

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0130
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Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot 100 DP 509808, 981 Barrenjoey Road PALM BEACH NSW 2108
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Morris Symonds
Applicant:	Morris Symonds

Application Lodged:	14/02/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	28/02/2020 to 13/03/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,871,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks the approval for the alterations and additions to the existing dwelling house to provide a three storey residential building. The new dwelling design will comprise of a two storey "pavilion" wing in the north western area of the site, and a three storey "pavilion" wing in the south eastern area of the site. The pavilions will be connected by a central entry lobby and link-way with stairs and access to a lift. The proposal also includes a new carport, with turning circle, and an external pedestrian entry bridge connecting the dwelling to the Barrenjoey Road frontage of the site.

The works as part of the proposal include the following:

Demolition

- Removal of the existing carport,

- Removal of existing driveway, and
- Removal of front existing timber stairs and boardwalk.

New Upper Floor

- Four new bedrooms, with four new en-suites,
- New study,
- New linking entry between the two pavilions,
- New internal lift,
- Two new rear balcony areas servicing bedroom 1 and 2,
- Two juliette balconies to bedroom 3 and bedroom 4,
- New open style carport and turning circle, and
- Pedestrian bridge to Barrenjoey Road.

Ground Floor Plan

- Reconfiguration of the existing floor plan to provide for open plan kitchen/living and dining area,
- New games room, home theater, gym, sauna and bathroom within the northern pavilion,
- New linking entry link-way between the two pavilions,
- New internal lift,
- New terrace areas at the rear of each pavilion, and
- Pergola over the southern pavilion terrace.

Lower Ground Floor

- Reconfiguration to the existing bedroom, cellar and internal stairs,
- New internal lift,
- New laundry, and
- New equipment/plant room.

External

- New suspended driveway,
- New undercover boardwalk entry to Barrenjoey Road,
- New inclinator,
- Deck pathway, and
- Landscaping and associated works.

There is no works proposed below the rear High Water Mark (HWM) to the Pittwater waterway.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act

1979, and the associated regulations;

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone E4 Environmental Living

Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater Local Environmental Plan 2014 - 7.8 Limited development on foreshore area

Pittwater 21 Development Control Plan - A4.12 Palm Beach Locality

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways

Pittwater 21 Development Control Plan - D12.1 Character as viewed from a public place

Pittwater 21 Development Control Plan - D12.3 Building colours and materials

Pittwater 21 Development Control Plan - D12.5 Front building line

Pittwater 21 Development Control Plan - D12.6 Side and rear building line

Pittwater 21 Development Control Plan - D12.8 Building envelope

Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 100 DP 509808 , 981 Barrenjoey Road PALM BEACH NSW 2108
Detailed Site Description:	<p>The site is legally described as Lot 100 in Deposited Plan 509808, and known as No. 981 Barrenjoey Road, Palm Beach. The site is located within the E4 Environmental Living Zone as per the Pittwater Development Control Plan 2014.</p> <p>The site is irregular shaped allotment with a site area of 1,075sqm. The sites angled north-eastern frontage to Barrenjoey Road measures 36.7m. The south-eastern side boundary measures 31m and the north-western side boundary measures 33.5m in length. The site adjoins the Pittwater waterway of Careel Bay at the rear, with the rear south-western boundary of the site measured to the mean High Water Mark (HWM) of Careel Bay.</p>

The subject site displays significant sloping topography towards the Pittwater waterway at the rear of the site.

The site currently contains a two storey residential dwelling house with vehicle access from Barrenjoey Road to a carport. The site also contains recreational facilities at the waterfront area adjoining Pittwater waterway. These include a swimming pool, boat house, ramp and jetty. The swimming pool and terrace area (located wholly below the high water mark) is held under an existing Crown Lands Lease.

The site contains extensive landscaping, including canopy trees. Existing pathways, external access stairs and terraced landscaped lawn and garden areas are prevalent within the site from the Barrenjoey Road boundary, to the waterway are adjoining Pittwater.

Surrounding sites consist of multi level, large dwelling houses, on steep sites within landscaped settings. Typically adjoining sites on the south-western side of Barrenjoey Road, that also slope steeply to the Pittwater waterway also contain boating and recreational structures such as jetties, ramps, pontoons, boat houses and inclinators for pedestrian access purposes to the waterfront.

Map:



SITE HISTORY

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

- Development Application for **DA0360/981** for a seawall refurbishment was approved by Council on the 8 September 1994.
- Development Application for **DA0735/095** for a ramp pontoon and berthing area was approved

on the 10 August 1995.

Pre-lodgement Meeting PLM2019/0254 was held on the 3 December 2019 for the alterations and additions to a dwelling house, including a inclinor. Given the constraints of the site and the existing dwelling, it was agreed that a building height breach was unavoidable. However, it was recommended that further redesign be undertaken in order to minimise the extent of the building height limit breach, reduce bulk and scale to ensure reasonable opportunities for view sharing where maintained. A redesign of the carport to ensure that all car parking structures are located wholly within the subject site was also requested.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has</p>

Section 4.15 Matters for Consideration'	Comments
	<p>been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
<p>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>	<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>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bushfire Planning & Design, dated 12 January 2020) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposed development application is for the proposed alterations and additions to the existing dwelling and other associated works such as new driveway, new inclinor, stormwater drainage and landscaping.</p> <p>Council's Landscape Referral of the development application is assessed against E4 Environmental Living Zone under the Pittwater Local Environmental Plan 2014, and the following Pittwater 21 DCP 2014 Controls: B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping D12 Palm Beach Locality, and specifically D12.1, D12.2, and D12.10</p> <p>A Landscape Plan and Arboricultural Impact Statement are provided with the application in accordance with Council's DA Lodgement Requirements, and are acceptable subject to conditions of consent.</p> <p>All four high retention value trees on the site are recommended for retention and protection, and the majority of medium retention value trees are to be retained, and are subject to tree protection measures. Five trees are proposed for removal including four with a low retention value and one with a medium retention value. The medium retention value tree is subject to a replacement and this is proposed within the Landscape Plan.</p> <p>Tree root investigation have been undertaken to assess impact to existing trees within close proximity to development works including T2 and T3. Exploratory excavation was undertaken near Tree 2 with one (1) x 80mm diameter root exposed at a depth of 400mm in the location of the proposed sauna/steam room footing. This root was located outside of the Structural Root Zone at a distance of 4.0m from the centre of trunk. This root is not considered to critical for inground structural support. Pruning of this root is unlikely to compromise the stability of Tree 2. Exploratory excavation was undertaken near Tree 3. This was undertaken to a depth of 600mm which was sufficient to expose the underlying sandstone bedrock. No tree roots were found in the locations of exploratory excavation.</p>
NECC (Bushland and Biodiversity)	<p>The proposed development has been assessed against the SEPP (Coastal Management) - Coastal Environment Area, with particular reference to the policy objectives around protection of coastal</p>

Internal Referral Body	Comments
	<p>vegetation.</p> <p>The submitted arborist assessment and landscape plan include appropriate provisions for retention of significant native trees, removal of exotic weeds and re-landscaping with appropriate species. The proposal is therefore supported, subject to conditions.</p>
NECC (Coast and Catchments)	<p><u>Officer comments</u></p> <p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p>Coastal Management Act 2016</p> <p>The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</p> <p>State Environmental Planning Policy (Coastal Management) 2018</p> <p>As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</p> <p>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p><u>Comment:</u></p> <p>As assessed in the submitted Statement of Environmental Effects (SEE) report prepared by dfp Planning Consultants dated February 2020 and Council accepts the assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.</p>

Internal Referral Body	Comments
	<p>Estuarine Risk Management</p> <p>In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.79m AHD would apply at the subject site. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.08m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m.</p> <p>As assessed in the submitted Statement of Environmental Effects (SEE) report prepared by dfp Planning Consultants dated February 2020 and Council accepts/does not accept the assessment the base level for the proposed inclinor is at 4.0m AHD and is above the applicable EPL of 2.79m AHD for the site.</p> <p>The proposed development is therefore able to satisfy the relevant estuarine risk management requirements of P21 DCP.</p> <p><u>Inclinor</u></p> <p>A new inclinor has been proposed. Section C1.19 Incline Passenger lifts and Stairways applies of the Pittwater DCP applies. The landing area and rails of the proposed new inclinor and a proposed new porous pathway are located below the foreshore building line. The proposed new inclinor, track, landing and pathway are minor works located within the foreshore building line area and are considered to be consistent with the provisions of Clause 7.8 of the Pittwater LEP. It is further noted that the proposed new inclinor and pathway are located at or above RL4.0 and, accordingly, are well above the base Estuarine Planning Level (EPL) under the Council's adopted Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015).</p> <p>The proposed inclinor is designed and located to minimise excavation and removal of natural rock, trees and vegetation and is well setback from the side boundaries of the site.</p> <p>An analysis in the submitted Statement of Environmental Effects (SEE) report prepared by dfp Planning Consultants dated February 2020 of the proposal demonstrate that the incline passenger lifts and associated stairways cause minimal visual and acoustic disturbance to environment and neighbours.</p> <p>The proposed development is therefore able to satisfy the requirements of Clause 7.8 of the Pittwater LEP and Section C1.19 of the P21 DCP.</p>
NECC (Development Engineering)	The development/site is located in Geotechnical Hazard H1 Area, an "Acceptable Risk Management" level is achievable in accordance with

Internal Referral Body	Comments
	the geotechnical report. No Development Engineering objections subject to conditions.
NECC (Riparian Lands and Creeks)	<p>This application has been assessed against:</p> <p>State Environment Planning Policy (Coastal Management) 2018 Part 2, Division 3, Clause 13 Development on land within the</p> <p>Pittwater 21 Development Control Plan B8.2 Erosion and Sediment Management B4.19 Estuarine Habitat B4.20 Protection of Estuarine Water Quality</p> <p>The application does not propose to significantly increase impervious surfaces and therefore a filtration device is not required. However the applicant must install standard sediment and erosion controls. Furthermore, due to the proximity of the development to seagrass habitat the the installation of environmental safeguards downstream (such as silt curtain or boom) is required to prevent turbid plumes which have the potential to enter the waterways and smother aquatic vegetation. It was noted in the geotechnical report Dated the 17th January 2020 that groundwater was not observed during inspection. If groundwater is encountered during earthworks the applicant must and dewatering is required to continue work, work must cease until the applicant has provided a dewatering management plan to Northern Beaches Council and WaterNSW.</p> <p>With the addition of these conditions the proposal is unlikely to have an adverse impact on the integrity and resilience of the biophysical, hydrological and ecological environment. Therefore this application is recommended for approval subject to conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response in an email stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A365139 dated 14 January 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. A365139 dated 14 January 2020).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	Pass
Thermal Comfort	Pass	Pass
Energy	50	Pass

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

SEPP (Coastal Management) 2018

The site are located within the Coastal Use Area and Coastal Environment Area as identified by State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP), and the provisions of this policy are applicable in relation to the proposal.

Following detailed assessment of the proposed development, the consent authority can be satisfied of the following:

- the proposal is not likely to cause an adverse impact upon the matters listed in clause 13(1) of the CM SEPP,
- the proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 13(1) of the CM SEPP,
- the proposal is not likely to cause an adverse impact upon the matters listed in clause 14(1) of the CM SEPP,
- the proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 14(1) of the CM SEPP,
- the proposal is not likely to cause increased risk of coastal hazards on the site or other land.

As such, the proposal is considered to be consistent with the provisions of the CM SEPP, including the matters prescribed by clauses 13, 14 and 15 of this policy.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m - 10.0m	5.2m - 9.1m	Nil	Yes*

*The proposed development is non-compliant with the 8.5m maximum building height prescribed by clause 4.3(2) of PLEP 2014. However, The applicant seeks to rely upon a variation prescribed by 4.3 (2D) of PLEP 2014, which provides that the building may reach up to 10m in height, subject to consistency with certain criteria. The objectives of the height of buildings development standard, and relevant criteria are assessed within the 4.3 Height of buildings section of the report.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes

Clause	Compliance with Requirements
7.7 Geotechnical hazards	Yes
7.8 Limited development on foreshore area	Yes
7.10 Essential services	Yes

Detailed Assessment

Zone E4 Environmental Living

The development proposed is found to be consistent with the following outcomes of the E4 Environmental Living zone:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

The development will continue to have the appearance of a "low impact" residential dwelling house in a natural landscaped setting, integrated with the scenic landform and aesthetic values. The proposed development is found to have an acceptable impact on significant vegetation on the site, as detailed in the Landscape Officer, Riparian and Biodiversity comments elsewhere in this report.

The documentation accompanying the proposed structure contains sufficient information for Council to be satisfied that the development will integrate with the landform and landscape and be consistent with surrounding waterfront development.

4.3 Height of buildings

Determination of Building Height and Clause 4.3 of the PLEP 2014

As mentioned previously, the application was lodged on the basis that it does not comply with the Height of Buildings development standard under Clause 4.3 of the PLEP 2014 and a Clause 4.6 Variation request was submitted for Council's consideration.

However, the review and assessment of the application has determined that the building height whilst does not comply with the 8.5m height control the application seeks to rely upon a variation prescribed by 4.3(2D) of PLEP 2014, which provides that the height of buildings may reach up to 10m in height, subject to consistency with certain criteria.

Therefore, a Clause 4.6 Variation is not required and so the Applicants Clause 4.6 Variation is not addressed in this report.

The site is subject to an 8.5m height control which is the vertical distance from Australian Height Datum (AHD) to the highest point of the building pursuant to the definition of building height under Clause 4.3 PLEP 2014. In the circumstances of this assessment, it is important to note that the site has been excavated to a depth of up to approximately 2.5m below AHD.

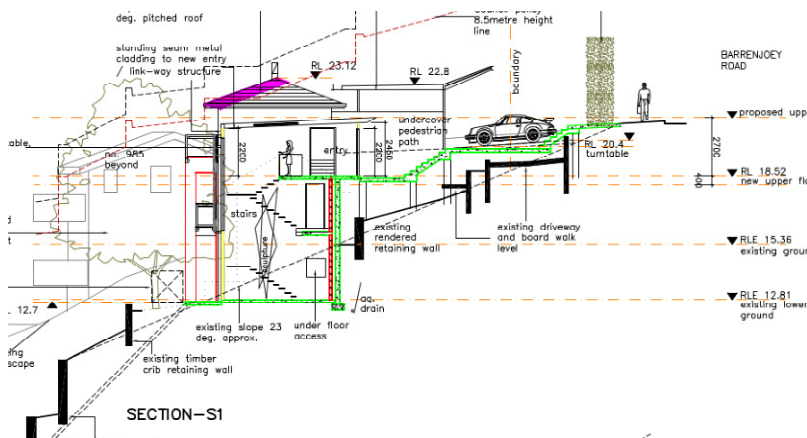


Figure 2. Extent of the building height shown in pink.

The maximum overall height of the new carport and associated roofing is compliant at 2.5m - 7.4m, and the maximum overall height of the north-west Pavilion is compliant at 8.5m.

As a result of the non-compliance with the south-eastern pavilion the applicant seeks to rely upon a variation, as prescribed by 4.3(2D) of PLEP 2014, which provides that the height of buildings may reach up to 10m in height, subject to consistency with certain criteria.

One of the relevant criteria is to ensure that the objectives of the clause are achieved. The objectives of the height of buildings development standard are considered as follows:

- **To ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality.**

Comment:

The proposal reflects the established built form character of the immediate Barrenjoey Road area where multi-level, variably stepped dwelling houses are prevalent, due to the steep topography of the land and difficulty with pedestrian and vehicular access. The proposed works have been designed to accommodate the steep slope of the site, while providing the required gradients for safe entry and exit for vehicles to Barrenjoey Road.

The proposal is for a three (3) level level dwelling house, with the new addition of the second and third storey. It is the new roof form of the south-eastern Pavilion that contributes to the noncompliance, and is considered to be a minor area of non-compliance that is comparable with surrounding development, and characteristic of the area.

Although the design of the alterations is more contemporary and architecturally unique when compared to the more traditional style of surrounding dwelling houses and parking structures, the residential nature of the development and the non-compliance, is considered to be consistent with the objectives of the zone and the urban context of the local area.

The development satisfies this objective.

- **To ensure that buildings are compatible with the height and scale of surrounding and nearby development.**

Comment:

The development is located on the downward slope of the Barrenjoey Road escarpment which is characterised by undulating topography to the Careel Bay high water mark. This results in variable built forms along the road, such that there is an eclectic mix of height and scale in

which to be compatible with.

Notwithstanding, the overall height of the development is below the 10m requirement, and is representative of a three (3) storey development when viewed from the property to the south-east, a two (2) storey development when viewed from the property to the north-west and a one (1) storey development when viewed from the upslope of Barrenjoey Road.

The non-compliance is located at the south-eastern edge of the roofline (demonstrated in figure 1 and 2 above) due to the topographical nature of the site.

The proposed development maintains a building height of RL 23.12 - RL22.71 which is well below the building height of the adjoining south-eastern neighbouring site of No.979 - 977 Barrenjoey Road, which displays RL25.7.

The non-compliance is considered to be relatively minor and does not unreasonably conflict with the height and scale of surrounding and nearby development. In this context, the proposed height non-compliance is considered to be compatible.

The development satisfies this objective.

- ***To minimise any overshadowing of neighbouring properties.***

Comment:

The south-eastern roof element (where the maximum height protrusions occur) do not contribute to any unreasonable overshadowing of adjoining properties.

The development satisfies this objective.

- ***To allow for the reasonable sharing of views.***

Comment:

It is determined that the non-compliance along the south-eastern edge of the proposed roof does not impact the viewing angle from the properties to the south-east, No.979 - 976 Barrenjoey Road, or north-west No.985 Barrenjoey Road. The sweeping range of views available from the internal areas and balconies of both properties remain intact.

The height non-compliance does not have an unreasonable impact upon the existing views from further up the escarpment to Barrenjoey Road due to the higher placement/vantage point of these properties.

The development satisfies this objective.

- ***To encourage buildings that are designed to respond sensitively to the natural topography.***

Comment:

The proposal is reliant upon a minor volume of excavation under the footprint of the proposed carport to accommodate the Ground Floor sauna, home theater and gymnasium. However, the visual impact of the minor excavation will be screened from view, and the proposal presents as a dwelling that has been sited to sympathetically follow the natural slope of the land.

The proposals pavilion design, with a connecting linkway, combined with open style rear balcony areas, provides sufficient breaks in the built form, such that there is no unreasonable

building bulk when viewed from the Careel waterway or the neighbouring properties. The proposal reflects the established built form character of the immediate Barrenjoey Road area where multi-level, variably stepped houses are prevalent, due to the steep topography of the land and difficulty with pedestrian and vehicular access.

The development satisfies this objective.

- ***To minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.***

Comment:

Despite the topographical constraints of the site, the developments design creates additional articulation, and visual interest and the additional floor is sufficiently setback from the boundaries such that the visual impact of the building will be appropriately managed.

Existing landscaping has been retained wherever possible and additional landscaping will soften and filter the built form. As a result, the proposal will be sufficiently integrated into the existing landscaped setting.

The development satisfies this objective.

The remainder of the criteria prescribed by clause 4.3(2D) of PLEP 2014 have been considered, as follows:

- ***The consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor.***

Comment:

The portions of the development that exceed the 8.5m building height plane are limited in height and depth, as demonstrated in figure 1 and 2 above.

The protrusions are reasonably described as minor.

The development satisfies this objective.

- ***The building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%).***

Comment:

The topography of the site is very steep with a slope gradient well in excess of 16.7°, being between 23° to 25.6° within the location of the proposed building footprint.

The development satisfies this objective.

- ***The buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.***

Comment:

The proposal is reliant upon a minor volume of excavation. However, the extent of excavation proposed is not unreasonable in the context of the site, and does not present as excessive built form as seen from the public domain.

The development satisfies this objective.

The proposed development will be consistent with the criteria of clause 4.3(2D) of PLEP 2014, and the application of the 10m control is supported. As such, the proposed development is consistent with the maximum building height prescribed for the site.

7.1 Acid sulfate soils

The site is identified as being partly within 'Class 1' and partly within 'Class 5' on the Acid Sulfate Soils Map.

The proposed development involves minor earthworks in relation to the construction of the proposed dwelling house, inclinator and external elevated pathways. Due to the sloping nature of the site, there is minimal excavation as part of the proposal. The proposed earthworks do not involve the disturbance of more than one tonne of soil, which is the trigger for an Asset Sulfate Soil Management Plan (ASSMP). As a result, a ASSMP is not required.

In addition, the water table will also not be affected by the proposed works

7.2 Earthworks

A Geotechnical Assessment has been prepared by Asset Geotechnical Engineering Pty Ltd, Reference No. 5821-G1-Rev 2 , dated 17 January 2020. This report and its recommendations are included within the applied conditions to ensure there is no adverse impacts to the surrounding properties resulting from the proposals required excavation.

Accordingly, Councils Landscape and Biodiversity officers have concluded that the impact of the earthworks will not unreasonably impact or disrupt vegetation on the property.

7.7 Geotechnical hazards

A Geotechnical Assessment has been prepared by Asset Geotechnical Engineering Pty Ltd, Reference No. 5821-G1-Rev 2 , dated 17 January 2020. This report and its recommendations are included within the applied conditions to ensure there is no adverse impacts to the surrounding properties resulting from the proposal on sloping land.

7.8 Limited development on foreshore area

The application proposes minor works within the foreshore area, including:

- The construction of a inclinator track,
- The construction of an inclinator landing and new porous pathway that connects with the existing pathway.

These works will be located in the area between the established Foreshore Building Line and the Mean High Water Mark.

The applicant has not provided a statement to confirm that all proposed works are permissible within the foreshore area and consistent with the provisions clause 7.8 of PLEP 2018. However, it is considered that the proposed works are ancillary to the dwelling house, and swimming pool/boatshed, which are located below the high water mark. Therefore, the works are appropriately covered by those

items outlined in Part 2(a) of this clause, and are permitted within the foreshore area.

The proposed inclined passenger lift will is also supported by Councils' Landscaping, Biodiversity, Riparian and Coastal Officers as there is minimal impact on the landform and vegetation in the foreshore zone and no impact on natural foreshore processes or public access along the water front.

The lift will provide improved access for the residents to and from the waterfront. It is considered works are reasonable and necessary in this case, particularly given the slope of the site.

The works also satisfy the objectives of the clause as follows:

- *The proposed works are located entirely on private land and will not negatively impact the natural foreshore processes or amenity of the foreshore area and public access along the waterfront will remain.*
- *The proposed development is consistent with the surrounding built form of the locality, as the terrain causes difficult accessing the property from the waterfront.*
- *There is no existing continuous public access along the foreshore, subsequently this clause does not apply.*

The proposed new landing area, and pathway that joins to the existing pathway, is supported as the footprint of the development remains consistent with that currently on site, the proposed works are not visually dominant, and are consistent with the design criteria of the control.

Overall, it is concluded that the landing area, rails of the proposed new inclinator and a proposed new porous pathway will be consistent with the provisions of the control.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	10m	0.0m - 2.6m Carport/Turning Circle 0.4m - 2.7m Roof of Boardway Entry 5.10m - 8.4m Dwelling House	up to 100% 96% 49%	No No No
Rear building line	Dwelling - Foreshore building line/6.5m	10.3m Rear Terrace 12.08 Dwelling House 4.0m - 4.8m Inclinator 2.3m - 6m Decked path	- - up to 61.5% up to 64%	Yes Yes No No
Side building line	2.5m North - West	3.99m - 4.8m Dwelling House	-	Yes
	1m South -East	2.5m Dwelling House	-	Yes
Building envelope	3.5m North - West	No encroachment	-	Yes
	3.5m South - East	Diminishing triangle encroachment up to 1.1m in height for a length of 1.5m	31.4%	No
Landscaped area	60% (645sqm)	56% (603.3sqm)	6.6%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	No	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.7 Estuarine Hazard - Low density residential	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B4.16 Seagrass Conservation	Yes	Yes
B4.19 Estuarine Habitat	Yes	Yes
B4.20 Protection of Estuarine Water Quality	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.11 Stormwater Discharge into Waterways and Coastal Areas	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	No	Yes
D12.6 Side and rear building line	No	Yes
D12.8 Building envelope	No	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.12 Palm Beach Locality

The development is consistent with the Desired Character statement of the Palm Beach Locality with exception of the third storey element of the dwelling.

Specifically, the locality statement provides that the *"locality will remain primarily a low-density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape"*.

However, the third storey element are consistent with the very sloping topography and the surrounding residential dwelling houses. Both neighbouring sites, No.985 and No. 977-979 Barenjoey Road contain three storey elements. The proposed development sites almost entirely on the existing footprint, minimising the excavation.

In this regard, the built form will continue to sit comfortably with adjoining and surrounding two, three and four storey residential development. Also, consistent with adjoining development, the built form is located downslope in steep topography and therefore proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

On balance, the proposal is considered consistent with the desired future character of the Palm Beach locality.

C1.3 View Sharing

The views from the subject site and adjoining properties are mainly to the west and include Careel Bay water views. The proposed works to the existing dwelling have been sited generally within the footprint of the existing dwelling, to minimise any impacts on views enjoyed by the neighbours to either side.

The non-compliant roof area protruding the required footprint do not cause unreasonable obstruction into any view lines of the north-west and south-eastern adjoining neighbours.

Dwellings on the opposite side of Barrenjoey Road, up the slope of the Barrenjoey escarpment have no impact to their current view line of Careel Bay due to the much high topography.

C1.5 Visual Privacy

Description of non-compliance

The proposal has been designed to achieve a high level of visual privacy to the the south-east neighbouring property, No. 979 Barrenjoey Road, and to the north-west neighbouring property, No. 985 Barrenjoey Road. The visual privacy has been addressed via the location and orientation of the "pavilion" wings of the proposed dwelling house, the positioning of windows, terraces and balconies, privacy treatments to certain windows and reasonable landscaped setback areas to the side boundaries to provide additional screening.

However, the Visual Privacy Clause C1.5 requires:

- *Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9.0m by building layout, landscaping, screening devices or greater spatial separation (measured from a height of 1.7m above floor level).*
- *Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.*
- *Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.*

Furthermore, in the Land and Environment Court Case *Meriton v Sydney City Council [2004]* NSWLEC 313 Senior Commissioner Roseth established a planning principle for the protection of visual privacy where it was considered that "generalised numerical guidelines..., need to be applied with a great deal of judgment, taking into consideration density, separation, use and design". The planning principles have been applied to the assessment to ensure to consistency of the assessment.

As the development includes balconies and windows which are situated within 9m of the side boundaries a merit assessment has been undertaken below.

The proposed development has been assessed against the relevant outcomes of this clause, as follows:

- ***Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.***

Comment:

The Upper and Ground Floor south-western elevation includes balconies, terraces, and windows that are orientated towards the rear of the subject site to take advantage of the expansive Careel Bay water views, and are sufficiently setback from the property boundaries. The juliet balconies do not allow any unreasonable overlooking to the neighbouring sites private open space areas, and the larger balcony servicing bedroom two is located over 8.8m from the nearest side boundary. The balcony servicing the parents retreat, and gymnasium is reasonably located from the side boundary (approximately 4m) and does not directly adjoin any of the neighbouring private open spaces areas.

The new window on the Upper Floor of the south-eastern elevation services bedroom three. The window includes privacy mitigation measures of frosted glazing to the height of 1.5m from the finished floor level. Therefore, no unreasonable privacy impacts are created from this additional

window.

The Upper and Ground Floor north-western elevation includes additional windows, doors and balcony areas. The two windows on the Upper Floor service a parents retreat. It is anticipated that this room is not likely to be accommodated as regularly than the main living areas located on the Ground Level. As noted in the planning principle above, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time, therefore it is not considered privacy treatments are required. The new windows and doors servicing the Ground Floor gymnasium and WC area are located a sufficient distance of 6.3m - 8.5m from the north-western side setback, are located at ground level, and are screened by landscaping, thereby limiting any unreasonable privacy impacts. As a result privacy treatments are not considered to be required.

The proposed new inclinator has been centrally positioned within the rear landscaped area of the site and is well setback from the neighbouring properties and with additional screening landscaping proposed in this area.

The proposal also includes the retention of existing landscaping and the inclusion of additional landscaping within the side setbacks of the subject site. As a result, the existing and additional landscaping vegetation in conjunction with the proposed spatial distance are suitable in providing adequate privacy to the neighbouring sites.

As such, the development as modified by this proposal optimises privacy for both the subject site and adjacent sites through good design.

- ***A sense of territory and safety is provided for residents.***

Comment:

Given the above, an appropriate sense of territory and safety is retained for the residents of the subject site and adjacent sites.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, subject to conditions, in this particular circumstance.

C1.19 Incline Passenger Lifts and Stairways

The proposed passenger inclinator has a side boundary setback of approximately 14.4m to the north-west and 21m to the south-eastern boundaries. The inclinator location has been designed to work with the constraints of the site (namely the steep topography rock outcrops and existing canopy trees).

Notwithstanding, the passenger inclinator is supported as;

- There is no excessive excavation, or the removal of natural rock or trees,
- It is to be erected as near as possible to the ground level (existing) of the site, and
- The location is centralised on the site to provide least possible amenity impacts to the neighbouring sites.

The noise of the inclinator will be conditioned so not to demonstrate a sound level in excess of 5 dB (A) at any time above the background noise level at any point along the site boundaries when

measured in accordance with the Environment Protection Authority's Industrial Noise Policy. A condition will also be imposed to ensure the inclinator carriage is to be a dark colour so that the inclinator blends in with the surrounding vegetation.

D12.1 Character as viewed from a public place

The proposed carport, with a minimum setback of 0.2m - 0.5m from the front property boundary, is inconsistent with the requirements of this clause, which prescribe that parking structures must not be the dominant site feature when viewed from a public place, and should be located behind the building line, preferably setback further than the primary building.

However, the proposed siting of the carport structure demonstrates consistency with the permitted variation prescribed by the front building line development control, which allows parking forward of the front building line on steeply sloping sites.

As a result, the modernised presentation of the proposed carport is consistent with other parking structures along this particularly steep stretch of Barrenjoey Road. The siting of the proposed carport is supported on merit, as the proposal is compatible with the character of Barrenjoey Road, and will not detract from consistency with the outcomes of this development control.

The dwelling whilst large, has a proposed pavilion design with a linking access way is well articulated and will present as a one storey dwelling house from the Barrenjoey Road streetview. The visual impact of the proposed works is screened by the lower topography of the dwelling house, and existing hedging vegetation. The visual impact will be lessened over time with the growth of the proposed landscaping, and ultimately, there will be a significant improvement in the presentation to Barrenjoey Road and the Palm Beach locality.

D12.3 Building colours and materials

The pavilion design of the proposed dwelling house connected by central access way is well articulated, and incorporates appropriate materials and colour palette.

The proposal incorporates dark glazing and darker shade elements for the central linkway to assist in visually breaking the two pavilion forms in order to reduce the overall bulk and scale of the proposal. The use of differing materials for the elevations including masonry and metal clad walls is complimentary to the existing landscape. The built form is also articulated by balconies, terraces, glazed windows and doors to minimise the perceived visual height and bulk of the dwelling, whilst maintaining the existing architectural style and feel of the proposed development.

Given that the proposal incorporates darker colours (roofing, window /door openings) and natural materials (stone cladding and landscaping) the overall visual impact is acceptable.

The building colours and materials complement and enhance the visual character in its location with the natural landscapes of Pittwater. The proposed colours and materials of the development harmonies with the natural environment and the visual prominence of the development is minimised.

The proposal therefore satisfies the objectives for development control.

D12.5 Front building line

Description of non-compliance

The proposed development is inconsistent with the 10m minimum front building line prescribed by this development control. The non-compliance with the front setback is as follows:

- Carport 0.0m - 2.7m
- Upper Floor Dwelling 5.1m - 8.2m
- Lower Floor (northern pavilion) 0.2m - 2.8m

As discussed with respect to clause D1.1 of P21 DCP, the siting of the proposed carport is consistent with a prescribed variation which permits parking structure forward of the building line on steeply sloping sites.

However, this variation requires all other structures to be set back in accordance with the 10m minimum building line prescribed, and as such, the siting of the dwelling house are inconsistent in this regard. However, it is important to note that these setbacks are existing. The siting of the Upper Floor is considered to be an appropriate solution for the site, by mimicking the existing setbacks that exist on the site to provide the additional floor space into the existing footprint in order to reduce the extent of disturbance on the environmentally sensitive site.

The proposed works are largely non-visible from the Barrenjoey Road streetview as the existing mature landscaped 3-4 metre high hedge along the Barrenjoey Road site frontage screens the built form.

The siting of the dwelling house Upper Floor and Ground Floor additions as a whole is considered to be acceptable on merit, particularly as the proposal otherwise achieves consistency with the outcomes of the front building line development control, as follows:

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

Comment:

The built form will continue to sit comfortably with adjoining and surrounding two, three and four storey residential development along Barrenjoey Road. The built form is located downslope in steep topography, with the third storey element of the south-eastern pavilion siting well below street level, and consequently presenting the carport and subsequent roof line to Barrenjoey Road.

Proposed landscaping and established canopy trees will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape. As a result the siting of the carport, and the Upper Floor do not detract from consistency with the desired character prescribed for the Palm Beach Locality.

The proposal satisfies this requirement.

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

Comment:

The front setback of the proposed Upper Level mimics the front setbacks of the existing 1 - 2 storey dwelling house. The siting of the dwelling house lower on the escarpment means the built form is not readily visible from the Barrenjoey Road streetview. The open style of the carport, provide a more open design rather than the enclosed garage examples along the Barrenjoey Streetscape.

The proposed works are also largely non-visible from the Barrenjoey Road streetview as the existing mature landscaped 3-4 metre high hedge along the Barrenjoey Road site frontage screens the built form, whilst continuing to provide glimpses of the Pittwater waterway. See

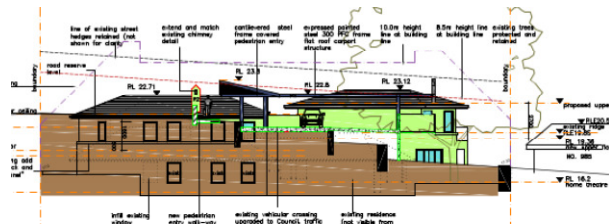


Figure 4: Demonstration of the proportion of the upper floor located below the Barrenjoey street level.

The retention of the canopy trees and landscaping within the front boundary will soften the built form and is consistent with the bushland character of Barrenjoey Road and the Locality.

The proposal satisfies this requirement.

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

Comment:

The siting of the carport, and Upper Floor is consistent with other structures along Barrenjoey Road. The proposal will present as a one storey dwelling house from Barrenjoey Road, with the majority of the new Upper Floor below road level.

When viewing the total streetscape along Barrenjoey Road, it is evident that landscaped areas feature prominently and provide a balance between built form and landscaping. Additionally, the visual impact to adjoining dwellings and Barrenjoey Road have been further minimised through the topography of the slope and adequate separation from the Barrenjoey Road boundary. Overall, the proposal ensures new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment and retains sufficient canopy trees and landscaping to soften and screen the built form.

The proposal satisfies this requirement.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.6 Side and rear building line

The application includes a minor non-compliance with the rear building line requirement due to the proposed passenger inclinator.

The inclinator is a relatively minimal structure with the largest element being the carriage to carry people up and down the site. The rail will be located as close as possible to ground level depending on the topography. The inclinator is located centrally on the subject site, which minimises any amenity impacts to neighboring sites.

As such, despite the non-compliance, the proposal is considered to achieve consistency with the outcomes of this control and is supportable on merit, as follows:

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

Comment:

The proposed inclinator is considered to satisfactorily achieve the desired future character of the Palm Beach locality.

The proposal satisfies this objective.

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

Comment:

Given the site constraints in relation to the topography, foreshore building line and the sensitive nature of the location, the non-compliance's of the inclinator is not considered to result in unreasonable or adverse in bulk and scale.

The inclinator is a relatively minimal caged structure, with the largest element being the carriage to carry people up and down the site. The rail will be located as close as possible to ground level depending on the topography. It is not considered that this minimal structure will have any adverse additional visual dominance to the site.

The proposal satisfies this objective.

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

Comment:

The inclinator is centrally located on the subject site, and positioned well below any existing view line. Therefore, there is no unreasonable impacts on established views.

The proposal satisfies this objective.

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

Comment:

The inclinator has been situated such that privacy between the subject site and the neighbouring properties is adequately maintained. It is considered that the inclinator does not result in any unreasonable overshadowing, with existing and additional landscaping providing appropriate softening and screening the structure.

The proposal satisfies this objective.

- ***Substantial landscaping, a mature tree canopy and an attractive streetscape.***

Comment:

The development maintains a substantial portion of the property as natural landscaped area. Canopy trees are to be maintained in the front, side and rear setback areas, with additional planting to be incorporated.

The proposals presentation to the waterway is considered significantly improved through a modernised built form and improved landscaping which is consistent with the Pittwater waterway character.

The proposal satisfies this objective.

- ***Flexibility in the siting of buildings and access.***

Comment:

Given the constraints on the development by virtue of the escarpment location and the siting of the existing structures on the site, some flexibility in applying the required setback for the

inclinor is considered appropriate in this instance. The inclinor will provide for a development that will preserve the natural environment of the property while providing improved access to existing recreational, more suited to modern living expectations.

The proposal satisfies this objective.

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

Comment:

As indicated, the site retains the significant trees located with the rear setback area of the site. In conjunction with the new planting proposed under this application throughout the site, the visual presence of the built form will be adequately filtered by vegetation.

The proposal satisfies this objective.

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

Comment:

The site does not adjoin a commercial zone, this outcome does not apply to this site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.8 Building envelope

Description of non-compliance

The proposed development involves one minor area that protrude beyond the required building envelope.

These side envelope breach area is as follows:

- South-East Elevation: up to 1.1m (height) and 1.2m (width).

The proposed First Floor introduces a new non-compliance with the building envelope control on the south-eastern elevation. The figure below shows the location and extent of the non-compliance.

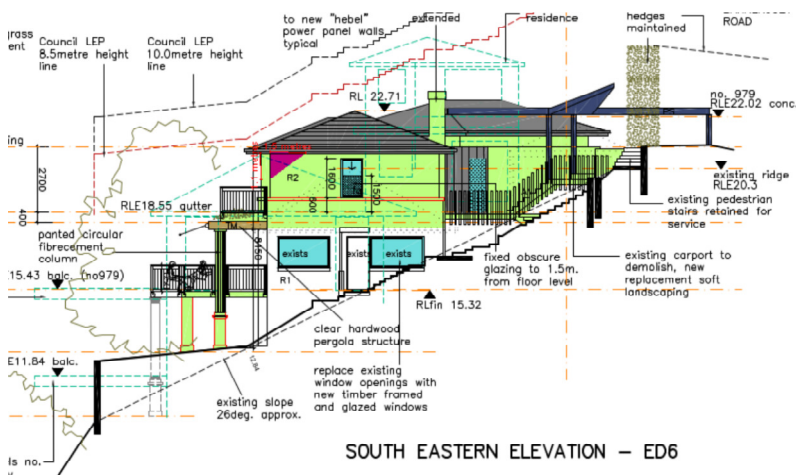


Figure 5. The south-eastern side boundary envelope non-compliance shown in pink.

As stated within the control “where the building footprint is situated on a slope over 16.7 degrees (ie; 30%), variation to this control will be considered on a merits basis”.

Consequently, consideration of the proposed breach against the relevant outcomes of the control is provided below:

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

Comment

The non-compliance is significantly influenced by the sloping topography of the site, and the maintenance of the existing setbacks of the built form. The proposal is well articulated along side setbacks, with a detached pavilion design combined with a varied roof line. The area of encroachment demonstrates consistency with the desired future character of the locality with the siting of the dwelling maintaining the landforms, landscapes and other features of the natural environment.

The proposal complies with this outcome.

- ***To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.***

Comment:

The development is situated predominately over the existing building footprint and does not alter the existing topography of the site.

The minor encroachment is not visible from the Barrenjoey street frontage. The minor encroachment is considered satisfactory in regards to the design, scale, bulk and the height of the proposal. Furthermore, the resultant built form presents a more modern and improved detached pavilion style design that responds to the natural land form of the site, below the height of the existing canopy trees of the natural environment.

The proposal complies with this outcome.

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

Comment:

The facade of the dwelling on the south-east elevation is sufficiently modulated to respond aspect of the site and its steep slope. The resultant development is considered to be a sensitive design response in consideration of the natural characteristics of the site, with the retention of existing canopy trees and the enhancement of landscaping.

The proposal complies with this outcome.

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

Comment:

The area of the dwelling outside of the envelope is typified by a variation in facade treatments and structures. The proposed resultant dwelling is of comparable building bulk and scale to existing and approved developments in the locality.

The development sites over the existing footprint, and the proposed height is mostly compliant with the building height development standard. In light of the steep topography, the significant articulation and material differentiation attempts to ensure the bulk and scale of this portion of the development has been minimised.

The proposal will include adequate vegetation in order to screen the built form of the proposed development from the neighbouring sites, the Barrenjoey street view and from the Careel Bay waterway.

The development complies with this outcome.

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

Comment:

The proposed development will not result in any significant view loss that would warrant refusal of the application.

The development complies with this outcome.

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

Comment:

There will be no adverse amenity impact in regard to privacy or solar access as a result of the proposed breach of the building envelope.

The development complies with this outcome.

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

Comment:

The proposed dwelling is sited in a manner that will retain significant existing vegetation and enhance the future viability of the vegetation community that exists on the site.

The development complies with this outcome.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.10 Landscaped Area - Environmentally Sensitive Land

Description of non-compliance

The proposed landscaped area does not meet the 60% landscaped area requirement under this control.

However, the proposed development results in an increase of landscaped area by 10sqm, to provide 603.3m² or 56% of landscape area. The increase to the landscaped area calculation arises as a result of the removal of the existing carport and driveway, and other access stairs and pathways to provide for an improved landscaped treatment presenting to the Barrenjoey front setback and the rear Pittwater

waterway.

Whilst the proposed development improves the numerical calculation of the landscaped areas it is recognised that the percentage is a variation of the 60% minimum requirement.

The application of the variation is considered to be warranted, as the outcomes of the control are achieved as follows:

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

Comment:

The proposed development is consistent with the desired future character of the Palm Beach Locality, as the proposal provides adequate opportunities to ensure that the visual impact of the development is secondary to landscaping. In addition, it can be said that the proposal has been effectively integrated within the landform, through retaining existing canopy trees of high significance and developing a considerable landscape buffer areas in the front and rear of the site.

The proposal does not comply with this outcome.

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

Comment:

The proposed will provide sufficient landscape buffers, which will assist in visually breaking down the built form, particularly with the improvement of landscaping around the lower levels of the building, around the inclinator and within front setback area, combined with the retention of the significant canopy trees on the site. Overall, it is considered that the proposal's design reasonably mitigates the visual impact of the built form.

The proposal does comply with this outcome.

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

Comment:

The proposal will not result in any unreasonable impact on light, solar access or privacy. This is as a result of the sufficient orientation and separation of the proposed dwelling.

The proposal complies with this outcome.

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

Comment:

The proposal involves a landscaped area of 56% (606.3sqm), whereas the control requires a minimum of 60%. The proposal will provide adequate areas for the retention and establishment of more considerable planting, particularly around the built form and within the rear setback between the waters edge and the proposed inclinator. The proposal retains a building height that sites below the existing canopy trees leading to a visual integration of the built form to the landscaped locality. As a result, the proposal provides adequate areas for substantial planting, to visually reduce the built form.

The proposal complies with this outcome.

- ***Conservation of natural vegetation and biodiversity.***

Comment:

The proposed development is located almost entirely over the existing footprint, with minimal excavation. It is a sensitive solution for the constrained site that preserves the natural features and biodiversity. Native trees and vegetation are retained as part of the proposal. In addition, the development is supported by Council's Natural Environment Biodiversity and Landscaping Team.

The proposal complies with this outcome.

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

Comment:

The development will provide sufficient areas that are of soil depth for the infiltration of stormwater. It is considered that stormwater runoff will not be reasonably reduced as a result of this proposal. Subject to conditions recommended by Council's Development Engineers, stormwater will be appropriately managed on the site.

The proposal complies with this outcome.

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

Comment:

The subject include multiple areas capable for the establishment of deep soil planting. The street frontage will include one landscaped area, while the side and rear setbacks will include sufficient landscaped area between down to the Careel Bay waters edge.

Overall, the proposal provides reasonable opportunities within the site for the establishment of any trees and landscape features, resulting in the proposal integrating with the landscaping and bushland character of the escarpment and the locality.

The proposal complies with this outcome.

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

Comment:

A considerable proportion of the hard surface areas proposed are elevated above ground and permeable, maximising water infiltration. Furthermore, subject to conditions of consent, Council is satisfied that stormwater will be appropriately managed on the site.

The proposal complies with this outcome.

Based on the above, the proposed landscape area in this instance instance is supported on merit and considered to satisfy the outcomes of the control.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$28,710 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,871,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/0130 for Alterations and additions to a dwelling house on land at Lot 100 DP 509808, 981 Barrenjoey Road, PALM BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site and Upper Floor Plan Issue J 1 of 8	August 2019	Architects Link
Ground Floor Plan Issue J 2 of 8	August 2019	Architects Link
Lower Ground Floor Plan Issue J 3 of 8	August 2019	Architects Link
South-West and North-East Issue J 4 of 8	August 2019	Architects Link
North-West and North-East Issue J 5 of 8	August 2019	Architects Link
South-East Elevation Section 1 Issue J 6 of 8	August 2019	Architects Link
Section 2 and Section 3 Issue J 7 of 8	August 2019	Architects Link
Roof Plan Issue J 8 of 8	August 2019	Architects Link
Demolition and Excavation Plan Issue A 1 of 1	August 2019	Architects Link

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment	January 2020	Blue Gum Arborist
Bushfire Hazard Assessment	12 January 2020	Bushfire Planning & Design
Geotechnical Investigation	17 January 2020	Asset Geotechnical Engineering Pty Ltd

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape Plan Sheet 1 of 4	22/01/2020	Zenith Landscape Designs
Landscape Plan Sheet 2 of 4	22/01/2020	Zenith Landscape Designs
Landscape Plan Sheet 3 of 4	22/01/2020	Zenith Landscape Designs

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

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

2. Prescribed Conditions

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and

- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

3. General Requirements

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) 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.
- (e) 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.
- (f) 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.

- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) 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.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) 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.
- (k) 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.

- (l) 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.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by

Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$28,710.00 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 2019. The monetary contribution is based on a development cost of \$2,871,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

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

5. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

Reason: To ensure adequate protection of Council's infrastructure.

6. **Construction, Excavation and Associated Works Security Bond (Road works)**

The applicant is to lodge a bond with Council of \$5000.00 as security against any damage or failure to complete the construction of road pavement/shoulder reconstruction works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

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

7. **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 Architects Ink dated 17 January 2020 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

8. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of Section 138 Road Act approval required by this consent. The Traffic Management Plan shall be prepared to RMS standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

9. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of

Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of vehicular access which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. The width and location of the access driveway at the road must be designed in accordance with section 3.2 of Australian/New Zealand Standard AS/NZS 2890.1:2004 Parking facilities - Off-street car parking.
2. The vehicular Crossing/driveway within the public road shall be in plain concrete.
3. The provision of normal low vehicle crossing profile generally in accordance with Northern Beaches Council Drawing No A4-3330/3 and specifications.
4. Safety devices must be installed on the proposed driveway in accordance with AS/NZS 2890.1: 2004.
5. The driveway be designed such that there is no load imposed on the existing retaining wall supporting the road. Alternative, the design must either replace existing retaining wall to maintain support of road to extend structural design life to 100 years.
6. The crossing slab between the kerb & gutter/road shoulder and the existing internal retaining wall/pier must be generally matching existing ground level.
7. Pedestrian access shall be incorporated within the driveway and any steps required shall be located within the private property.
8. Longitudinal cross sectional survey detail must be provided with the design, showing existing and proposed levels and must be commenced from the centerline of the road.
9. Structural details of the driveway retaining wall, piers and slab designed by a structural engineer.
10. The application is to include a geotechnical report that is prepared by an appropriately qualified Geotechnical Engineer to assess the existing retaining wall and the related area between the retaining to the property boundary along Barrenjoey Road. The report must include a full assessment of the existing retaining wall including the stability assessment of the wall.
11. Any proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation.
12. The provision of appropriate protection for the retaining wall during and after completion of construction works

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

10. **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;
- North point and scale.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

11. **Compliance with Standards**

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

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

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

12. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

13. **Sydney Water "Tap In"**

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

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

14. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

15. **External Finishes - Incline Passenger Lift**

The carriage and track of the incline passenger lift shall have an external finish colour consisting of dark and earthy tones, no lighter than mid-grey.

Details of this shall be provided to the Principle Certifying Authority prior to the issue of a construction certificate.

Reason: To ensure development blends into the landscape.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

16. **Project Arborist**

A Project Arborist with AQF minimum Level 5 qualification in arboriculture/horticulture is to be appointed to supervise and certify tree protection measures for existing trees to be retained and protected, requiring site attendance during demolition, excavation and construction works, in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, the recommendations of the Arboricultural Impact Assessment prepared by BlueGum Tree Care & Consultancy, as follows under section 7.1 Site Establishment - Prior to Demolition/Construction:

- i) Appointment of a Project Arborist,
- ii) Tree removal,
- iii) Canopy pruning of T3.

The Arborist shall submit certification that the works described under section 7.1 Site Establishment - Prior to Demolition/Construction have been correctly adhered to during demolition, excavation and construction works.

Reason: to ensure tree protection is provided and maintained.

17. **Tree removal within the property**

The following trees located on the property and assessed as impacted by development, and without an alternative design layout to retain the trees, as assessed and recommended in the Arboricultural Impact Statement prepared by BlueGum Tree Care & Consultancy and dated January 2020, are granted approval for removal:

- T8 - Giant Bird of Paradise (exempt),
- T17 - Cocus Palm (exempt),
- T19 - Cocus Palm (exempt),
- T21 - Bangalow Palm (exempt),
- T26 - Cocus Palm (exempt).

Advice: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by a AQF level 5 Arborist that determines that the tree presents an imminent risk to life or property.

18. **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 from the effects of sedimentation and erosion from the site.

19. **Environmental Safeguards**

Environmental safeguards (silt curtains or booms) are to be used downstream during construction of the proposed works to ensure there is no escape of turbid plumes into the aquatic environment. The safeguard is to be removed only once the works have been completed and any materials or sediment captured in the safeguards are to be disposed of at an approved waste facility.

Reason: Protection of estuarine water quality

20. **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 from the effects of sedimentation and erosion from the site

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

21. **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.

22. **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)];
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- 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.

23. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

24. **Civil Works Supervision**

The Applicant shall ensure all civil works approved in the Section 138 approval are supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

25. **Tree protection measures**

A Project Arborist with AQF minimum Level 5 qualification in arboriculture/horticulture is to be appointed to supervise and certify tree protection measures for existing trees to be retained and protected, requiring site attendance during demolition and construction works, in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, the recommendations of the Arboricultural Impact Assessment prepared by BlueGum Tree Care & Consultancy, as follows under section 7.1 Site Establishment - Prior to Demolition/Construction, 7.2 During Demolition, 7.3 During Construction, and 7.4 Post Construction:

- i) trunk protection to trees T2, T3, T4, T5, T20, and T22,
- ii) existing flagstone within the tree protection zone of T2 and T3 shall be retained as ground protection during demolition and remain throughout the entire project,
- iii) excavation for building footing near T2 and T3 must be undertaken using hand tools within the top 600mm of soil or to the depth of bedrock,
- iv) tree Protection Zones works prohibited include: stripping of topsoil or organic surface material, storage of material, vehicles and machinery, and disposal of solid, liquid or chemical waste, and
- v) works as documented in the Tree protection Plan.

The Arborist shall submit certification that the works described above have been correctly adhered to during demolition, excavation and construction works.

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 Certifying Authority or a Project Arborist AQF Level 5 must ensure that:

- i) the activities listed in section 4.2 of AS4970- 2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and
- ii) 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.

A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.

Reason: to ensure tree protection is provided and maintained.

26. **Tree and vegetation protection**

a) Existing trees and vegetation shall be retained and protected as recommended in the Arboricultural Impact Assessment prepared by BlueGum Tree Care and Consultancy listed under section 2 Summary, including:

- i) all trees and vegetation within the site not approved for removal,
- ii) all trees and vegetation located on adjoining properties.

b) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF minimum Level 5 Arborist,
- iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF minimum Level 5 Arborist,
- iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF minimum Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
- v) to minimise the impact on trees and vegetation to be retained and protected, 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,
- vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF minimum Level 5 Project Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF minimum Level 5 Arborist on site,
- viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF minimum Level 5 Arborist, including advice on root protection measures,
- ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a AQF minimum Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,
- xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

c) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

Reason: to retain and protect significant planting on development and adjoining sites.

27. **Dewatering Management**

If groundwater is encountered during excavations of greater than one metre depth from the

existing ground surface level and dewatering is required to continue work, work must cease until the applicant has provided a dewatering management plan to Northern Beaches Council that details planned discharges of groundwater to Council's stormwater network, including expected flow rates and treatment methods. This information must be provided to WaterNSW when making an application for a dewatering permit.

The dewatering management plan must be certified by a suitably qualified civil engineer who has membership of Engineers Australia and appears on the National Engineering Register (NER). Council must issue a permit based on the plan and general terms of approval from WaterNSW, and a dewatering permit provided by WaterNSW prior to dewatering commencing.

Discharges must achieve water quality targets in addition to any conditions/documentation of this consent, any requirements of the General Terms of Approval/Controlled Activity permit issued by WaterNSW, and legislation including Protection of The Environment Operations Act 1997 and Contaminated Lands Act 1997.

Parameter	Criterion	Method	Time prior to discharge
Oil and Grease	None visible	Visual Inspection	<1hr
pH	6.5-8.5	Probe/meter	<1hr
Total suspended solids and turbidity measured as NTU	<50mg/L	Grab sample/meter	<1hr

NOTE: The correlation between NTU and TSS must be established by a NATA accredited laboratory prior to the commencement of dewatering activities.

All records of water discharges and monitoring results are to be documented and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request. Groundwater must be discharged to the nearest stormwater pit in accordance with Council's Auspec1 Design Manual and must not spread over any road, footpath and the like. Discharge to the kerb and gutter will not be accepted.

Reason: Protection of groundwater aquifers, groundwater dependent ecosystems and receiving environments.

28. **Waste Management during Works**

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 Certifying Authority.

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

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

29. **Landscape works completion**

Landscape works are to be implemented in accordance with the Landscape Plans L01, L02, L03 and L04 prepared by Zenith Landscape Designs and accompanying Landscape Design Statement.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the landscape plan and with any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

30. **Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with AQF minimum Level 5 qualifications in arboriculture/horticulture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

- i) compliance to any Arborist recommendations for tree protection and excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: to retain and protect significant planting on development and adjoining sites.

31. **Stormwater Disposal**

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

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

32. **Certification driveway and Parking Facility Works**

The Applicant shall submit a Structural Engineers' certificate certifying that the driveway/vehicular crossing and parking was constructed in accordance within this development consent and the provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation.

Reason: Compliance with this consent.

33. **Retaining wall**

The retaining wall works shall be certified as compliant with all relevant Australian Standards and Codes by a Structural Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Public and Private Safety

34. **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 Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

35. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority 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

36. **Landscape maintenance**

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

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

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

37. **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.

38. **No Planting Environmental Weeds**

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

Reason: Weed management.

39. **Dead or Injured Wildlife**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.

40. **Noise Impact on the Surrounding Area**

The use of the inclinor shall not cause mechanical sound level in excess of 5 dB(A) at any time above the background noise level at any point along the site boundaries when measured in accordance with the Environment Protection Authority's Industrial Noise Policy.

Reason: To ensure compliance with acceptable levels of noise established under best practice guidelines.

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

Signed



Catriona Shirley, Planner

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



Rodney Piggott, Manager Development Assessments