

Statement of Environmental Effects  
Landscape Works to Existing Dwelling  
22 Ocean Road, Palm Beach

November 2019

Mersonn Pty Ltd  
6/20 Wylde Street  
Potts Point NSW 2011

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## Contents

1.0	Introduction	3
2.0	Site and Context	6
3.0	Proposed Development	28
4.0	Planning Controls	29
5.0	Environmental Planning Assessment	77
6.0	Conclusion	85

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## 1.0 Introduction

This report has been prepared on behalf of C. Comino by Mersonn Pty Ltd and is submitted to Northern Beaches Council in support of a development application for landscape works to the existing dwelling at 22 Ocean Road, Palm Beach (Lot 71 DP 6746).

The subject site fronts Ocean Road and Palm Beach. The site has an area of 1,221m<sup>2</sup> and accommodates a substantial two storey dwelling set well back on the block. The rear of the site is heavily landscaped with substantial planting along the perimeter. The front boundary is characterised by large, mature Norfolk Island Pine street trees.

The site has a localised fall in the topography of the front garden which falls from Ocean Road back towards the existing dwelling. The adjoining dwellings to the north and south have had their front garden levels modified over time so that they are at a higher level than the subject site. The result is that the site is regularly inundated by stormwater and overland flows. It is proposed to carry out landscaping works within the front garden of the subject site with earthworks and minor retaining walls set to manage the existing on-site flooding while managing flooding in the adjoining properties by maintaining appropriate overland flow through the subject site.

The proposal has been developed through the preparation of a Flood Impact Assessment carried out by Australian Consulting Engineers (submitted with the application) which has:

- Determined the existing stormwater characteristics of the overland flowpath hydraulics and capacity;
- Defined the flood risk for the proposed development in accordance with the Northern Beaches Council DCP Flood Risk Management Policy;
- Set earthworks levels for the proposed development in order to manage flooding in adjacent properties in accordance with Council's guidelines;

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- Discussed risk management in accordance with Council's Flood Risk Management Guidelines; and
  - Provides flood risk management procedures for the proposed development in accordance with Council's Flood Risk Management Guidelines.

The proposed works will have the following positive impacts:

- Flood impact assessment and design with reference to council flood model resulting in NO overflow or impact onto any adjacent neighbouring properties;
- Removal of public footway hazard where the current driveway falls significantly from street creating a drop across the grass footway across the front boundary;
- Removal of pooling and ensuring the efficient draining of the three adjoining properties;
- Upgraded landscape design and outdoor open space;
- Removal of the driveway and increase in soft landscaping;
- Levelling of subject site consistent with the levels of the two adjoining properties.

The proposal does not make any changes to the existing dwelling.

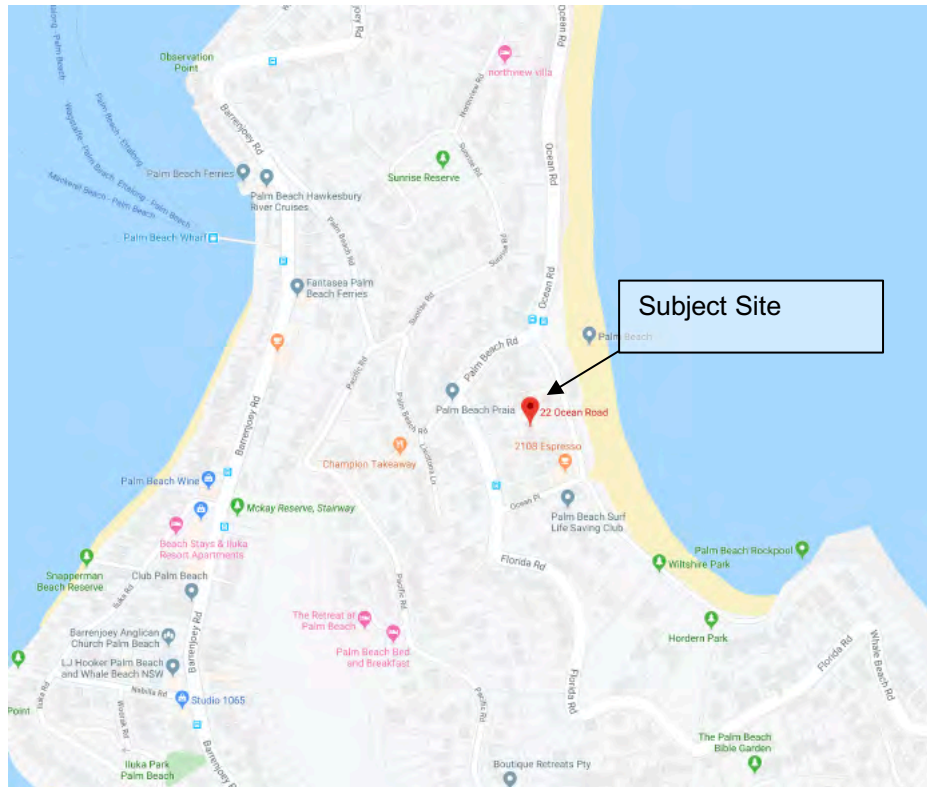
This Statement has been prepared pursuant to Section 4.13 of the Environmental Planning and Assessment Act, 1979 and Clause 50 of the Environmental Planning and Assessment Regulation, 2000. The purpose of this document is to describe the existing improvements on the site, detail the proposed development, review the applicable planning regime relating to the proposal, assess the degree of compliance and examine the environmental effects of the development when measured against the Evaluation Criteria prescribed under Section 4.15(1) of the Environmental Planning and Assessment Act, 1979. In respect of the assessment of the proposal, where impacts are identified, measures proposed to mitigate any harm to environmental amenity have been addressed in this report.



Aerial Photograph  
Source: RPData 2017

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## 2.0 The Site and Context



### Location Plan

Source: GoogleMaps 2019

The subject site is located on the western side of Ocean Road, Palm Beach, south of its intersection with Palm Beach Road. The site is regular in shape with a eastern frontage of approximately 20.115m to Ocean Road and a 20.115m common rear (western) boundary with the properties fronting Florida Road. The northern boundary (common) is approximately 60.96m while the southern boundary (common) is approximately 60.96m. The site has a total area of 1,226m<sup>2</sup>.





Aerial photograph Source: RPData 2019

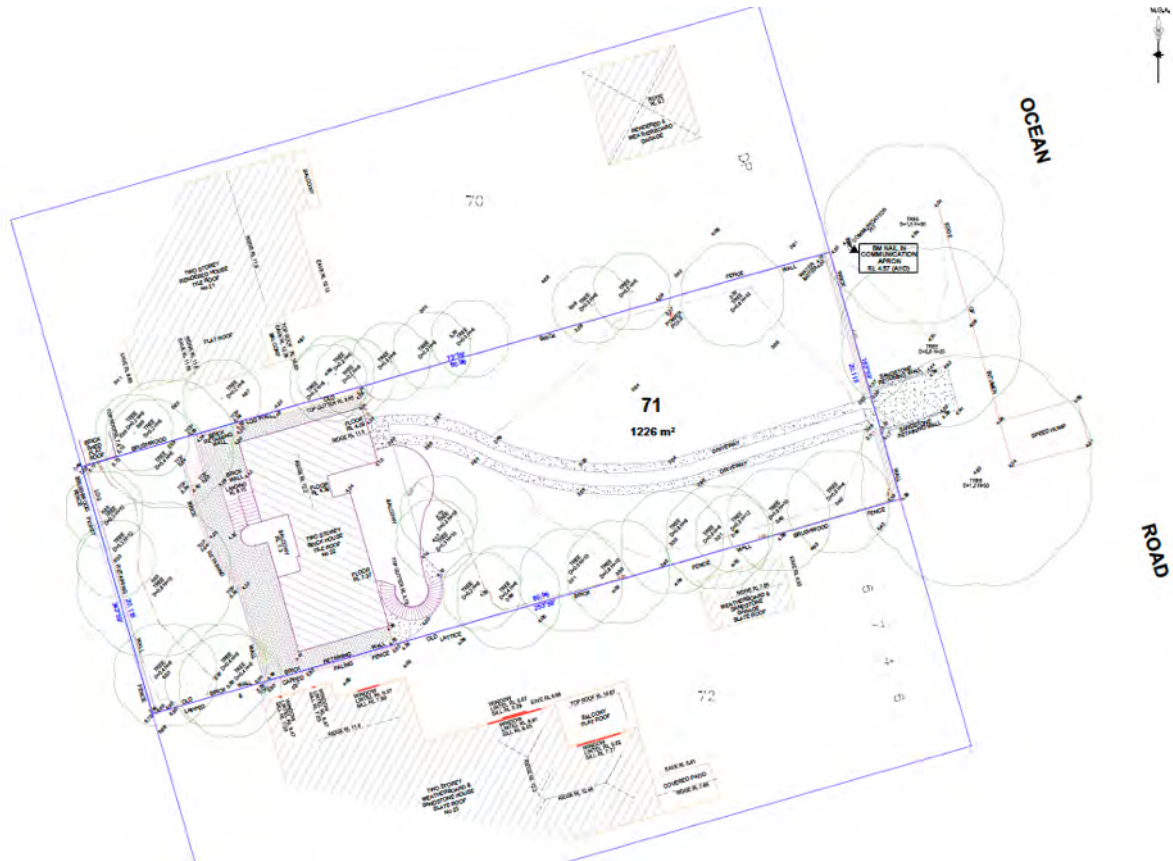


Aerial photograph with 5m contour overlay Source: RPData 2019

The site slopes down from the rear (western) boundary and down from Ocean Road (RL4.5) (eastern boundary) with a fall in level of

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approximately 1.5m from the street frontage into the front garden. Very little cross fall exists over the width of the site.



Survey Extract showing site and surrounds  
Chadwick Cheng Surveyors 2018





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Ocean Road runs generally north-south on the western side of Palm Beach and provides the lots with east-west orientation and views to the east. The subject site is centrally located on the low side of the road. Dwellings are orientated to enjoy expansive views across their front boundaries of the beach, headland and ocean beyond. The properties to the west on Florida Road are oriented over the dwelling to the view to the east and north-east but are generally set at a significantly higher level.

Views from the sites to the west are mostly obscured by the dense boundary planting and the buildings fronting Ocean Road.



Site Planting and Canopy

Source: RPData 2019



Site Planting and Canopy

Source: RPData 2019

A two-storey masonry dwelling currently occupies the site. The existing dwelling is built at the rear of the site and incorporates an extensive hardstand driveway to the lower level of the building. A large garden area occupies the area between the dwelling and the front boundary. A row of substantial plantings occupy the western (rear) portion of the site which screen the view of the dwelling. Substantial perimeter planting in the form of palms occurs to the north and southern interfaces.





22 Ocean Road existing dwelling view from the east.



Existing dwelling view south-west of interface.





View from the existing dwelling towards the east.



View across the front garden towards the east.



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## 21 Ocean Road



Aerial photograph Source: RPData 2019

The dwelling adjoining the subject site to the north is known as 21 Ocean Road. The dwelling is located to the rear with a swimming pool and garage extending to the eastern frontage. The dwelling is oriented east to take advantage of the views and provide sheltered private open space to the rear and along the southern boundary screened with mature planting.

A relatively expansive landscaped area separates this property from the subject site. The finished levels within the front garden of 21 Ocean Road are a generally 0.5m – 0.75m above the low point of the subject site. There is a brick wall along the common boundary between the subject site and 21 Ocean Road.

It is of interest to note that prior to its redevelopment 21 Ocean Road has a similar lower driveway falling into that site which was rectified. The following photograph from 2005 and 2019 show the changes.



21 Ocean Road 2005 Driveway



21 Ocean Road 2019 Driveway



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## 23 Ocean Road



Aerial photograph Source: RPData 2017

The dwelling adjoining the subject site to the south is known as 23 Ocean Road. The dwelling is located centrally on the site with a pavilion well forward of the subject dwelling. The dwelling is oriented east to take advantage of the views and provide sheltered private open space along the eastern boundary screened with mature planting.

A relatively expansive landscaped area separates this property from the subject site. The finished levels within the front garden of 23 Ocean Road are a generally 1.3m – 1.5m above the low point of the subject site. There is a brick wall along the common boundary between the subject site and 23 Ocean Road.

It is of interest to note that prior to its redevelopment 21 Ocean Road has a similar lower driveway falling into that site which was rectified. The following photograph from 2005 and 2019 show the changes.



23 Ocean Road 2005 Driveway



23 Ocean Road 2019 Driveway



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## 66 Florida Road



Aerial photograph Source: RPData 2019

The dwelling adjoining the subject site to the west is known as 66 Florida Road. The dwelling is under construction but nearing completion.

It is located to the west of the site and is oriented east to take advantage of the views over the subject site and provide sheltered private open space to the rear.

The aerial photograph shows the location of the dwelling toward the west of the site and the extensive landscaping on the side boundaries.

Overland flow from the dwelling drains through the subject site, given the fall of the land. The front garden is set down below the street.

Substantial boundary planting separates this site and the subject site along the common boundary.



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## 70 Florida Road



Aerial photograph Source: RPData 2017

The dwelling adjoining the subject site to the north-west is known as 70 Florida Road. It is located to the centre of the site and is oriented east to take advantage of the views and provide sheltered private open space to the rear.

The aerial photograph shows the location of the dwelling toward the centre of the site and the extensive landscaping on the side boundaries. The dwelling on 70 Florida Road is oriented east away from the dwelling on the subject site taking advantage of the views.

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### 3.0 Proposed Development

It is proposed to carry out landscaping works within the front garden of the subject site with earthworks and minor retaining walls set to manage the existing on-site flooding while managing flooding in the adjoining properties by maintaining appropriate overland flow through the subject site.

The proposal has been developed through the preparation of a Flood Impact Assessment carried out by Australian Consulting Engineers (submitted with the application) which has:

- Determined the existing stormwater characteristics of the overland flowpath hydraulics and capacity;
- Defined the flood risk for the proposed development in accordance with the Northern Beaches Council DCP Flood Risk Management Policy;
- Set earthworks levels for the proposed development in order to manage flooding in adjacent properties in accordance with Council's guidelines;
- Discussed risk management in accordance with Council's Flood Risk Management Guidelines; and
- Provides flood risk management procedures for the proposed development in accordance with Council's Flood Risk Management Guidelines.

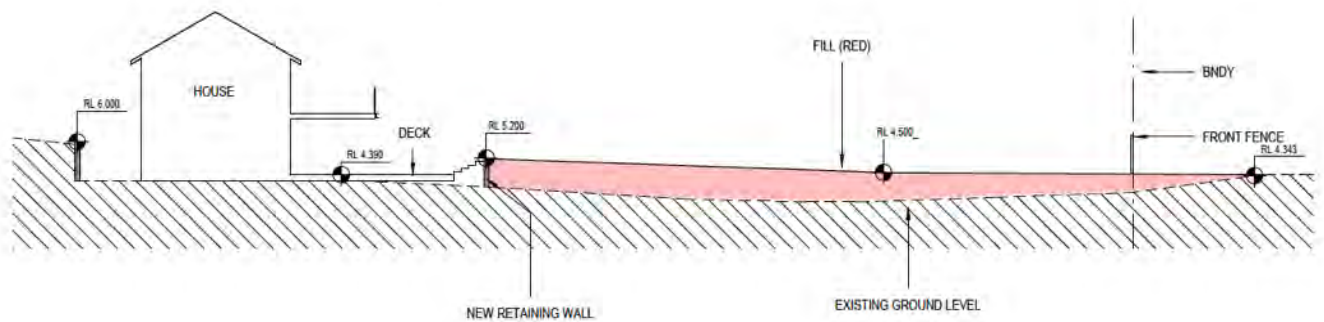
The proposed works will have the following positive impacts:

- Flood impact assessment and design with reference to council flood model resulting in NO overflow or impact onto any adjacent neighbouring properties;
- Removal of public footway hazard where the current driveway falls significantly from street creating a drop across the grass footway across the front boundary;
- Removal of pooling and ensuring the efficient draining of the three adjoining properties;

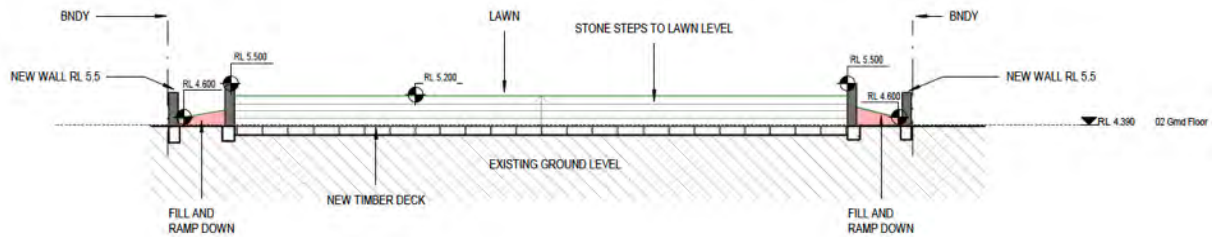
- Upgraded landscape design and outdoor open space;
- Removal of the driveway and increase in soft landscaping;
- Levelling of subject site consistent with the levels of the two adjoining properties.

The proposal does not make any changes to the existing dwelling.

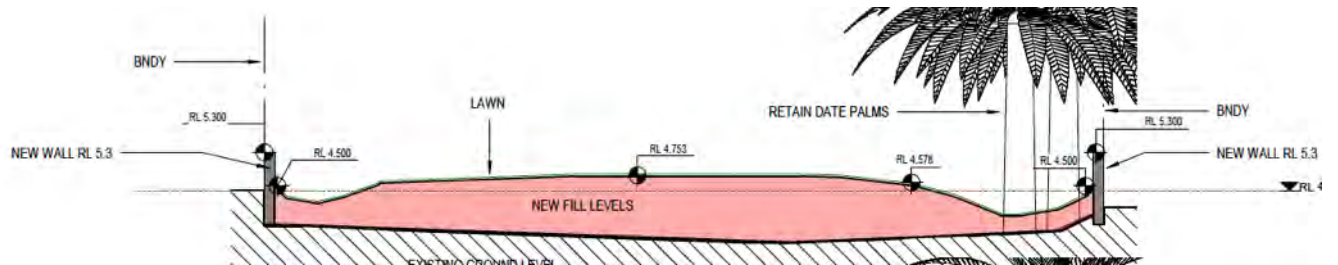
### Detailed Proposal



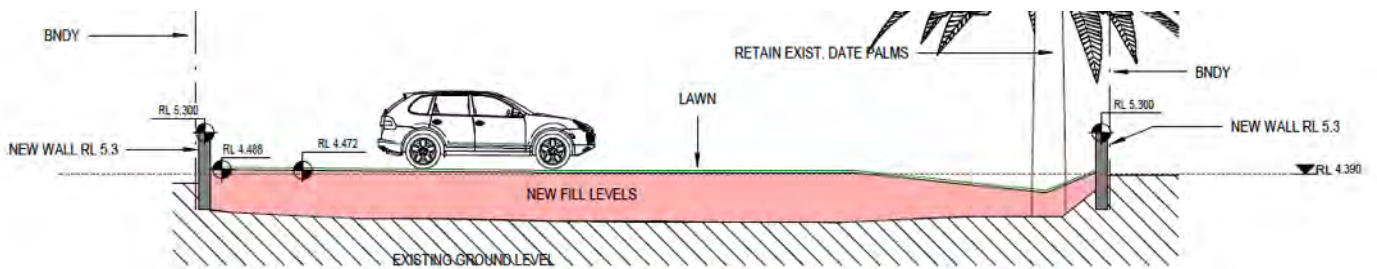
### Proposed Long Section



### Section 1



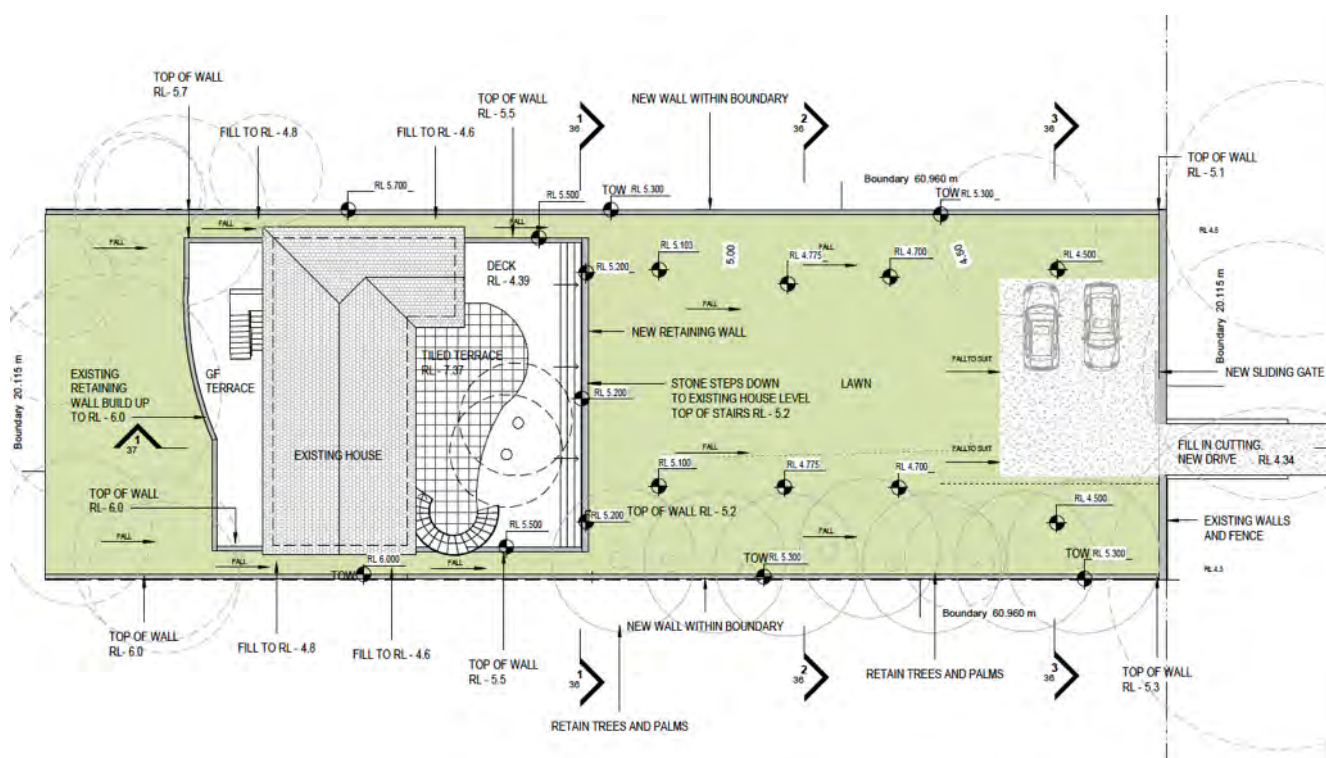
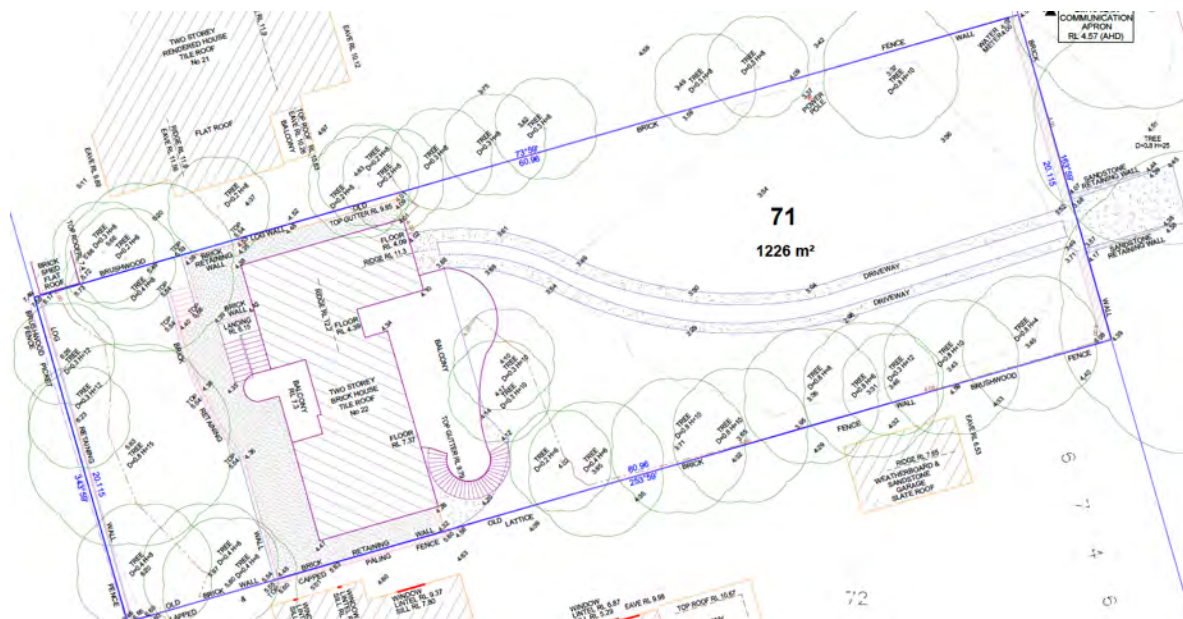
Section 2



Section 3

- New boundary walls;
- New retaining wall and timber deck to dwelling;
- Remove existing driveway;
- New gravel/permeable car parking area;
- New gate;
- Fill low point;
- Retain all boundary tree planting;
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## 5.0 Planning Controls

The proposed development has been assessed against the relevant requirements and guidelines set by Pittwater Council. These are contained within the:

- SEPP 55 – Remediation of Land
- SEPP No.71 Coastal Protection
- SEPP (BASIX) 2004
- Pittwater Council Local Environmental Plan (LEP) 2014
- Pittwater Development Control Plan No.21

### 4.1 SEPP 55 – Remediation of Land

Clause 7 (1) (A) of SEPP 55 requires Council to consider whether the land is contaminated. Notwithstanding that site investigations have not been carried out, the current and previous use of this site and surrounding sites for residential uses would make the possibility of contamination unlikely.

### 4.2 SEPP Coastal Management 2018

The SEPP requires consideration to be given to the following matters when an application for development within the area identified on the Coastal Zone Map as partly Coastal Use and partly Wetlands and Littoral Rainforest and Coastal Environment Area.

## **10 Development on certain land within coastal wetlands and littoral rainforests area**

- (1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the *Coastal Wetlands and Littoral Rainforests Area Map* only with development consent:
  - (a) the clearing of native vegetation within the meaning of Part 5A of the *Local Land Services Act 2013*,
  - (b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the *Fisheries Management Act 1994*,

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- (c) the carrying out of any of the following:
    - (i) earthworks (including the depositing of material on land),
    - (ii) constructing a levee,
    - (iii) draining the land,
    - (iv) environmental protection works,
  - (d) any other development.

**Note.**

Clause 17 provides that, for the avoidance of doubt, nothing in this Part:

- (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or
  - (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.
- (2) Development for which consent is required by subclause (1), other than development for the purpose of environmental protection works, is declared to be designated development for the purposes of the Act.
- (3) Despite subclause (1), development for the purpose of environmental protection works on land identified as “coastal wetlands” or “littoral rainforest” on the *Coastal Wetlands and Littoral Rainforests Area Map* may be carried out by or on behalf of a public authority without development consent if the development is identified in:
- (a) the relevant certified coastal management program, or
  - (b) a plan of management prepared and adopted under Division 2 of Part 2 of Chapter 6 of the *Local Government Act 1993*, or
  - (c) a plan of management approved and in force under Division 6 of Part 5 of the *Crown Lands Act 1989*.
- (4) A consent authority must not grant consent for development referred to in subclause (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.
- (5) Nothing in this clause requires consent for the damage or removal of a priority weed within the meaning of clause 32 of Schedule 7 to the *Biosecurity Act 2015*.
- (6) This clause does not apply to the carrying out of development on land reserved under the *National Parks and Wildlife Act 1974* if the proposed

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development is consistent with a plan of management prepared under that Act for the land concerned.

#### **11 Development on land in proximity to coastal wetlands or littoral rainforest**

##### **Note.**

The *Coastal Wetlands and Littoral Rainforests Area Map* identifies certain land that is inside the coastal wetlands and littoral rainforests area as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” or both.

- (1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the *Coastal Wetlands and Littoral Rainforests Area Map* unless the consent authority is satisfied that the proposed development will not significantly impact on:
  - (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
  - (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.
- (2) This clause does not apply to land that is identified as “coastal wetlands” or “littoral rainforest” on the *Coastal Wetlands and Littoral Rainforests Area Map*.

#### **13 Development on land within the coastal environment area**

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
  - (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
  - (b) coastal environmental values and natural coastal processes,
  - (c) the water quality of the marine estate (within the meaning of the *Marine Estate Management Act 2014*), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,

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- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
  - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - (f) Aboriginal cultural heritage, practices and places,
  - (g) the use of the surf zone.
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
  - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.
- (3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.

#### **14 Development on land within the coastal use area**

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
    - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
    - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
    - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
    - (iv) *Aboriginal cultural heritage, practices and places,*
    - (v) *cultural and built environment heritage, and*
  - (b) *is satisfied that:*
    - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*



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- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
  - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*
- (2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

In this instance the proposal is to construct new fences, retaining wall, driveway entry and parking on an allotment of land, which has accommodated a dwelling for more than 60 years. The proposal retains the dwelling with no change to the height, scale and envelope that currently exists.

The aims of the policy require the proposal to protect and preserve the coastal environment and for the proposal to be of an appropriate type, bulk, scale and size. It is considered that the proposal provides an appropriate response to the coastal environment in terms of providing a landscaped transition between private land and the foreshore reserve. The proposed development is of a type, bulk, scale and size which is consistent with its context and surrounding built form so that it is considered appropriate to its coastal location.

The proposal does not hinder existing access to the coastal foreshore and is not of a type that lends itself to providing increased access. A consideration of the shadow impacts of the proposal demonstrate that there will be no significant impact on the coastal foreshore and that views from the public domain will not be affected by the proposal.

The proposal is not considered to adversely affect scenic qualities, conservation measures, wildlife corridors, coastal processes or coastal hazards. The proposed dwelling is not considered to give rise to any potential conflict with water-based activities or adversely impact on water quality.

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It is considered that the proposal is consistent with the requirements of the Policy.

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

A BASIX Assessment is not required.

#### 4.4 Pittwater Local Environmental Plan 2014

The land is zoned Residential E4 Environmental Living. The specific objectives of the zone are:

##### 1 Objectives of 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.*

##### 2 Permitted without consent

*Home businesses; Home occupations*

##### 3 Permitted with consent

*Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Child care centres; Community facilities; Dwelling houses; Environmental protection works; Group homes; Health consulting rooms; Home-based child care; Home industries; Jetties; Places of public worship; Respite day care centres; Roads; Secondary dwellings; Water recreation structures*

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#### 4 Prohibited

*Industries; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3*

The proposed development is permissible as landscape works ancillary to a dwelling.

The proposal is assessed under the relevant clauses of this LEP in the table below.

TABLE 1: Compliance with Pittwater LEP 2014

#### 4.3 Height of buildings

1. (1) The objectives of this clause are as follows:
  1. (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,
  2. (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,
  3. (c) to minimise any overshadowing of neighbouring properties,
  4. (d) to allow for the reasonable sharing of views,
  5. (e) to encourage buildings that are designed to respond sensitively to the natural topography,
  6. (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.
2. (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.
1. (2A) Despite subclause (2), development on land:
  1. (a) at or below the flood planning level or identified as “Coastal Erosion/Wave Inundation” on the Coastal Risk

	Planning Map, and
	2. (b) that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map, may exceed a height of 8.5 metres, but not be more than 8.0 metres above the flood planning level.
	2. (2B) Despite subclause (2), development on land:
	1. (a) at or below the flood planning level or identified as “Coastal Erosion/Wave Inundation” on the Coastal Risk Planning Map, and
	2. (b) that has a maximum building height of 11 metres shown for that land on the Height of Buildings Map, may exceed a height of 11 metres, but not be more than 10.5 metres above the flood planning level.
	3. (2C) Despite subclause (2), development on an area of land shown in Column 1 of the table to this subclause and identified as such on the Height of Buildings Map, may exceed the maximum building height shown on the Height of Buildings Map for that land, if the height of the development is not greater than the height shown opposite that area in Column 2.
Column 1	Column 2
Area	Maximum height above the flood planning level
Area 1	11.5m
Area 2	8.5 metres on the street frontage and 10.5 metres at the rear
Area 3	11.5 metres
Area 4	8.5 metres 7.0 metres
	4. (2D) Despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if:



<ol style="list-style-type: none"> <li>1. (a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and</li> <li>2. (b) the objectives of this clause are achieved, and</li> <li>3. (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and</li> <li>4. (d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.</li> </ol> <p>5. (2E) Despite subclause (2), development for the purposes of shop top housing on land identified as “Area 5” on the Height of Buildings Map may have a height of up to 10 metres if the top floor of the building is setback a minimum of 6 metres from the boundary to the primary street frontage.</p> <p>6. (2F) Despite subclause (2), development on land identified as “Area 6” on the Height of Buildings Map must not exceed 8.5 metres at the street frontage.</p> <p>7. (2G) In this clause:</p> <p>flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard, or other freeboard determined by an adopted floodplain risk management plan.</p> <p>floodplain risk management plan has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published in 2005 by the NSW Government.</p> <p>8.5m</p>	<p>The proposal complies with the 8.5m height control.</p>
<p>4.4 Floor space ratio</p> <p>(1) The objectives of this clause are as follows:</p> <p>(a) to ensure that buildings, by virtue of their bulk and scale, are consistent with the desired character of the locality,</p> <p>(b) to minimise adverse environmental effects on the use and</p>	

enjoyment of adjoining properties and the public domain,  
 (c) to minimise any overshadowing and loss of privacy to neighbouring properties and to reduce the visual impact of any development,  
 (d) to maximise solar access and amenity for public places,  
 (e) to minimise the adverse impact of development on the natural environment, heritage conservation areas and heritage items,  
 (f) to manage the visual impact of development when viewed from public places, including waterways,  
 (g) to allow for the reasonable sharing of views.  
 (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio

No floor space ratio applies.

#### 5.9 Preservation of trees or vegetation

(1) The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.

(2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.

Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.

(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:

- (a) development consent, or
- (b) a permit granted by the Council.

(4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.

(5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat

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of native fauna.

(6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.

(7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:

(a) that is or forms part of a heritage item or that is within a heritage conservation area, or

(b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,

unless the Council is satisfied that the proposed activity:

(c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and

(d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.

(8) This clause does not apply to or in respect of:

(a) the clearing of native vegetation:

(i) that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003*, or

(ii) that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or

(b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or

(c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or

(d) action required or authorised to be done by or under the

<p><i>Electricity Supply Act 1995, the Roads Act 1993 or the Surveying and Spatial Information Act 2002, or</i></p> <p>(e) plants declared to be noxious weeds under the <i>Noxious Weeds Act 1993</i>.</p> <p>Note. Permissibility may be a matter that is determined by or under any of these Acts.</p> <p>(9) [Not adopted]</p>
<p>It is not proposed to remove any trees. The existing ground level around the trees is to be retained and the fill battered back from the overland flow paths along the north and south boundaries.</p>
<p>5.10 Heritage conservation</p> <p>Note. Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the <u>Heritage Map</u> as well as being described in Schedule 5.</p> <p>(1) Objectives</p> <p>The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> <li>(a) to conserve the environmental heritage of Waverley,</li> <li>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</li> <li>(c) to conserve archaeological sites,</li> <li>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</li> </ul> <p>(2) Requirement for consent</p> <p>Development consent is required for any of the following:</p> <ul style="list-style-type: none"> <li>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance): <ul style="list-style-type: none"> <li>(i) a heritage item,</li> <li>(ii) an Aboriginal object,</li> <li>(iii) a building, work, relic or tree within a heritage conservation area,</li> </ul> </li> <li>(b) altering a heritage item that is a building by making</li> </ul>



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structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,

(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,

(d) disturbing or excavating an Aboriginal place of heritage significance,

(e) erecting a building on land:

(i) on which a heritage item is located or that is within a heritage conservation area, or

(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,

(f) subdividing land:

(i) on which a heritage item is located or that is within a heritage conservation area, or

(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) When consent not required

However, development consent under this clause is not required if:

(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:

(i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and

(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or

(b) the development is in a cemetery or burial ground and the proposed development:

(i) is the creation of a new grave or monument, or

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excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and  
(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or

(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or

(d) the development is exempt development.

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

(a) on land on which a heritage item is located, or

(b) on land that is within a heritage conservation area, or

(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim

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heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) Aboriginal places of heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) Demolition of nominated State heritage items

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent

<p>authority, and</p> <p>(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and</p> <p>(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and</p> <p>(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.</p>
<p>The subject site is not identified as being located within a heritage conservation area and is not a heritage item.</p>
<p>7.1 Acid sulfate soils</p> <p>(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p> <p>(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the <u><a href="#">Acid Sulfate Soils Map</a></u> as being of the class specified for those works.</p> <p>(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.</p> <p>(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if:</p> <p style="padding-left: 40px;">(a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and</p> <p style="padding-left: 40px;">(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.</p> <p>(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public</p>



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authority (including ancillary work such as excavation, construction of access ways or the supply of power):

- (a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,
- (b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),
- (c) minor work, being work that costs less than \$20,000 (other than drainage work).

(6) Despite subclause (2), development consent is not required under this clause to carry out any works if:

- (a) the works involve the disturbance of less than 1 tonne of soil, and
- (b) the works are not likely to lower the watertable.

The subject site is as Class 5 Land on the ASS map. An Acid Sulfate Soils Management Plan is not required for the application.

### 7.3 Flood planning

(1) The objectives of this clause are as follows:

- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
- (c) to avoid significant adverse impacts on flood behaviour and the environment.

(2) This clause applies to:

- (a) land identified as "Flood planning area" on the Flood Planning Map, and
- (b) other land at or below the flood planning level.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied

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that the development:

- (a) is compatible with the flood hazard of the land, and
- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) incorporates appropriate measures to manage risk to life from flood, and
- (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

(4) A word or expression used in this clause has the same meaning as it has in the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.

(5) In this clause:

*land at or below the flood planning level* means land at or below the level of a 1:100 ARI (average recurrent interval) flood event plus 0.3 metre freeboard.

The subject site is Flood Affected Land. A report has been prepared and is submitted with the application addressing these provisions.

#### 7.6 Biodiversity

(1) The objective of this clause is to maintain terrestrial, riparian and aquatic biodiversity by:

- (a) protecting native fauna and flora, and
- (b) protecting the ecological processes necessary for their continued existence, and
- (c) encouraging the conservation and recovery of native fauna and flora and their habitats.

(2) This clause applies to land identified as “Biodiversity” on the Biodiversity Map.

(3) Before determining a development application for development on

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land to which this clause applies, the consent authority must consider:

- (a) whether the development is likely to have:
  - (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
  - (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
  - (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
  - (iv) any adverse impact on the habitat elements providing connectivity on the land, and
- (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
- (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

The site is identified on the Biodiversity Map.

The proposal is not considered to give rise to any adverse impact on the condition, ecological value and significance of the fauna and flora on the land given the extent of the land and vegetation corridor which is retained on the slopes of the site. The proposal is not considered to give rise to any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and the importance of the vegetation on the land to the habitat and survival of native fauna where in excess of 60% of the overall depth of the site is retained in its existing state. The building footprint has been minimised so as to avoid any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and to avoid any

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adverse impact on the habitat elements providing connectivity on the land. Containing the development footprint to the western portion of the site provides appropriate measures to avoid, minimise and mitigate the impacts of the development the importance of the vegetation on the land to the habitat and survival of native fauna, and for any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land. The proposal retains the habitat elements providing connectivity on the land, and minimizes and mitigates the impacts of the development.

#### 7.5 Coastal risk planning

(1) The objectives of this clause are as follows:

- (a) to avoid significant adverse impacts from coastal hazards,
- (b) to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards,
- (c) to enable the evacuation of land identified as coastal risk in an emergency,
- (d) to avoid development that increases the severity of coastal hazards.

(2) This clause applies to land identified on the Coastal Risk Planning Map as:

- (a) Wave Inundation, or
- (b) Coastal Erosion/Wave Inundation, or
- (c) Bluff/Cliff Instability.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is not likely to cause detrimental increases in coastal risks to other development or properties, and
- (b) is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and
- (c) incorporates appropriate measures to manage risk to life from coastal risks, and
- (d) is likely to avoid or minimise adverse effects from the impact of coastal processes and the exposure to coastal hazards, particularly if the development is located seaward of the immediate hazard line, and



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(e) provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes and coastal hazards, and

(f) has regard to the impacts of sea level rise, and

(g) will have an acceptable level of risk to both property and life, in relation to all identifiable coastline hazards.

(4) A word or expression used in this clause has the same meaning as it has in the *NSW Coastal Planning Guideline: Adapting to Sea Level Rise* (ISBN 978-1-74263-035-9) published by the NSW Government in August 2010, unless it is otherwise defined in this clause.

(5) In this clause:

*coastal hazard* has the same meaning as in the *Coastal Protection Act 1979*.

The proposal raises the levels to allow overland flow to pass through the site.

#### 7.7 Geotechnical hazards

(1) The objectives of this clause are to ensure that development on land susceptible to geotechnical hazards:

(a) matches the underlying geotechnical conditions of the land, and

(b) is restricted on unsuitable land, and

(c) does not endanger life or property.

(2) This clause applies to land identified as “Geotechnical Hazard H1” and “Geotechnical Hazard H2” on the Geotechnical Hazard Map.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

(a) site layout, including access,

(b) the development’s design and construction methods,

(c) the amount of cut and fill that will be required for the development,

(d) waste water management, stormwater and drainage across the land,

(e) the geotechnical constraints of the site,

(f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

(4) Development consent must not be granted to development on land

to which this clause applies unless:

- (a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and
- (b) the consent authority is satisfied that:
  - (i) the development is designed, sited and will be managed to avoid any geotechnical risk or significant adverse impact on the development and the land surrounding the development, or
  - (ii) if that risk or impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that risk or impact, or
  - (iii) if that risk or impact cannot be minimised—the development will be managed to mitigate that risk or impact.

The site is identified not identified as within a Geotechnical Hazard Area.



It can be seen from the table that the proposal either complies with the relevant provisions of the LEP or the objectives of those provisions, where relevant.

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#### 4.5 Pittwater Development Control Plan 2014

Table 2: Compliance Under Pittwater Development Control Plan

**A4.3 Palm Beach Locality**

**Desired Character**

The Palm Beach locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary Dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.

The three distinct areas within the Palm Beach locality (as identified in Palm Beach Locality Map 2) will, by their unique differences, require differing and distinct degrees of control to ensure the individual characteristics and essence of each area are maintained and enhanced:

**The Palm Beach Beach Area:**

Is a visual catchment that is environmentally significant and extremely susceptible to degradation. Its unique local and regional significance requires protection and preservation, and further investigation for listing as an environmental protection and/or conservation area. Strict development controls will apply to this area (including a reduced building height limit to 8m) to ensure that its unique qualities are preserved through development that is sensitive to the area's characteristics. A Visual Protection Area (as identified in Palm Beach Locality Map 3) contains particular controls to minimise the impact of development that is visible from public places. The beach, valley and headlands represent a quiet uncrowded environment with no formal



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commercial activity. Its unique natural, unspoilt, non- commercial character makes it attractive to local residents and visitors alike and reflects the relaxed beach lifestyle. The local topography and natural features, notably the beachfront, headlands and stands of cabbage tree palms in the valley demand different sets of constraints on building design.

The site is located within the Palm Beach Area and the proposal has been designed in consideration of the scenic quality of the locality. The proposal ensures that its unique qualities are preserved through development that is sensitive to the area's characteristics in terms of siting, massing, choice of materials and plantings.

#### SECTION B GENERAL CONTROLS

##### B3.1 Landslip hazard

The development must not adversely affect or be adversely affected by geotechnical processes nor must it increase the level of risk for any people, assets and infrastructure in the vicinity due to geotechnical processes.

The site is identified not identified as within a Geotechnical Hazard Area.

##### B3.2 Bushfire Hazard

All development is to be designed and constructed so as to manage risk due to the effects of bushfire throughout the life of the development.

Development land to which this control applies must comply with the requirements of:

- Planning for Bushfire Protection (2006)
- AS 3959 - Construction of a Building in a Bushfire Prone Area

The site is not within a Bushfire Prone Area.

##### B3.5 Acid Sulphate Soils

The subject site is as Class 5 Land on the ASS map. An Acid Sulfate Soils Management Plan is not required for the application.

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### B3.6 Contaminated Land and Potentially Contaminated Land

Council shall not consent to the carrying out of any development on land unless it has considered SEPP No. 55 Remediation of Land.

In particular, Council shall consider:

- whether the land is contaminated; and
- if the land is contaminated, whether the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out; and
- if the land requires remediation, whether the land will be remediated before the land is used for that purpose.

Where a development would involve a change of use on land listed below, Council must consider a preliminary investigation report prepared in accordance with the contaminated land planning guidelines.

Notwithstanding that site investigations have not been carried out, the current and previous use of this site and surrounding sites for residential uses would make the possibility of contamination unlikely.

### B3.22 Flood Hazard - Flood Category 3 - All Development

Australian Consulting Engineers have undertaken a Flood Impact Assessment for the Proposed Alterations at 22 Ocean Road, Palm Beach. The alterations outlined in this report involve a new couch lawn to the East of the site. The lawn is undergoing filling which has been designed in a way to reduce the flood risk at the property without causing flooding issues on the neighbouring properties or public areas.

The report:

- Determines the existing stormwater characteristics of the overland flowpath hydraulics and capacity;
- Define the flood risk for the proposed development in accordance with the Northern Beaches Council DCP Flood Risk Management Policy;
- Set earthworks levels for the proposed development in order to manage flooding in adjacent properties in accordance with Council's guidelines;

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- Discuss risk management in accordance with Council's Flood Risk Management Guidelines; and
  - Provide flood risk management procedures for the proposed development in accordance with Council's Flood Risk Management Guidelines;

The report has been prepared generally in accordance with Northern Beaches Council advice, Council's Flood Risk Management Policies and other reference documents, in particular the Avalon to Palm Beach Floodplain Risk Management Study and Plan, prepared by Manly Hydraulics Laboratory in June 2017.

The proposed earthworks modifications to fill the existing trapped low point does not increase flooding outside the site and will reduce the flood risk within the site.

The report shows that the proposed development will achieve Northern Beaches Council's DCP requirement for flood control and flood risk management, and therefore recommends that the proposed development to proceed.

#### B4.6 Wildlife Corridors

Development shall not directly impact on / or significantly reduce / degrade habitat for locally native species, threatened species, endangered populations or endangered ecological communities.

Development shall retain, and provide an adequate buffer to, wildlife corridors.

Development shall provide wildlife corridors via creation, restoration, and / or regeneration of habitat.

Development shall not result in a significant loss of canopy cover or a net loss in native canopy trees.

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Development shall ensure 60% of the area that is not covered by buildings or associated structures, is native vegetation either through retention of existing bushland or planting with locally native plant species (as per species listed in Native Plants for Your Garden available on the Pittwater web page). Landscaping is to be outside areas of existing bushland and not include environmental weeds.

Fencing, where permitted, shall be passable by native wildlife.

Retaining the development footprint to the western portion of the site provides appropriate measures to avoid, minimise and mitigate the impacts of the development the importance of the vegetation on the land to the habitat and survival of native fauna, and for any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land. The proposal retains the habitat elements providing connectivity on the land, and minimizes and mitigates the impacts of the development.

#### **B5 WATER MANAGEMENT**

##### **B5.2 Wastewater Disposal**

All premises shall be connected to the centralised sewage waste disposal system operated by Sydney Water where available.

A stormwater concept plan has been prepared by ACE which addresses these provisions.

**B5.7 Stormwater Management – On-site SAN On-Site Detention (OSD)** facility is to be installed where the development results in additional hard (impervious) surface area of greater than 50m<sup>2</sup> (on a cumulative basis since February 1996) and on land designated through mapping as requiring OSD facility.

Additional hard surface of >50-75sqm requires a minimum capacity on-site detention tank of 4,500 litres with a discharge rate of 2 litres per second.

A stormwater concept plan has been prepared by ACE which addresses these provisions.



<b>B6 ACCESS AND PARKING</b>
<b>B6.1 Access Driveways and Works on the Public Road Reserve - Dwelling House and Dual Occupancy</b>
An access driveway must be provided for all dwellings or any development where vehicular parking is provided on the development site.
The driveway access is retained from Ocean Road.
The driveway shall have a stable surface of all weather construction. Pervious materials are preferred
A pervious gravel material is proposed for the driveway and carpark.
Areas of driveways that are visible from a public road or public place are to be constructed of materials that blend with the environment and are of dark earthy tones (not plain concrete).
The driveway will meet these requirements.
The area of the all weather surface of the access driveway is to be minimised within a clear access corridor of a maximum width of 3.5m.
The area of the driveway has been minimised.
Access driveways shall have gradients less than 20% and the driveway grade should not change by more than 11% for every 1.4m of driveway increased in grades up to 25% for distances up to 25m may be considered on merit.
The proposed gradient complies with these provisions.
Provision is to be made for vehicles to enter and leave the site in a forward direction.
The vehicles turn on the site entering and leaving in a forward direction.
Only one driveway access to the public road is permitted.
Only one access is provided.
Driveways shall be located and designed to provide adequate sight distances to maximise pedestrian and vehicular safety
Adequate sightlines are provided.
Maximum width of driveways on the public road is 4m at the kerb and 3m at the property boundary.

The driveway will meet these requirements.
<p><b>B6.5 Off-Street Vehicle parking Requirements – Residential</b></p> <p>Development up to 2 dwellings (single dwelling and dual occupancy)</p> <p>Minimum 2 parking spaces are to be provided for each dwelling.</p>
2 spaces are provided.
<b>B8 – SITE WORKS MANAGEMENT</b>
<p><b>B8.1 Construction and Demolition – Excavation and Landfill</b></p> <p>Excavated and landfill areas must be constructed to have no adverse impact on any structures, bushland or significant trees to be retained on the site.</p> <p>Excavation and landfill must be constructed to have no adverse impact on any adjoining public or private lands due to settlement or structural instability.</p> <p>Excavation and landfill areas must be constructed so as not to redirect or concentrate stormwater or surface water runoff onto adjoining properties so as to cause a nuisance.</p> <p>All landfill imported to the site must be clean fill and not contain any materials that are contaminated and must comply with the relevant legislation.</p> <p>All excess material excavated from land identified as subject to possible landslip hazard, coastline (bluff) hazard or other geotechnical constraints must be removed from the site.</p> <p>Excavation and landfill on any site that includes the following:</p> <ul style="list-style-type: none"> <li>• Excavation greater than 1 metre deep, the edge of which is closer to a site boundary or structure to be retained on the site, than the overall depth of the excavation, and/or;</li> <li>• Any excavation greater than 1.5 metres deep below the existing surface, and/or;</li> <li>• Any excavation that has the potential to destabilize a tree capable of collapsing in a way that any part of the tree could fall onto adjoining structures (proposed or existing) or adjoining property, and/or;</li> <li>• Any landfill greater than 1.0 metres in height, and/or;</li> </ul> <p>Any works that may be affected by geotechnical processes or which may impact on geotechnical processes including but not limited to</p>

<p>constructions on sites with low bearing capacity soils, must comply with the requirements of the Geotechnical Risk Management Policy for Pittwater (see Appendix 5) as adopted by Council and details submitted and certified by a Geotechnical Engineer and/or Structural Engineer with the detail design for the Construction Certificate.</p>
<p>Fill is proposed in accordance with these provisions.</p>
<p>Any excavation and landfill greater than 1m deep must comply with the requirements of the Geotechnical Risk Management Policy for Pittwater as adopted by Council.</p>
<p>Fill is proposed in accordance with these provisions.</p>
<p><b>B8.2 Construction and Demolition – Erosion and Sediment Management</b></p>
<p>Appropriate devices are to be in place at all times to prevent the migration of sediment off the site.</p>
<p>The proposal will comply with these requirements during construction.</p>
<p><b>B8.3 Construction and Demolition – Waste Minimisation</b></p>
<p>Minimise waste materials generated through demolition, excavation and construction work on development sites.</p>
<p>The proposal will comply with these requirements during construction.</p>
<p><b>SECTION C DEVELOPMENT TYPE CONTROLS</b></p>
<p><b>C1 DESIGN CRITERIA FOR RESIDENTIAL DEVELOPMENT</b></p>
<p><b>C1.1 Landscaping</b></p> <p>All canopy trees, and a majority (more than 50%) of other vegetation, shall be locally native species.</p>
<p>It is not proposed to remove any trees. The existing ground level around the trees is to be retained and the fill battered back from the overland flow paths along the north and south boundaries. A new lawn will be reinstated over the filled area.</p>
<p>A range of low-lying shrubs, medium-high shrubs and canopy trees shall be provided to soften the built form.</p>
<p>It is not proposed to remove any of the existing trees or plantings.</p>
<p>Landscaping of the area between the front boundary and any built structures will be 60%.</p>

The proposal comfortably complies with these provisions.
Development shall provide for the reasonable retention and protection of existing significant trees, especially near property boundaries, and natural features such as rock outcrops.
It is not proposed to remove any of the existing trees or plantings.
Canopy trees are to be located a minimum of 5 metres from existing and proposed built structures, or minimum of 3 metres where pier and beam footings are used, to prevent interference with the built form.
It is not proposed to remove any of the existing trees or plantings.
C1.2 Safety and Security
(i) Surveillance Building design must maximise the ability for casual surveillance from dwellings.
The proposal provides for appropriate surveillance within the front elevation.
Building design should allow visitors who approach the front door to be seen without the need to open the door.
The entry sequence provides visibility and identity.
(ii) Access - Building entrances are to be clearly visible from the street, easily identifiable and appropriately lit.  Pedestrian access along the street frontage shall not be impeded by landscaping, street furniture or other restrictions.
The entry sequence provides visibility and identity.
C1.3 View Sharing
Building lines and height are to be sympathetic to the topography of the site and to maintain a reasonable sharing of views available from surrounding and nearby properties.  De facto building lines are to be maintained to preserve view sharing.
The proposal does not change view sharing with the surrounding dwellings.

C1.4 Solar Access
The private open space of each dwelling and adjoining property is to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21 <sup>st</sup> .
Windows to the principal living area of the dwelling and adjoining property are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21 <sup>st</sup> (that is, to at least 50% of the glazed area of those windows).
There is no additional overshadowing.
C1.5 Visual privacy
Private open space, recreation areas and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9m (measured from a height of 1.7m above floor level).
The existing privacy relationships are unchanged.
C1.6 Acoustic privacy
Noise-sensitive rooms to be located away from noise sources.
Not applicable
Noise generating plant including pool/spa motors, air conditioning units and the like shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.
Not applicable.
C1.7 Private Open Space
Private open space shall be provided as follows:- (a) Dwelling-houses, attached dwellings and dual occupancy: Minimum 80m <sup>2</sup> per dwelling at ground level, with no dimension less than 3 metres. No more than 75% of this private open space is to be provided in the front yard.
The proposal comfortably meets these requirements.
Within the private open space area, a minimum principal area of 16m <sup>2</sup> with a minimum dimension of 4m and grade no steeper than 1 in 20 (5%).



The proposal comfortably meets these requirements.
Dwellings should be designed so that private open space is directly accessible from living areas enabling it to function as an extension of internal living areas.
Private open space is directly accessible from living areas.
Private open space areas should have good solar orientation (i.e. orientated to the north-east or north-west where possible). Where site or slope constraints limit optimisation of orientation, the private open space area must have access to some direct sunlight throughout the year (see Solar Access and Natural Light).
The private open space has a northern exposure for good solar access.
Private open space should be located to the rear of the dwelling to maximise privacy for occupants.
The private open space is located at the front and rear of the dwelling.
C1.11 Energy and Water conservation
Buildings shall be designed to be energy and water efficient. To maximise winter solar access and minimise summer heat gains.
Not applicable
Face living areas to the north, sleeping areas to the east or south, and utility areas to the west or south; and
Not applicable
Windows are to be sized, located and shaded (by structures or vegetation) to reduce summer heat and allow entry of winter sun.
Not applicable
Buildings are to be designed to maximise ventilation in summer. This can be achieved by positioning openings (windows and doors) to prevailing summer winds to encourage cross ventilation, and the installation of fans, roof vents and high level windows.
Not applicable
Buildings are to be constructed of materials which best minimise winter heat loss and summer heat gain. Insulation is a vital component of energy-efficient design in all climates and is to be incorporated, conforming to relevant Australian Standards.
Not applicable

C1.12 Waste and Recycling Facilities
Waste and recycling receptacles are to be stored within the property boundaries.
Not applicable
Section D Locality Specific Development Controls
D3 Palm Beach Locality
D3.1 Character As Viewed From A Public Place
Buildings which front the street must have a street presence and incorporate design that are compatible with any design themes for the locality.
The building has an appropriate street presence. Care has been taken in an appropriate presentation for the locality.
The bulkiness of buildings must be minimised.
Not applicable
Garages, carports and other parking structures must not be the dominant site feature when viewed from a public place. The
Not applicable
D3.2 Scenic protection
Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.
Not applicable
D3.3 Building Colours, Materials and Construction
External colours and materials shall be dark and earthy tones.
White, light coloured, red or orange roofs and walls are not permitted.
Finishes are to be of a low reflectivity.
Not applicable
13.6 Front Building Line
Follow the established building line.
The proposal does not change the established building line.
D12.7 Side and Rear Building Line
1m one side and 2.5m the other

6.5m rear setback
The proposed side and rear setbacks are unchanged.
D12.9 Building envelope
Buildings are to be sited within the following envelope:  Planes are to be projected at 45 degrees from a height of 3.5 metres above natural ground level at the side boundaries to the maximum height (refer to relevant height under Part D Localities).
The building envelope is unchanged.
D12.11 Landscaped Area
Minimum landscaped area: 60%
The proposal is comfortably compliant with these controls.
D12.12 Fences - General
Front fences and side fences (within the front building setback) shall not exceed a maximum height of 1 metre above existing ground level, and shall be compatible with the streetscape character and not obstruct views available from the road.
The existing front fence is retained.
D12.13 Retaining walls, terracing and undercroft areas
Retaining walls and terracing shall be kept to a minimum. Where retaining walls and terracing are visible from a public place, preference is given to the use of sandstone or sandstone like materials.
The proposal is consistent with these requirements.
D12.14 Scenic protection Areas
The proposal demonstrates the retention of existing native vegetation outside of the immediate area required to carry out the development.  The development incorporates measures for planting and maintenance of native vegetation within those areas which are not required to be cleared to allow for the development.  The siting, building form, orientation and scale of the development does not compromise the visual integrity of the site by retaining canopy trees

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and screen planting along the boundaries.

The development incorporate the use of unobtrusive and non-reflective materials and the colours of exterior surfaces to blend structures into the natural environment with the proposed colours and materials dark and earthy.

The proposal is consistent with these requirements.

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## 5.0 Environmental Planning Assessment

Section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended specifies the matters which a consent authority must consider when determining a development application.

5.1 s.4.15(1)(a)(i) the provision of any Environmental Planning Instrument (EPI)

Consideration of SEPP 55, SEPP (BASIX) 2004 and Pittwater Local Environmental Plan 1993 are discussed under Section 4.

5.2 s.4.15(1)(a)(ii) the provision of any draft Environmental Planning Instruments

Not applicable to this application.

5.3 s.4.15(1)(a)(iii) any development control plan

Consideration of Pittwater Development Control Plan 21 is discussed under Section 4.

5.4 s.4.15(1)(a)(iv) any matters prescribed by the regulations

Not applicable to this application.

5.5 s.4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

- Context and Setting

The western side of Ocean Road is characterised by a mix of architectural styles in landscaped garden settings taking advantage of views. The proposal responds to its context.

- Access, Transport and Traffic

A hardstand parking area is to be contained within the front garden.

- Public Domain

Not applicable to this application.

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- Utilities

The existing utilities are considered appropriate for the proposed development.

- Heritage

N/A

- Other Land Resources

Not applicable to this application.

- Water

The water requirements of the proposal are considered appropriate given the location and current access to services.

- Soils

No significant excavation is proposed.

- Air and Microclimate

It is considered that the proposal will not give rise to any significant air or microclimate impacts.

- Flora and Fauna

There is no significant flora or fauna on the site which will be affected by the proposal.

- Waste

The garbage/recycling storage area is proposed to be located in the garage and will enable easy access to the street collection point.

- Energy

Not applicable

- Noise and Vibration



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Construction will be conducted in a manner that will minimise the impact of noise and vibration. After construction the development is not expected to have any noise or vibration impacts.

- Natural Hazards

Not applicable to this application.

- Technological Hazards

Not applicable to this application.

- Safety, Security and Crime Prevention

Casual surveillance to the street is possible from habitable rooms and covered veranda located at the front of the dwelling. Appropriate security devices will be installed throughout the dwelling.

- Social Impact in the Locality

The proposal is not expected to have an adverse social impact on the locality, as the proposal will upgrade the existing dwelling.

- Economic Impact in the Locality

Employment opportunities will be provided during the construction phase to the benefit of the local building sector, and the proposal will increase the value of the subject site.

- Site Design and Internal Design

The proposal draws on guidelines set out in the planning instruments to reinforce positive elements of urban form. The proposal incorporates open plan living, where the primary living areas of the dwelling open up to outdoor areas of private open space. The proposal has been designed in keeping with the orientation of the site, and measures have been taken in order to create the best possible outcome within the constraints of the site. Therefore it is considered that the proposal is an appropriate development solution to the use of the site.

- Construction

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The building process will be managed to minimise disruption to the local community and the environment. However some noise is inevitable during the construction phase and this will be managed in accordance with Council's standards. The design of the development proposal has focused on durable renewable materials with low maintenance requirements.

- Cumulative Impacts

The subject allotment is generously sized, shaped and orientated to accommodate the proposed development. It is anticipated that the proposal will have a negligible cumulative effects.

5.6 s.4.15(1)(c) suitability of the site for development

Having regard to the location of the proposal, the site will adequately accommodate the development of the additions to the dwelling.

5.7 s.4.15(1)(d) submissions made in accordance with the Act or the Regulations

The Consent authority will need to consider the submissions received in response to the public exhibition of the proposed development.

5.8 s.4.15(1)(e) the public interest

There are no known Federal and/or state Government policy statements and/or strategies other than those discussed in this report that are of relevance to this particular case. We are not aware of any other circumstances that are relevant to the consideration of this development application.

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## 6.0 Conclusion

This report has been prepared on behalf of C. Comino by Mersonn Pty Ltd and is submitted to Northern Beaches Council in support of a development application for landscape works to the existing dwelling at 22 Ocean Road, Palm Beach (Lot 71 DP 6746).

The subject site fronts Ocean Road and Palm Beach. The site has an area of 1,221m<sup>2</sup> and accommodates a substantial two storey dwelling set well back on the block. The rear of the site is heavily landscaped with substantial planting along the perimeter. The front boundary is characterised by large, mature Norfolk Island Pine street trees.

The site has a localised fall in the topography of the front garden which falls from Ocean Road back towards the existing dwelling. The adjoining dwellings to the north and south have had their front garden levels modified over time so that they are at a higher level than the subject site. The result is that the site is regularly inundated by stormwater and overland flows. It is proposed to carry out landscaping works within the front garden of the subject site with earthworks and minor retaining walls set to manage the existing on-site flooding while managing flooding in the adjoining properties by maintaining appropriate overland flow through the subject site.

The proposal has been developed through the preparation of a Flood Impact Assessment carried out by Australian Consulting Engineers (submitted with the application) which has:

- Determined the existing stormwater characteristics of the overland flowpath hydraulics and capacity;
- Defined the flood risk for the proposed development in accordance with the Northern Beaches Council DCP Flood Risk Management Policy;
- Set earthworks levels for the proposed development in order to manage flooding in adjacent properties in accordance with Council's guidelines;

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- Discussed risk management in accordance with Council's Flood Risk Management Guidelines; and
  - Provides flood risk management procedures for the proposed development in accordance with Council's Flood Risk Management Guidelines.

The proposed works will have the following positive impacts:

- Flood impact assessment and design with reference to council flood model resulting in NO overflow or impact onto any adjacent neighbouring properties;
- Removal of public footway hazard where the current driveway falls significantly from street creating a drop across the grass footway across the front boundary;
- Removal of pooling and ensuring the efficient draining of the three adjoining properties;
- Upgraded landscape design and outdoor open space;
- Removal of the driveway and increase in soft landscaping;
- Levelling of subject site consistent with the levels of the two adjoining properties.

The proposal does not make any changes to the existing dwelling.

The proposal has generally been designed in accordance with Council's policies and planning instruments and will make a positive contribution to the locality by maintaining the relationship of the approved building which enhances the character of the streetscape. Where non-compliances with the controls have occurred they have been designed so as not to adversely impact the amenity of surrounding residents.

The proposal also addresses the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979. It will deliver a suitable and appropriate development and is worthy of approval.

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Statement of Environmental Effects prepared by:

Name: Andrew Darroch of Mersonn Pty Ltd  
Qualification: BA (Enviro. Sc.) Master City and Regional  
Planning Grad. Dip Urban Estate  
Management MPIA, MEPLA, MPCA  
Address: 6/20 Wylde Street, Potts Point

In respect of the following S96 Application:

Land to be developed: 22 Ocean Road, Palm Beach

Proposed development: Landscape Works to Existing Dwelling

Declaration: I declare that I have prepared this  
Statement and to the best of my knowledge:

1. The Statement has been prepared in accordance with clause 4.13 of the EP & A Act and Clause 50 of the EP & A Regulations.
2. The Statement contains all available information that is relevant to the environmental assessment of the development to which this Statement relates, and
3. That the information contained in the Statement is neither false nor misleading.



Signature:

Name: Andrew Darroch  
Date: November 2019