited to mitigate any unreasonable or adverse impact to the Sandy Beach Foreshore and Pittwater waterway.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
 - a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - i. *existing, safe access to and along the foreshore, beach, headland or rock*
 - ii. *platform for members of the public, including persons with a disability,*
 - iii. *overshadowing, wind funnelling and the loss of views from public places to foreshores,*

- iv. *the visual amenity and scenic qualities of the coast, including coastal headlands,*
- v. *Aboriginal cultural heritage, practices and places, and*
- vi. *cultural and built environment heritage,*

b) *is satisfied that:*

- i. *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - ii. *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - iii. *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment: The development is proposed at the first-floor level towards Barrenjoey Road; therefore, it will not adversely impact the visual amenity nor alter existing, safe access to the Sandy Beach foreshore.

Division 5 General

2.12 Development in coastal zone generally - development not to increase risk of coastal hazards

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

Comment: The proposal involves works at first floor level and will not likely cause increased risk of coastal hazards on the subject site or adjoining land.

2.13 Development in coastal zone generally - coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment: There is no coastal management program. As such, it is considered that the application is consistent with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP)

Chapter 2 Vegetation in non-rural areas

The proposal has been assessed against the BC SEPP and determined that it satisfies the relevant requirements. The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation. The proposed development does not seek to remove any trees from the site. The proposal will not result in any adverse impact to the natural environment subject to the recommended conditions of consent.

State Environmental Planning Policy (Transport and Infrastructure) 2021 (TI SEPP)

Chapter 2 Infrastructure

Subdivision 2 Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

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

An amended BASIX certificate (Certificate No. A47210.02) dated 27 February 2023 was submitted to Council. The certificate demonstrates compliance with the provisions of the SEPP and is consistent with the commitments identified in the documentation. A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

PITTWATER LOCAL ENVIRONMENTAL PLAN 2014

| | |
|--|-----|
| Is the development permissible? | Yes |
| After consideration of the merits of the proposal, is the development consistent with: | |
| aims of the LEP? | Yes |
| Zone objectives of the LEP? | Yes |

Detailed Assessment

Zone C4 Environmental Living

The objectives of the zone are:

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

Comment: The proposed alterations and additions provides for a low impact residential development which is consistent and sympathetic with the surrounding values.

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

Comment: The proposal does not result in any adverse effects upon the scientific and aesthetic values of the Palm Beach Locality.

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

Comment: The development is for alteration and additions to an existing dwelling house and is to be sited towards Barrenjoey Road and out of view from Pittwater. As such the development will protect the existing conditions of the foreshore whilst maintaining a low-density built form.

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

Comment: The proposal does not seek to remove any existing foreshore vegetation and locates works outside of the foreshore area. The development does not adversely affect the foreshore area.

The land use *dwelling house* is permitted with consent within the C4 Environmental Living Zone.

Compliance Assessment

| Clause | Compliance with Requirements |
|--|--|
| 2.7 Demolition requires consent | Yes |
| 4.3(2A) Height of buildings | Yes - The flood planning level is identified as 2.58AHD, permitting a height of 10.58 AHD. The proposal results in a height of 10.2AHD and complies with the development standard. |
| 4.6 Exceptions to development standards | N/A |
| 5.7 Development below mean high water mark | N/A |
| 5.10 Heritage Conservation | Yes |
| 5.21 Flood planning | Yes - The site is identified as being subject to overland flow from McKay reserve and potential upswell from Pittwater estuary during king tides. The proposed first-floor extension (5.065AHD) is located above the Maximum Flood Planning Level (2.58AHD) and the landscaping works are proposed to be at the same height as the existing RLs. |
| 7.1 Acid Sulfate Soils | Yes - The site is mapped as being within Class 3 Acid Sulfate Soils. An Acid Sulfate Management Plan has been submitted with the application and the proposal has been considered satisfactory by Council's Environmental Health Officer. The Application has been amended and no longer seeks consent for the swimming pool. The proposed works are sited at first floor level RL5.065 and does not include any excavation works. The proposal is considered unlikely to have any implications for acid sulfate soils given the nature of the proposed works. |
| 7.7 Geotechnical Hazards | Yes - A small portion of the north-eastern end of the site (Figure 8) is identified as within Geotechnical Hazard H1. H1 applies to areas where the likelihood of slope instability has been assessed to range from possible to almost certain. The proposal has been supported by a Geotechnical report prepared by Douglas Partners which indicates the following: |

| Clause | Compliance with Requirements |
|--------|--|
| | <ul style="list-style-type: none"> - The site is almost flat and underlain by deep sand deposits. - The only potential slope stability hazard to this site would be failure of part of the hill slope on the other side of Barrenjoey Road off this site. - In the unlikely event that this occurred, for damage to property to occur the slide would have to travel some distance across the road and on to the site. - The risk of slope failure on this site has been assessed for property and life in accordance with the requirements of Pittwater Council's Geotechnical Risk Management Policy (2007) and the guidelines prepared by the Australian Geomechanics Society 2007. - The identified hazards are identified as a very low risk to life. <p>Council can be satisfied the proposed development has been designed, sited and will be managed to avoid any geotechnical risk and does not result in any significant adverse impact on the development or surrounding development. The risk is low and the proposal is acceptable in this regard.</p> |

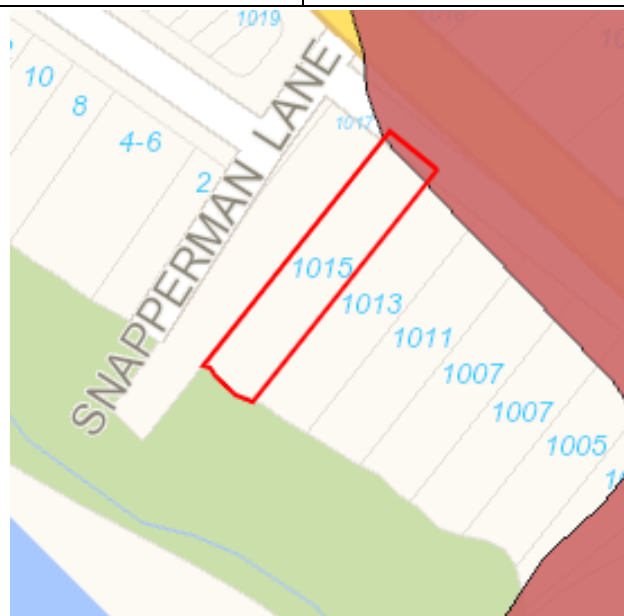



Figure 10 Geotechnical hazard extract map

| | |
|---|---|
| 7.8 Limited development on foreshore area | <p>Yes - The proposed additions are located towards Barrenjoey Road at the first-floor level (and landward of the foreshore building line). Hence, the development is not sited within the foreshore area. The proposed additions will not be readily visible from the foreshore and does not result in any significant adverse impacts upon the foreshore.</p> |
|---|---|

| Clause | Compliance with Requirements |
|--|--|
| | The proposal is acceptable in this regard. |
|  <p data-bbox="470 929 1125 963">Figure 11 Pittwater Land Below Foreshore Building Line Map</p> | |
| 7.10 Essential services | Yes |

PITTWATER DEVELOPMENT CONTROL PLAN 21

Built Form Controls

| Built form Control | Requirement | Proposed | %Variation* | Complies |
|---|--|---|------------------|-----------|
| C1.1 Landscaping | 60% in front of the building line | 21.97% | 38.03% | No |
| D12.5 Front Building Line | 10m | 6.095m | 39.05% | No |
| D12.6 Side and Rear Building Line | <u>South East</u> 1m | <u>South East</u> 1m | N/A | Yes |
| | <u>North West</u> 2.5m | <u>North West</u> 2.575m | | |
| | <u>South West</u> Foreshore Building line | <u>South West</u> 43.3m | | |
| D12.8 Building Envelope | <u>South East</u> 3.5m | Outside | 440mm protrusion | No |
| | <u>North West</u> 3.5m | Within | N/A | Yes |
| D12.10 Landscaped area – Environmentally Sensitive Land | 60% (671m ²) | 47.7% (534m ²) including 6% variation | 12% | No |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted | Yes | Yes |
| A4.12 Palm Beach Locality | Yes | Yes |
| B1.3 Heritage Conservation – general | Yes | Yes |
| B1.4 Aboriginal Heritage | Yes | Yes |
| B3.1 Landslip Hazard | Yes | Yes |
| B3.2 Bushfire Hazard | Yes | Yes |
| B3.6 Contaminated Land and Potentially Contaminated Land | Yes | Yes |
| B3.7 Estuarine Hazard – Low density residential | Yes | Yes |
| B3.11 Flood Prone Land | Yes | Yes |
| B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume) | Yes | Yes |
| B4.15 Saltmarsh Endangered Ecological Community | Yes | Yes |
| B4.16 Seagrass Conservation | Yes | Yes |
| B4.19 Estuarine Habitat | Yes | Yes |
| B5.13 Development on Waterfront Land | Yes | Yes |
| B8.1 Construction and Demolition – Excavation and Landfill | Yes | Yes |
| B8.3 Construction and Demolition – Waste Minimisation | Yes | Yes |
| B8.4 Construction and Demolition – Site Fencing and Security | Yes | Yes |
| C1.2 Safety and Security | Yes | Yes |
| C1.3 View Sharing | Yes | Yes |
| C1.4 Solar Access | Yes | Yes |
| C1.5 Visual Privacy | Yes | Yes |
| C1.6 Acoustic Privacy | Yes | Yes |
| C1.7 Private Open Space | Yes | Yes |
| C1.12 Waste and Recycling Facilities | Yes | Yes |
| C1.13 Pollution Control | Yes | Yes |
| C1.25 Plant, Equipment Boxes and Lift Overruns | Yes | Yes |
| D12.1 Character as viewed from a public place | Yes | Yes |
| D12.2 Scenic Protection – General | Yes | Yes |
| D12.3 Building colours and materials | Yes | Yes |
| D12.11 Fences – General | Yes | Yes |
| D12.14 Scenic Protection Category One Areas | Yes | Yes |

Detailed Assessment

C1.1 Landscaping

The development includes a non-compliance with the minimum landscaped area required to be provided within the front of buildings. In this instance 60% of the front setback shall be landscaped

to screen buildings from the street. The front of buildings (between the front boundary and any built structures) is calculated to have an area of setback has an area of 69.41m². The control requires a landscape area of 41.64m².

The landscaped area proposed within the front of the dwelling is 19.14m², resulting in 45.9% of the front of buildings (between the front boundary and any built structures) being landscape area and is non-compliant.

The first-floor additions are cantilevered in part above the landscape area within the front of the building. This design approach is consistent with the location of the existing timber pergola which extends across the north-eastern elevation of the dwelling.

Despite the non-compliance, the development provides for two (2) *Livistona australis* (Cabbage Palm) in 150L pots within the front landscape area provided. The proposal provides for the required two (2) canopy trees within the front setback. Notwithstanding, the trees are located within 5 metres of existing and proposed structures.

Whilst not satisfying the numeric requirements of the control, the proposed canopy trees and existing vegetation within the Barrenjoey Road reserve will soften the development when viewed from the road, ultimately achieving the objectives of Part C1.1 of the P21 DCP.

D12.5 Front building line

The minimum front building line for development on land within C4 Environmental Living zone adjoining Barrenjoey Road is 10 metres or the established building line. In this circumstance, 10m is the greater setback. The proposed additions have a front setback of 6.095 metres (39.05% variation) and does not comply with the control requirement.

Council may accept variation to these building lines when *considering established building lines* where the outcomes of the control are achieved.

Consideration has been given to the established building line (shown in red in **Figure 12**):

- The adjoining dwelling at 1017 Barrenjoey Road has a front building line of approximately 2.9 metres from the private road.
- The garbage room on the subject site is setback 1.2 metres from the private road.
- Development consent (DA2022/0288) has been granted for demolition and construction of a new dwelling at 1011 Barrenjoey Road which has a front building line of 13.1 metres
- There is not a consistent building line with considerable differences in the distance of built from the front setback.
- The width of the private road (approximately 6 metres) and road reserve means a reasonable front building line is achieved from Barrenjoey Road.



Figure 12 Established building line showed in red.

Merit Assessment

With regard to the consideration for a variation, the development is considered against the relevant Objectives of the Control as follows:

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

Comment: The development is responsive to the desired future character of Palm Beach noting the existing dwelling is two storey in scale and the proposed height is below the existing overall height of the dwelling.

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

Comment: The development will not exceed the existing height of the dwelling house and the first-floor additions are located towards the private road adjoining Barrenjoey Road. As such, the development will not unreasonably impact existing views and vistas to and/or from public/private places.

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

Comment: The subject site does not have a direct frontage to Barrenjoey Road and is located below the road level, separated by a road reserve with access to the site provided via a private road which runs parallel to Barrenjoey Road. The road reserve contains dense vegetation providing visual separation from the main road. Due to the existing context, the development will have a limited impact on the existing streetscape of Barrenjoey Road.

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

Comment: The proposed development does not require the removal of existing vegetation. There is still sufficient area within the front setback at the ground level for the provision of meaningful landscaping despite the minor reduction of landscaped area.

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

Comment: The non-compliance will not interrupt the existing pattern of development along Barrenjoey Road as the front setback proposed is consistent with existing development at 1017 Barrenjoey Road. Additionally, existing development at 1017 Barrenjoey Road is double storey therefore the proposal will not appear dominant when viewed from the street.

D12.8 Building Envelope

Development is to be located within a plane projected at 45 degrees from 3.5 metres above Flood Planning Level along the side boundaries. **Figure 13** illustrates that extent of the non-compliance with the control which is located along the south-western elevation.

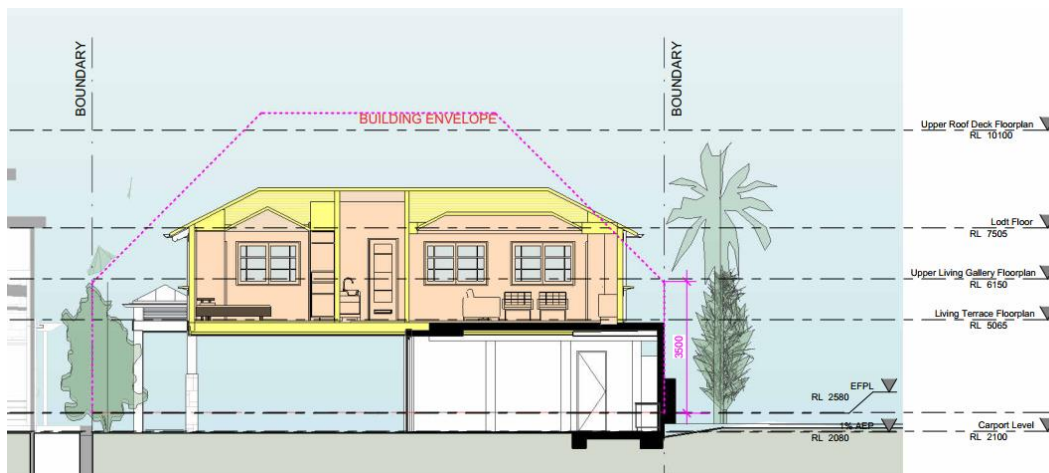


Figure 13: Extract from 'Section A', illustrating extent of non-compliance.

Merit Assessment

The extent of the variation is limited to the roof and portion of the wall. Eaves are permitted to protrude outside the envelope. The site is flood affected and therefore results in a raised floor level contributing to the breach of the envelope by 440mm. To the south east No.1013 Barrenjoey Road, which is improved by a double storey dwelling house and a carport, which is within the front setback. The approved development (DA2022/0288) provides for a landscape area adjoining the proposed additions. Set further into the site is a four (4) car garage. The proposed additions do not result in any adverse visual impacts to the existing or approved development at 1013 Barrenjoey Road. Given the variation is minor in nature and there will be no unreasonable impact on the existing amenity of neighbouring properties it considered to be an acceptable outcome.

D12.10 Landscaped Area – Environmentally Sensitive Land

The subject site is located in Area 1 of the P21 DCP Landscaped Area Map. On this basis a minimum of 60% of the site area (671m²) is to be landscaped area. The development proposes a landscape area of 467m² (41.7%) and is non-compliant.

The approved plans for DA Consent No. N0678/10/S96/1 resulted in a soft landscape area of 607m² (54.3%) with an additional 90m² (8%) hard landscaping. The works shown on the approved Construction Certificate 2014/01708 show the resultant landscape area is approximately 565m² (50.49%). It is noted further works have been undertaken including the provision of pathway along the north western side boundary which further reduces the overall landscape area on site.

The following variations may be permitted on the landscaped proportion of the site where the outcomes of the control are achieved:

- i. *impervious areas less than 1 metre in width (e.g. pathways and the like);*
- ii. *For single dwellings on land zoned R2 Low Density Residential or E4 Environmental Living, up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)).*

Taking into account the above variations, the landscaped area proposed is 47.7% being 534m². As a result of the proposed works, the development results in a minor reduction of 8m² of soft landscape area from the first floor being sited so as to partially extend into a landscape area. This area despite the encroachment remains grassed and capable of water absorption and landscaping.

Merit Assessment:

The non-compliance is considered against the objectives of the control as follows:

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

Comment: It has been demonstrated that the development achieves the desired future character of the Palm Beach Locality.

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

Comment: The bulk and scale associated with the first-floor additions has been minimised through the planting of two (2) canopy trees within the front setback. Furthermore, existing vegetation within Barrenjoey Road reserve will screen the development from the road.

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

Comment: Sunview and Shadow diagrams have been submitted illustrating that additional shadow generated by the additions will be inconsequential to the primary private open space within the subject site and adjoining properties. As shown on the diagrams, additional shadow is limited to existing roofed areas and driveways.

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

Comment: The proposed additions do not require the removal of vegetation.

- *Conservation of natural vegetation and biodiversity.*

Comment: The additions do not require the removal of natural vegetation and is limited to the first-floor level, preserving existing biodiversity values within the locality.

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

Comment: The application is supported by Stormwater Management Plans which demonstrates Council infrastructure can withstand the stormwater generated by the development. Furthermore, Council's Development Engineer has supported the proposal subject to conditions.

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

Comment: The development does not require the removal of vegetation and a landscape plan has been submitted which nominates canopy tree planting. As such, the proposal will preserve and enhance the character of the Palm Beach Locality.

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

Comment: Existing soft services have been maintained within the front setback, noting that the first-floor development is to be cantilevered over the existing landscaped area.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCP and the objectives specified in Section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is acceptable in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$9,515 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$951,500.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation. In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objectives of the DCP
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

PLANNING CONCLUSION

This proposal, for alterations and additions to a dwelling house is referred to the Development Determination Panel (DDP) due to the application receiving five (5) unique submissions.

The concerns raised in the objections have been addressed as the application was amended resulting in the deletion of the swimming pool that was proposed within the rear setback of the dwelling house.

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

That Northern Beaches Council as the consent authority grant Development Consent to DA2022/1732 for alterations and additions to a dwelling house on land at, 1015 Barrenjoey Road, Palm Beach (Lot 54 DP 14682), subject to the conditions printed below:

FINAL DECLARATION

Consultant Name: Kimberley Kavwenje – Creative Planning Solutions

In submitting this report to Council, I declare that I do not have a conflict of interest in making this recommendation.



Kimberley Kavwenje
Consultant Planner

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

(a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|---|------------------|--------------------|
| Drawing No. | Dated | Prepared By |
| A-100 (Issue B) – Site Plan, Landscape Plan & Site Coverage | 27 January 2023 | Walta Barda Design |
| A-111 (Issue B) – Proposed Floor Plans | 27 January 2023 | Walta Barda Design |
| A-130 (Issue B) – Proposed Elevations | 27 January 2023 | Walta Barda Design |
| A-135 (Issue C) – Proposed Sections | 24 February 2023 | Walta Barda Design |

| Engineering Plans | | |
|---|----------------|-------------------------|
| Drawing No. | Dated | Prepared By |
| D01 (Issue A) Stormwater Drainage Notes | 19 August 2022 | NB Consulting Engineers |
| D02 (Issue A) Ground Floor Stormwater Drainage Plan | 19 August 2022 | NB Consulting Engineers |
| D03 (Issue A) First Floor and Roof Stormwater Drainage Plan | 19 August 2022 | NB Consulting Engineers |
| D04 (Issue A) Stormwater Drainage Details Sheet 1 | 19 August 2022 | NB Consulting Engineers |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|-------------------|----------------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| Acid Sulfate Soil Management Plan, 45391.04 | 8 September 2022 | Douglas Partners |
| BASIX Certificate No. A475210_02 | 27 February 2023 | Walta Barda Design |
| Bushfire Risk Assessment, Ref No. 4013 | 7 July 2022 | Bushfire Planning Services |
| Flood Management Report (Issue A) Project No. 2206058 | 14 September 2022 | NB Consulting Engineers |
| Geotechnical Assessment (Revision 0) | 6 September 2022 | Douglas Partners |
| Waste Management Plan | 5 October 2022 | John Boyd |

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

| Landscape Plans | | |
|------------------------|--------------|--------------------|
| Drawing No. | Dated | Prepared By |

| | | |
|---|-----------------|--------------------|
| A-100 (Issue B) – Site Plan, Landscape Plan & Site Coverage | 27 January 2023 | Walta Barda Design |
|---|-----------------|--------------------|

| Waste Management Plan | | |
|------------------------------|----------------|--------------------|
| Drawing No/Title. | Dated | Prepared By |
| Waste Management Plan | 5 October 2022 | John Boyd |

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

| Other Department, Authority or Service | EDMS Reference | Dated |
|---|---------------------------|--------------|
| Ausgrid | Ausgrid Referral Response | 08/11/2022 |

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. Approved Land Use

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house, in accordance with the Dictionary of the Pittwater Local Environmental Plan 2014, as follows:

A dwelling house is defined as:

"dwelling house means a building containing only one dwelling." (development is defined by the Pittwater Local Environment Plan 2014 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

4. No Approval for Secondary Dwelling

No approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area.

Reason: To ensure compliance with the terms of this consent

5. Prescribed conditions (Demolition):

- (a) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (ii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the

6. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

- (iii) stating that unauthorised entry to the work site is prohibited.
Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

7. General requirements (Demolition):

- (a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- o 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) The applicant shall bear the cost of all works that occur on Council's property.
- (f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

8. General Requirements

- (g) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.Demolition and excavation works are restricted to:
 - 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (h) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (i) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (j) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (k) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (l) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services

Payments Corporation. Payment is not required where the value of the works is less than

\$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

- (m) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (n) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (o) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (p) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (q) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (r) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (s) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (t) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992

- (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (3) Swimming pools and spas must be registered with the Division of Local Government.
- (4) Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community

FEES / CHARGES / CONTRIBUTIONS

9. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$9,515.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$951,500.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

10. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

11. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's WATER MANAGEMENT for DEVELOPMENT POLICY. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

12. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Douglas Partners, Project 45391.04, Dated

September 2022 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

13. Flooding

In order to protect property and occupants from flood risk the following is required:

Flood Effects Caused by Development – A2

There is to be no filling of the land or any other reduction of the available flood storage which results in a net loss of storage below the 1% AEP flood level of 2.08m AHD.

Building Components and Structural Soundness – B1

All new development below the Flood Planning Level of 2.58m AHD shall be designed and constructed as flood compatible buildings in accordance with Reducing Vulnerability of Buildings to Flood Damage: Guidance on Building in Flood Prone Areas, Hawkesbury-Nepean Floodplain Management Steering Committee (2006).

Building Components and Structural Soundness – B2

All new development must be designed to ensure structural integrity up to the Flood Planning Level of 2.58m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion.

Building Components and Structural Soundness – B3

All new electrical equipment, power points, wiring, fuel lines, sewerage systems or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed to cut electricity supply during flood events.

Floor Levels – C1

New floor levels within the development shall be set at or above the Flood Planning Level of 2.58m AHD.

Fencing – F1

New fencing (including boundary fencing, balcony balustrades and accessway balustrades) shall be open to allow for the unimpeded movement of flood waters. It must be designed with a minimum of 50% open area from the natural ground level up to the 1% AEP flood level.

Openings should be a minimum of 75mm x 75mm.

Storage of Goods – G1

Storage areas for hazardous or potentially polluting materials shall not be located below the Flood Planning Level of 2.58m AHD unless adequately protected from floodwaters in accordance with industry standards.

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

Reason: To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

14. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities)
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected.
- North point and scale.

Details demonstrating compliance are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment.

15. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

16. Amendments to the approved plans

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

- The stormwater plans Issue A prepared by NB Consulting Engineers and dated 19 August 2022 shall be amended to delete the swimming pool and reflect the design as approved on the architectural plans Issue B prepared by Walta Barda Design and dated 27 January 2023.

17. Structural Adequacy and Excavation Work

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

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

Reason: To provide public and private safety.

18. Estuarine Hazard Design Requirements

All development or activities must be designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect estuarine processes; they will not be adversely affected by estuarine processes.

To ensure Council's recommended flood evacuation strategy of 'shelter-in-place', it will need to be demonstrated that there is safe pedestrian access to a 'safe haven' above the Estuarine Planning Level.

Reason: To minimise risks associated with hazards for development proposed in an estuarine environment.

19. Estuarine Planning Level Requirements

An Estuarine Planning Level (EPL) of 2.79m AHD has been adopted by Council for the subject site and shall be applied to all development proposed below this level as follows:

1. All structural elements below 2.79m AHD shall be of flood compatible materials;
2. All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 2.79m AHD or waterproofed to this level; and
3. The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 2.79m AHD.
4. All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 2.79m AHD. All exterior power supplies (including electrical plant and fittings, outlets and switches) shall be located at or above 2.79m AHD.

Reason: To ensure that vulnerable components of the development are built at the appropriate level.

20. **Stormwater Management**

Stormwater shall be disposed of in accordance with Council's Policy. The stormwater management plan is to be implemented to ensure that there is no increase in stormwater pollutant loads arising from the approved development. Details demonstrating compliance are to be submitted to the Certifier for approval prior to issue of the Construction Certificate.

Reason: To make appropriate provision for stormwater disposal and management arising from development to ensure that stormwater does not negatively impact receiving waters.

21. **Construction Site Management Plan**

Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:

- location and materials for protective fencing and hoardings to the perimeter on the site
- provisions for public safety
- pedestrian and vehicular site access points and construction activity zones
- details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
- protective measures for on-site tree preservation (including in accordance with AS 4970- 2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- dust, noise and vibration control measures
- location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.

22. **Compliance with Standards**

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

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

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

23. **Sydney Water "Tap In"**

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

Please refer to the website www.sydneywater.com.au for:

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment, including receiving waters, from the effects of sedimentation and erosion from the site

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25. **Protection of Rock and Sites of Significance**

- (a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.
- (b) Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.
- (c) Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

26. **Acid sulfate soils**

All excavation, construction and associated works must be conducted in accordance with the approved Acid Sulfate Soil Management Plan titled Acid Sulfate Soil Management Plan dated September 2022 ref. no. Project 45391.04.

Reason: To ensure management of potential acid sulfate soils.

27. **Tree and Vegetation Protection**

- (a) Existing trees and vegetation shall be retained and protected, including:
 - i) all trees and vegetation within the site not approved for removal, excluding

exempt trees and vegetation under the relevant planning instruments of legislation,

- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

(b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
- viii) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- ix) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

- (c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

28. Road Reserve

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

Reason: Public safety.

29. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by Walter Barda Design prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

30. No Access Through Land Owned or Managed by Council

Site access is not approved for delivery of materials nor construction of the development through adjacent land owned or managed by Council, without the written approval of Council.

Reason: Public safety, landscape amenity and tree protection.

31. Storage of Materials on Land Owned or Managed by Council Prohibited

The dumping or storage of building materials, spoil, vegetation, green waste or any other material in land owned or managed by Council is prohibited.

Reason: Public safety and environmental protection.

32. Protection of Council's Public Assets

Any damage to Council's public assets shall be made good by the applicant, and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Existing trees shall be protected in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Should any problems arise with regard to the existing trees on public land during the construction period, the applicant is to immediately contact Council's Tree Services section and resolve the matter to Council's satisfaction.

Reason: To protect and/or restore any damaged public asset.

33. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];

- i Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- i The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

34. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

35. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

36. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

37. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

38. **Pollution Control**

All stockpiles, building materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste and debris is to be

removed off site and disposed of as frequently as required in accordance with applicable regulations.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not enter receiving waters.

39. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning and Environment.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning and Environment.

Reason: Aboriginal Heritage Protection.

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

40. **Acid Sulfate Soil Management Confirmation**

If Acid Sulphate Soils are encountered during the development, details demonstrating compliance with the approved Acid Sulfate Soil Management Plan titled Acid Sulfate Soil Management Plan dated September 2022 ref. no. Project 45391.04 are to be submitted to the satisfaction of the principle certifier prior to the issue of the occupation certificate.

Reason: To ensure management of potential acid sulfate soils.

41. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan (drawing A-100 by Walter Barda Design dated 27/01/23), and inclusive of the following conditions:

i) two *Livistona australis* shall be installed within the property boundary, at least one in the front setback, as per the Plant List (150L container size), and shall meet the requirements of Natspec

- Specifying Trees,

ii) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings, and at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,

iii) mass planting shall be installed at minimum 4 plants per metre square for grasses/groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,

iv) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces,

v) should any existing vegetation shown to be retained be damaged or removed during construction, it shall be replaced with a like-for-like substitute to ensure the existing landscape character is maintained.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

42. Stormwater Disposal

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

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

43. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

44. House / Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: Proper identification of buildings.

45. Waste Management Confirmation

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

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

46. Landscape Maintenance

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

The approved landscaped areas as shown on Site Plan (drawing A-100 by Walter Barda Design shall remain as planting.

All weeds are to be managed in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

47. **General Foreshore Matters**

Unless in accordance with the approved works the Consent holder must ensure that:

- a) No materials or cleared vegetation that may obstruct flow or cause damage to the foreshore are left within the coastal foreshore area.
- b) All drainage works must not obstruct flow of water within the coastal waters. Drain discharge points are stabilised to prevent erosion. Any excavation must not result in diversion of any foreshore bank instability or damage to native vegetation.
- c) The foreshore is graded to enable the unimpeded flow of water and retaining structures result in a stable foreshore banks. Any vegetation or other material removed from the area of operations shall be disposed of lawfully. Burning of the material is not permitted.
- d) The foreshore is to function as an ecological system and as such, all works, access, roads, recreational areas, service easements and any other non-ecologically functioning work or activity are to be located beyond the foreshore other than provided by the consent.

Reason: Environmental protection, monitoring and enhancement of the foreshore.

48. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

49. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

50. **General Foreshore Matters**

Unless in accordance with the approved works the Consent holder must ensure that:

- (a) No materials or cleared vegetation that may obstruct flow or cause damage to the foreshore are left within the coastal foreshore area.
- (b) All drainage works must not obstruct flow of water within the coastal waters. Drain discharge points are stabilised to prevent erosion. Any excavation must not result in diversion of any foreshore bank instability or damage to native vegetation.
- (c) The foreshore is graded to enable the unimpeded flow of water and retaining structures result in a stable foreshore banks.
- (d) Any vegetation or other material removed from the area of operations shall be disposed of lawfully. Burning of the material is not permitted.



(e) The foreshore is to function as an ecological system and as such, all works, access, roads, recreational areas, service easements and any other non-ecologically functioning work or activity are to be located beyond the foreshore other than provided by the consent.

Reason: Environmental protection, monitoring and enhancement of the foreshore.