

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2416
Responsible Officer:	Adam Susko
Land to be developed (Address):	Lot 1 DP 1144798, 155 Pacific Road PALM BEACH NSW 2108
Proposed Development:	Partial demolition of the existing dwelling and the construction of a new dwelling with a detached studio and swimming pool
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Joanne Robyn Murphy Lambert-Smith Philip Howard Greader
Applicant:	Megan Burns
Application Lodged:	10/01/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	03/05/2022 to 10/05/2022
Advertised:	Not Advertised
Submissions Received:	9
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 3,428,158.00

EXECUTIVE SUMMARY

This Development Application (DA) relates to substantive demolition works and alterations and additions to an existing dwelling, to such a magnitude that the proposal is deemed to be a new dwelling. The DA is referred to the Development Determination Panel (DDP) as there were "5 or more submissions objecting to the proposal".

The proposal includes the renovation and expansion of the existing dwelling, construction of a detached studio, construction of a swimming pool and the demolition of a double carport and two single car

garages, one of which is wholly on Council land and construction of a new driveway within the road reserve.

The exhibition of the DA attracted objections from nine (9) households raising concerns regarding overlooking, physical bulk and scale, impacts on trees, stormwater, the detached outbuilding, and the adequacy of the submitted Geotechnical Report and potential land destabilisation impacts. In summary, these concerns are addressed under their respective clauses within this report, and are generally resolvable by way of condition where relevant.

The proposal as a whole is considered to be appropriate for the site and is without detrimental impacts to neighbours, the environment or the wider locality.

This report concludes with the recommendation that the DDP as the consent authority **APPROVES** the DA.

PROPOSED DEVELOPMENT IN DETAIL

Development Consent is sought for substantial demolition works and alterations and additions to an existing dwelling house. The extent of demolition and alteration sought warrants the proposal being assessed as a New Dwelling rather than an application for alterations and additions.

The proposal entails the demolition of a large portion of the existing house, and demolition of a double carport and two detached single garages (one of which sits entirely on Council land); the construction of a part two / part three storey detached dwelling house with an elevated swimming pool; the construction of a detached outbuilding and associated landscaping works throughout.

AMENDED PLANS

During the course of the application amended plans were requested twice.

The first round of plans deleted the aforementioned parking structures and incorporated a double garage and turntable entirely on the site. The plans also amended the internal layout of the building, and changed the footprint of the first floor elements. These plans were renotified to neighbours.

The second round of revised plans only changes one window on the northern elevation of the house. These plans did not necessitate renotification in accordance with Council's Community Participation Plan.

ASSESSMENT INTRODUCTION

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

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

- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures

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

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

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

SITE DESCRIPTION

Property Description:	Lot 1 DP 1144798 , 155 Pacific Road PALM BEACH NSW 2108
Detailed Site Description:	<p>The site is legally identified as Lot 1 DP 1144798 and is known as 155 Pacific Road, Palm Beach.</p> <p>The site falls within the C4 Environmental Living zone pursuant to the Pittwater Local Environmental Plan 2014.</p> <p>The site is irregular in shape with a 28.11m frontage to Pacific Road to the southwest, a 6.215m frontage to Palm Beach Road to the north east and an overall surveyed area of 1,508m².</p> <p>The site presently contains a part-two / part-three storey detached dwelling house with a double carport. The site benefits from two single garages that are built either partially or entirely on Council's road reserve. The gardens of the property are extensively landscaped with numerous pathways and terraces.</p> <p>The property is burdened by an easement (vehicular right of way) on the Palm Beach Road frontage.</p> <p>The site has a steeply falling topography in a northeasterly direction with the Pacific Road kerb being at RL71; front boundary at RL69; rear boundary at RL50; and the frontage to Palm Beach Road at RL25. The site has an overall slope of almost 50m.</p> <p>The site has rock outcrops and large mature vegetation - both native and exotic - throughout.</p> <p>Surrounding properties consist of other residential</p>

properties, generally in the format of large, multi-level detached dwelling houses.

Map:



SITE HISTORY

The site has been used for residential purposes for an extended period of time, and there are no recent or relevant development applications.

Prior to the submission of this DA, the applicant elected to attend a prelodgement meeting (PLM2021/0293) for the construction of a driveway and garaging. At the time of writing the site has two single garages that are on Council land, and a second carport area that appears to sit within an easement.

The original submission of this DA did not include any changes to parking or access. In the fullness of assessment, Council advised the applicant that it was inappropriate to construct a new dwelling house relying on illegally placed car parking. The applicant therefore amended this current application to include car parking and a new driveway, thereby deleting the garaging on Council's land.

The prelodgement meeting is therefore relevant to the DA.

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

Section 4.15 Matters for Consideration	Comments
	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)(iia) – 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. Additional information was requested during the course of the application to resolve traffic and parking requirements, as well as concerns raised by Council's Development Engineers.</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 been addressed via a condition of consent.</p> <p><u>Clause 98</u> 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><u>Clause 98</u> 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>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p>

Section 4.15 Matters for Consideration	Comments
	(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.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is 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 Services, dated 22 November 2021) 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 from 03/05/2022 to 10/05/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 9 submission/s from:

Name:	Address:
Mr Richard Anthony Longes	11 - 13 Palm Beach Road PALM BEACH NSW 2108
Bruce Hancox	7 Palm Beach Road PALM BEACH NSW 2108
Mr Geoffrey Fisher	163 Pacific Road PALM BEACH NSW 2108
Mr Ian Philip Richard Philip	161 Pacific Road PALM BEACH NSW 2108
Mr David William Gibson	9 Palm Beach Road PALM BEACH NSW 2108
Mr Robert Gordon McCaffrey	15 Palm Beach Road PALM BEACH NSW 2108
Boston Blyth Fleming Pty Ltd	1 / 9 Narabang Way BELROSE NSW 2085
Mrs Beverly Cecile Gibson	PO Box 511 AVALON BEACH NSW 2107

Name:	Address:
Mr John Robert Vickery Lobban Mrs Sandra Carolyn Lobban	101 Florida Road PALM BEACH NSW 2108

The following issues were raised in the submissions:

- **Geotechnical - land slippage, excavation and destabilisation**
- **Stormwater**
- **Detached outbuilding**
- **Tree removal**
- **Visual and acoustic privacy**
- **Impacts to existing right of way**
- **Front setback non-compliance**

The above issues are addressed as follows:

- **Geotechnical - land slippage, excavation and destabilisation**

The submissions raised concerns that the submitted Geotechnical Investigation is inadequate in comprehensively addressing the potential for land slippage and destabilisation both on the subject site and the wider escarpment.

Comment:

The Geotechnical Investigation report (ref: J3887) dated 26 November 2021 by White Geotechnical Group is considered adequate for the purposes of a Development Application. No expert evidence to the contrary of the findings of the Geotechnical Investigation report have been submitted.

The recommendations of this report include conditions which require compliance with the Geotechnical Investigation report to be adhered to and ensure that the recommendations of that report are incorporated in the construction plans prior to the issue of any Construction Certificate.

It is found that the geotechnical concerns are adequately addressed by the submitted report and by way of condition.

- **Stormwater**

The submissions raised concerns that the land is subject to significant water run-off in rain events, and that that water falls onto surrounding properties. Concerns exist that excavation works may exacerbate this existing issue.

Comment:

Council's Development Engineer has reviewed the proposed stormwater concept information and raises no concerns in this regard, subject to conditions as recommended.

- **Detached outbuilding**

The submissions raised concerns regarding the proposed use of the detached outbuilding.

Comment:

The application as submitted included a detached studio in the eastern corner of the site. The revised plans received changed the annotation of the outbuilding to be 'proposed cottage'. It is noted that no request was received to change Council's description of development to include reference to a *secondary dwelling*, nor has a request been made for the building to be used as such.

The outbuilding does not include any kitchen / cooking facilities which can be secured by way of condition, and therefore the building is best described as a *separately accessible structure* pursuant to Clause C1.14 of the Pittwater 21 Development Control Plan 2014 which exists ancillary to the principal dwelling.

- **Tree removal**

The submissions raised concerns that the proposal necessitates tree removal.

Comment:

The application includes the removal of 10 trees. Seven of those trees are exempt species that can be removed without Council consent. The remaining three trees are not exempt, and two of those trees are deemed to be in poor condition. The one remaining tree to be removed is required to accommodate the proposed outbuilding.

Council's Landscape Officer and Bushland Officer have raised no objections to the proposed tree removal, subject to the loss being offset by the planting of new native canopy trees on the site.

Therefore, this matter is addressed by way of condition and does not warrant the refusal of the application.

- **Visual and acoustic privacy**

The submissions raised concerns regarding visual privacy from the outbuilding, the dwelling and the swimming pool, and concerns are raised about the potential acoustic impacts from mechanical ventilation as such systems are not detailed on the plans.

Comment:

Outbuilding

The outbuilding has one highlight, frosted window on its southern elevation positioned approximately 2.0m from the boundary. This window is not deemed to cause a privacy impact.

The windows facing north-east are situated more than 9m from the property boundary. The properties in this direction on Palm Beach Road have their primary orientation to the east / northeast to maximum light and views. The windows from the outbuilding are not considered to cause an unreasonable privacy impact.

The decking on northeastern and southwestern edge of the building is narrow and unlikely to be used for any form of entertaining given its size. The northern portion of decking is not considered likely to generate any visual privacy impacts.

Swimming pool

Concern is raised that the swimming pool may cause an overlooking impact on the adjoining property at 153 Pacific Road. Whilst some views into the gardens of neighbouring properties may be viewable from the proposed pool, the extent of that impact is acceptable. Concerns are also raised about the location of pool equipment and other mechanical ventilation which may acoustically impact on neighbours. This concern can be appropriately addressed via condition.

Dwelling

Concerns have been raised regarding the extent and expanse of windows and balconies on the proposed dwelling, and the impacts which they may have to the privacy of adjoining and nearby properties.

As detailed later in this report, revised plans have been received which delete the primary offending window. Other elements are not deemed to cause an unreasonable degree of overlooking.

All privacy matters are addressed elsewhere in this report and, subject to conditions and the aforementioned revised plans, are acceptable.

- **Impacts to existing right of way**

The submission from No. 11-13 Palm Beach Road raised concerns that the development may impact on their existing enjoyment of an easement located in the northeastern corner of the subject site.

Comment:

No works are proposed in the location of the easement under this application, and nothing in this recommendation shall impede the continued enjoyment of this access. This matter therefore does not warrant the refusal of the application.

- **Front setback non-compliance**

The submissions raised concerns that the proposal breaches the front boundary setback control.

Comment:

This matter is discussed in detail under its respective clause later in this report, but in summary, the variation sought does not warrant the refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The application seeks consent for the partial demolition of existing dwelling and construction of new dwelling comprising the retention of substantial portions of the existing dwelling, a detached studio and a swimming pool.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause C4 zone Environmental Living, and the following Pittwater 21 DCP controls (but</p>

Internal Referral Body	Comments
	<p>not limited to):</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D12 Palm Beach Locality <p>The Arborist's Report prepared by Martin Peacock Tree Care and Landscape Plans prepared by Dangar Barin Smith are noted.</p> <p>The Arborist's Report indicates 10 trees to be removed. 7 of the trees are exempt species. Of the 3 non-exempt species, two are in poor condition and one, <i>Glochidion ferdinandi</i> is to be removed to accommodate the new studio.</p> <p>The comments from Council's Bushland and Biodiversity section are noted and concurred with regarding replacement tree planting and local native species planting. Conditions provided by Bushland & Biodiversity are also concurred with.</p> <p>Additional conditions are recommended to protect existing trees and environmental features. No objections regarding landscape issues subject to conditions.</p>
NECC (Bushland and Biodiversity)	<p>The application seeks approval for the partial demolition of existing dwelling and the construction of new dwelling comprising the retention of substantial portions of the existing dwelling, together with a detached studio and swimming pool. In addition, the application also seeks to establish an Asset Protection Zone (APZ) over the entirety of the site in perpetuity.</p> <p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) Pittwater Local Environmental Plan (PLEP)</p> <ul style="list-style-type: none"> • 7.6 Biodiversity Protection <p>Pittwater Development Control Plan (PDCP)</p> <ul style="list-style-type: none"> • B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community <p>The application seeks to remove 10 trees, of which 7 are exempt by species or height:</p> <ul style="list-style-type: none"> • T3 Pittosporum undulatum (exempt by height) • T4 Phoenix canariensis (exempt by species) • T6 Phoenix canariensis (exempt by species)

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • T11 Plumeria acutifolia (exempt by height) • T19 Syzygium australe (exempt by height) • T21 Glochidion ferdinandi • T22 Syncarpia glomulifera • T23 Phoenix canariensis (exempt by species) • T24 Brachychiton acerifolius (exempt by species) • T36 Lophostemon confertus <p>No objection is raised to the removal of T36 by Council's Biodiversity referral team given it is planted outside natural distribution. Further, the proposed removal of T21 & T22 is considered acceptable given the poor health of both trees, and subject to the replacement of both with equivalent, locally-native canopy trees.</p> <p>The submitted Landscape Plan (Dangar Barin Smith 2021) demonstrates that >80% of proposed planting are 'native', however DCP B4.7 requires:</p> <ul style="list-style-type: none"> • <i>Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community).</i> <p>The Landscape Plan to be amended such that 80% of proposed plantings are consistent with the locally-occurring community - Pittwater Spotted Gum Forest: https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/nsw-threatened-species-scientific-committee/determinations/final-determinations/1996-1999/pittwater-spotted-gum-forest-endangered-ecological-community-listing</p> <p>The Landscape Plan must also include provision of at least one canopy tree (Corymbia maculata, Eucalyptus botryoides, E.paniculata, E.punctata, E.umbra, or Syncarpia glomulifera) as replacement for the proposed removal of T22. The provision of these replacement plantings ensures consistency with B4.7 of the Pittwater DCP.</p> <p>Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>
NECC (Development Engineering)	<p>The submitted stormwater plan with the provision of OSD and connection to the existing site drainage system is satisfactory. No objections to approval subject to conditions as recommended.</p> <p><i>Note to Planner: Two of the existing timber garages are located within the road reserve, please refer to road asset team for comments.</i></p> <p>Amended Plans 27/4/2022</p>

Internal Referral Body	Comments		
	<p>The amended plans proposes a new driveway along the length of the entire frontage of the site in the road reserve. Concurrence from Road asset team is required prior to Development engineering providing conditions. (Planner comment 06/05/22: Road Asset response received).</p> <p>Review 16/5/2022 No objections to approval subject to conditions as recommended.</p>		
Road Reserve	<p>No in principal objection to the proposed driveway as requested by Development Engineering team subject to conditioning the requirement for a Road Act application for civil works associated with the driveway. The gate on the driveway should be removed as per PLM notes.</p>		
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS		
	Discussion of reason for referral		
	<p>The proposal has been referred to Heritage as the subject property is opposite a heritage item</p> <p>House - 130A Pacific Road</p>		
	Details of heritage items affected		
	<p>Details of the item as contained within the Pittwater inventory is as follows:</p> <p><u>Statement of Significance</u> The House at 130a Pacific Road in Palm Beach, built c1920s as a holiday house, has historic and aesthetic and rare significance as a good example of a Californian Bungalow influenced by vernacular design.</p> <p><u>Physical Description</u> The site is located on the western side of Pacific Road and is raised above the street level. The rear of the site faces an unmade road (Ralston Road). The property is located on a ridgeline with views to both Pittwater and the Pacific Ocean. The dwelling is single storey at the front and two-storey at the rear. The weekender's typical features are the use of natural materials to harmonise with the natural environment, simple detailing, simple roof structure using timber shingles and stonewall construction with shingle gabled end.</p>		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	

Internal Referral Body	Comments		
	National Trust of Aust (NSW) Register		
	RAIA Register of 20th Century Buildings of Significance		
	Other	N/A	
	Consideration of Application		
	<p>The proposal seeks consent for alterations and additions to the existing dwelling. The majority of the existing dwelling is located below the road level and this approach is continued through into this proposal except for the upper level studio. That will appear above the road level. The heritage item is located to the west of the site across Pacific Road and is elevated slightly above the road. Given that the bulk of the works are below the road level with the studio being a smaller element above and the physical separation of the site from the item, the proposal is considered to not impact upon the heritage item or its significance.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>		
	Further Comments		
	<p>COMPLETED BY: Brendan Gavin, Principal Planner</p> <p>DATE: 6 February 2022</p>		

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who raised no objections.

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. A439470_03 dated 28 November 2021).

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 who raised no objections.

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
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4.3 - Height of Buildings	8.5m	9.74m	14.5%	No (see Clause 4.3(2D) below)
4.3(2D) - Height of Buildings	10.0m		-	Yes

Consideration against Clause 4.3(2D)

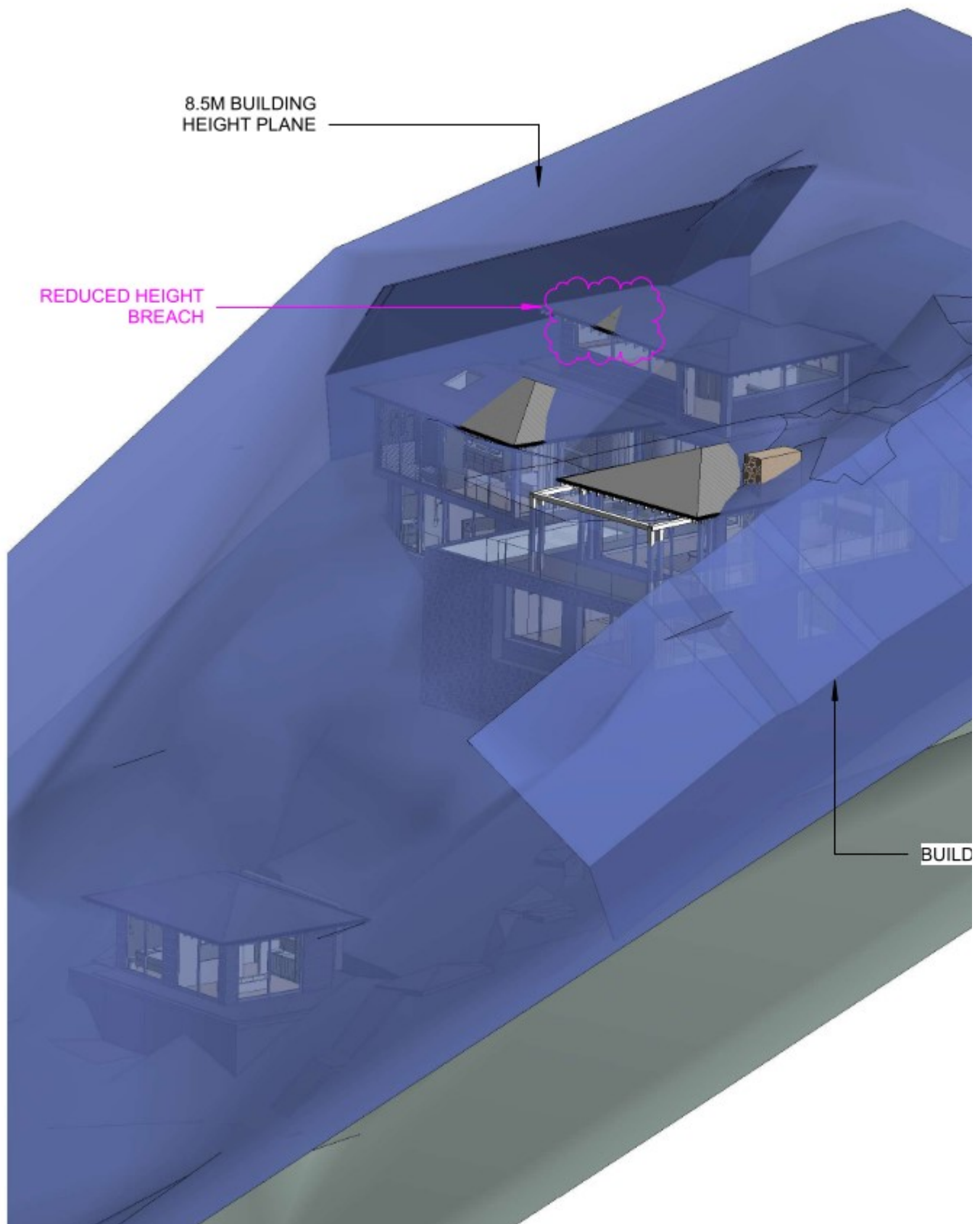
Clause 4.3(2D) stipulates that development on land that has a maximum building height of 8.5 metres may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor.

Comment

The extent of building encroachment exceeds a 8.5m height plane but is below a 10m height plane. The areas of encroachment are (generally) limited to roof elements, pergolas and a chimney flue.

Below is 8.5m height plane diagram created by the project architect depicting elements that exceed the plane. The assessment has concluded that the extent of encroachment is appropriately considered 'minor'.



(b) the objectives of the clause are achieved.

Comment

The Objectives of the Clause are addressed as follows:

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality.

The height of the proposed dwelling house is generally consistent with the development controls and with the proportions of newer dwellings within the locality.

(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development.

The height and scale of the proposal is consistent with what could be developed on adjoining sites under the current planning controls. Numerous other houses on the downwards and upwards slopes of Palm Beach exceed the building height standard. The overall proportions of the development (notwithstanding the variation) are compatible with the height and scale of surrounding and nearby development.

(c) to minimise any overshadowing of neighbouring properties.

The development provides a compliant level of solar access to neighbouring properties.

(d) to allow for the reasonable sharing of views.

View loss is discussed elsewhere in this report. The minor building elements that may impact upon views do not exceed the height limit.

(e) to encourage buildings that are designed to respond sensitively to the natural topography.

The building is designed to step down the slope of the land and does not necessitate an excessive degree of excavation, commensurate to other developments on similarly sloping sites.

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

The building is not considered to have an adverse visual impact when viewed from the public and private domain. The building is largely screened by landscaping, which will continue to grow and further screen the building in longevity.

(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%).

Comment

The slope of the land exceeds 16.7 degrees.

(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.

Comment

The development is considered to be designed and sited to take into account the slope of the land to minimise the need for cut and fill.

The above considerations confirm that the 10 metre height limit may be applied in this particular instance. Subject to this height control, the development is compliant and no further assessment on building height is required.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

7.2 Earthworks

The objective of Clause 6.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during

excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

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

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment: Council's Heritage Officer has determined that the proposal will not have an adverse impact on any nearby heritage items.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

7.7 Geotechnical hazards

Under Clause 7.7 Geotechnical Hazards, 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.*

Comment:

The proposed development is supported by a geotechnical risk assessment, architectural plans, an excavation plan, and stormwater management plans that demonstrate all geotechnical risks have been taken into account. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

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

Comment:

The proposed development is supported by a geotechnical risk assessment and stormwater management plans that demonstrate waste water, stormwater and drainage are suitably managed on site. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

(b) the consent authority is satisfied that:

(i) the development is designed, sited, and will be managed to avoid any geotechnical risk and 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.

Comment:

The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent. As such, Council can be satisfied that the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Garage - 5.5m Dwelling - min.3.8m Deck/Stairs - nil	15.4% 41.6% 100%	No No No
Rear building line	6.5m	Dwelling to Palm Beach Road - 76m Studio to boundary of 10 Palm Beach Road - 7.9m to 9m	- -	Yes Yes
Side building line	Northwest - 2.5m	6.1m	-	Yes
	Southeast - 1m	Minimum 1.5m	-	Yes
Building envelope	Northwest - 3.5m	No encroachments	-	Yes
	Southeast - 3.5m	No encroachments	-	Yes
Landscaped area	60% (904.8m ²)	63.7% (961m ²)	-	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community	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
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	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
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	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
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	No	Yes
D12.5 Front building line	No	Yes
D12.6 Side and rear building line	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D12.12 Fences - Flora and Fauna Conservation Areas	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.3 View Sharing

The proposed development is not anticipated to generate any unreasonable view loss impacts from the public or private domain. Generally, properties to the opposite side of Pacific Road are significantly elevated above the proposal and thus maintain views over the roof. Adjoining properties to the north and west generally have their primary views / aspects towards to east / north-east, and therefore the orientation and positioning of the proposal would not unreasonably compromise these existing view aspects.

C1.5 Visual Privacy

Clause C1.5 *Visual Privacy* requires that:

- 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 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres 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.

Comment

The proposed development has extensive glazing to the eastern and northern facades, and includes an elevated swimming pool and deck. The outbuilding includes windows and a deck orientated to the northeast.

The north-facing windows from the living room and the deck look towards No.161 Pacific Road, Palm Beach. The side elevation of the proposal is offset from the boundary by some 6.1m with that setback to be landscaped. These windows generally will overlook the front garden and the flank elevation of the neighbouring house. Amendments to a large window in the living room have been made to break it into two smaller windows to limit opportunities for overlooking.

The windows and the edge of the deck (measuring 3.8m in width) are not considered to directly overlook the private open space of the adjoining properties and are therefore acceptable.

The elevated swimming pool is setback 3.3m from the boundary shared with 153 Pacific Road. That property has windows on all elevations and meandering pathways and terraces throughout. The elevated swimming pool may overlook a portion of the garden area, however the extent of overlooking

is not considered to be significant, and opportunity for downwards views into the property are limited by virtue of the depth of the pool. Similarly, the existence of the pool limits opportunities for downwards views from the deck.

The outbuilding structure is positioned towards the rear boundary of 9 Palm Beach Road to the northeast. This house is set back from the boundary by some 12m, is set down further into the site, and has a primary orientation to the northeast towards the ocean. The windows from the secondary dwelling, and narrow perimeter decking around it are not considered substantial enough to result in any unreasonable privacy impacts to the neighbouring property.

On balance of all factors, the proposal is considered to maintain an appropriate level of privacy to neighbouring properties, and that level will increase as the landscaping on site matures and screens the building.

C1.14 Separately Accessible Structures

The detached outbuilding located to the rear of the site does not include any cooking or kitchen facilities and is therefore not capable of separate habitation, thus the appropriate terminology of the outbuilding is a *separately accessible structure*. Conditions are included in the recommendations of this consent which ensure that the property as a whole is used only as one single dwelling.

C1.19 Incline Passenger Lifts and Stairways

No changes are proposed to the existing inclinator on site.

D12.3 Building colours and materials

Clause D12.3 seeks that buildings are finished in dark coloured tones such as black, brown and green. The existing dwelling house is white painted weatherboard, and this proposal seeks to maintain this existing finish and extend it across the extensions. Along with weatherboard, the proposal includes cement render and stonewall cladding.

Notwithstanding the fact that the colour is inconsistent with the intent of Clause D12.3, the visual impact of the dwelling in the colours proposed is deemed acceptable and consistent with other properties along Pacific Road.

D12.5 Front building line

Description of Non-Compliance

Clause D12.5 of the Pittwater 21 Development Control Plan 2014 prescribes a front boundary setback requirement of either 6.5m, or consistent with the established building line - whichever is the greater.

The size and shapes of neighbouring properties varies greatly which consequently results in a varying front setback alignment along the street. The two neighbouring properties at 153 (south) and 161 (north) Pacific Parade have front setbacks of 30m and 13m respectively.

This proposal, with a garage setback of 5.5m, dwelling setback of 3.8m and decking/stair setback of nil therefore is lesser than the required 6.5m and lesser than neighbouring properties.

Merit Consideration

With regards to the consideration for a variation, the development is considered against the underlying

Outcomes of the Control as follows:

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

Comment:

The relationship of the site to the adjoining road reserve is one of split level, whereby the front decking with a nil setback sits 3m below (RL68.06) the level of the adjoining road (RL71.05). This height difference, combined with the existing landscaped road reserve which is to be retained results in a portion of the non-compliant area being non-discernible from the public domain.

Notwithstanding the variation to the front setback control, the development remains consistent and compatible with the desired future character of the Palm Beach Locality.

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

Comment:

The proposed development is not anticipated to cause any unreasonable view loss from the public or private domain.

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

Comment:

Pacific Road is not a main road and therefore this objective is not relevant.

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

Comment:

The existing vegetation along the site frontage is to be retained to visually reduce the built form. The development also includes landscaping inward of the site curtilage which ensures that, in the event the landscaping in the road reserve is removed, the proposal will still be appropriately screened by landscaping.

- *Vehicle manoeuvring in a forward direction is facilitated.*

Comment:

The development provides a vehicle turntable which ensures that cars can enter and exit in a forward direction.

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

Comment:

The proposal adequately maintains the existing bushland character of the locality.

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

Comment:

The building is of a height lesser than that of existing mature trees.

- *To encourage attractive street frontages and improve pedestrian amenity.*

Comment:

The proposal does not change the existing relationship of the dwelling house to the road which is deemed to be acceptable.

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

Comment:

The proposal is designed appropriately to step down the slope of the land to create a relationship to the spatial characteristics of the urban environment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant Outcomes of the Pittwater 21 Development Control plan 2014 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 affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$34,282 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$3,428,158.

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

PLANNING CONCLUSIONS

The assessment of this proposal has found that the development is appropriate in terms of its proportions, design and impacts for the context of the site. The design is not considered to unreasonably prejudice the level of amenity currently enjoyed by neighbouring properties and will maintain general residential harmony within the streetscape.

Whilst the proposal does breach a number of standards, those breaches are each found to be acceptable on merit and are largely derived from the site's topography and retention of elements of the existing building.

On balance of all factors, the proposal is considered reasonable and this report therefore concludes with the recommendation that the DDP **APPROVES** the development application, subject to conditions as recommended.

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 DA2021/2416 for Partial demolition of the existing dwelling and the construction of a new dwelling with a detached studio and swimming pool on land at Lot 1 DP 1144798, 155 Pacific 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
DA030 Issue 2 - Site Plan + Site Analysis	19 April 2022	CM Studio
DA050 Issue 2 - Demolition Plan Lower Ground Floor	19 April 2022	CM Studio
DA051 Issue 2 - Demolition Plan Ground Floor	19 April 2022	CM Studio
DA101 Issue 3 - Proposed Lower Ground Floor Plan	19 April 2022	CM Studio
DA102 Issue 4 - Proposed Ground Floor Plan	17 June 2022	CM Studio
DA103 Issue 3 - Proposed Level 1 Plan	17 June 2022	CM Studio
DA104 Issue 3 - Proposed Roof Plan	17 June 2022	CM Studio
DA105 Issue 2 - Cottage Plan + Section D-D	19 April 2022	CM Studio
DA201 Issue 2 - Southwest Elevation	19 April 2022	CM Studio
DA202 Issue 2 - Southeast Elevation	19 April 2022	CM Studio
DA203 Issue 2 - Northeast Elevation	19 April 2022	CM Studio
DA204 Issue 3 - Northwest Elevation	17 June 2022	CM Studio
DA205 Issue 2 - Streetscape Elevation	19 April 2022	CM Studio
DA206 Issue 2 - Cottage Elevations	19 April 2022	CM Studio
DA301 Issue 3 - Section A-A	19 April 2022	CM Studio
DA302 Issue 3 - Section B-B	19 April 2022	CM Studio
DA303 Issue 2 - Section C-C	19 April 2022	CM Studio
DA403 Issue 3 - Schedule of Finishes	19 April 2022	CM Studio
DA601 Issue 2 - Excavation Plan	19 April 2022	CM Studio
DA602 Issue 2 - Excavation Section	19 April 2022	CM Studio

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment Report	30 November 2021	Martin Peacock Tree Care
BASIX Certificate No. A439470_03	28 November 2021	The House Energy Rating Company of Australia Pty Ltd
Bushfire Risk Assessment	03 December 2021	Bushfire Planning Services
Geotechnical Investigation (ref: J3887)	26 November 2021	White Geotechnical Group

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
LP01-D9821 Rev. A - DA Cover Sheet	02 December 2021	Dangar Barin Smith
LP02-D9821 Rev. A - Landscape Plan	02 December 2021	Dangar Barin Smith
LP03-D9821 Rev. A - Landscape Plan	02 December 2021	Dangar Barin Smith
LP04-D9821 Rev. A - Landscape Plan	02 December 2021	Dangar Barin Smith

Waste Management Plan		
Report Title	Dated	Prepared By
Waste Management Plan	29 November 2021	Megan Burns

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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house.

A dwelling house is defined as: *A building containing only one dwelling.*

(development is defined by the Pittwater Local Environment Plan 2014 (as amended) Dictionary)

Further to this, the outbuilding labelled "cottage" on the approved plans is to be changed to "studio".

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

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

3. **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.

4. **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 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (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

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$34,281.58 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 2021. The monetary contribution is based on a development cost of \$3,428,158.00.

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 2021 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.

6. 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 are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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 White Geotechnical Group dated 26/11/2021 are to be incorporated into the construction and excavation 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. **Amendment of Landscape Plans**

The submitted Landscape Plan is to be amended in accordance with the following:

- Provision of at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community).

The Landscape Plan to be amended such that 80% of proposed plantings are consistent with the locally-occurring community - Pittwater Spotted Gum Forest:

<https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/nsw-threatened-species-scientific-committee/determinations/final-determinations/1996-1999/pittwater-spotted-gum-forest-endangered-ecological-community-listing>

The Landscape Plan must also include provision of at least one canopy tree (*Corymbia maculata*, *Eucalyptus botryoides*, *E.paniculata*, *E.punctata*, *E.umbra*, or *Syncarpia glomulifera*).

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

9. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. 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.

10. **Amendments to the approved plans**

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

- the gate on the proposed driveway is to be deleted in its entirety.
- the labelling of the outbuilding as a "cottage" is to be changed to "studio".
- the area within the Living Room in the outbuilding is to be labelled "Wet Bar" only and this area is not to have any cooking facilities such as an oven or cooktop.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

11. **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 referenced in Condition 1 of this consent 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.

12. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by RTS Civil Consulting Engineers, job number 211102, drawing number CP100, SW100, SW101, SW102, SW200, dated 30/11/2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The plans must include the following details:

1. The existing surface grated drains are to be shown on the stormwater plans. The surface drains must be connected to the existing system.
2. The proposed driveway drainage shall be connected to the existing system

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

13. **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 for the new works within the road reserve 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. A vehicular crossing 4 meters wide, detail design shall be provided.
2. Engineering longsections at both edges and centerline of the proposed access driveway to the garage.
3. Structural details for any retaining walls supporting the driveway.
4. Sight distances and safety barriers are to be in accordance with AS/NZS 2890.1:2004.
5. The application is to include a geotechnical report that is prepared by an appropriately qualified Geotechnical Engineer to assess the impact upon the road embankment and

any retaining walls that are to be retained or will be required to support the road as a result of the proposed works.

6. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided.
7. Structural Engineer's certification.
8. Gates are not permitted within the road reserve.
9. A landscape plan showing the details of the proposed works in the road reserve.

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.

14. Structural Adequacy and Excavation Work

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

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

15. 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.

16. 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.

17. External Finishes to Roof

The external finish to the roof shall have a medium to dark range 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

18. Tree Removal Within the Property

This consent approves the removal of the following trees within the property as recommended in the Arboricultural Impact Assessment dated 30 November 2021 prepared by Martin Peacock Tree Care:

- i) T 21 *Glochidion ferdinandi*; T22 *Syncarpia glomulifera*; T36 *Lophostemon conferta*

Note: Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal.

Reason: To enable authorised building works.

19. 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 protect native wildlife.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

20. Protection of Landscape Features and Sites of Significance

All natural landscape features including natural rock outcrops, natural vegetation, soil and watercourses are to remain undisturbed during demolition, excavation and construction works except where affected by works detailed on approved plans.

Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office contacted to assess the finds.

Under Section 89a of the NPW Act should the objects be found to be Aboriginal, NSW Biodiversity and Conservation Division, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Preservation of significant environmental features.

21. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected including:
 - i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with the Arboricultural Impact Assessment dated 30 November 2021 prepared by Martin Peacock Tree Care and Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
 - viii) 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 Australian Standard 4970-2009 Protection of Trees on Development Sites,
 - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
 - x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
 - xi) 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 must ensure that:

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

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

Reason: Tree and vegetation protection.

22. **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.

23. **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:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o 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.

24. **Geotechnical Requirements**

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

25. **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 ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) 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.

26. Installation and Maintenance of Sediment Control

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

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

27. 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.

28. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

29. Waste Management During Development

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

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

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

30. **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (Dangar Barin Smith 2021) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

31. **New Vegetation Planting**

Any new landscaping is to incorporate a minimum 80% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the Final Determination for Pittwater Spotted Gum Forest - endangered ecological community listing:

<https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/nsw-threatened-species-scientific-committee/determinations/final-determinations/1996-1999/pittwater-spotted-gum-forest-endangered-ecological-community-listing>

Details demonstrating compliance are to be provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirement to retain and protect native planting on the site.

32. **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

33. **Priority Weed Removal and Management**

All Priority weeds, including Tree 29 (Small-leaved Privet) as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) within the site are to be removed.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority weeds.

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.

36. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge a Legal Documents Authorisation Application with Council. The application is to include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan by a Registered Surveyor) and Hydraulic Engineers' certification for the completed on-site stormwater detention system works. A guide to the process can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/guide-submitting-ldaa-nov19.pdf>

The form for the application can be found on Council's website using the following link.

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/pdf-forms/legal-documents-authorisation-on-site-stormwater-detention-systems/4023-legal-documents-authorisation-oct19.pdf>

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater detention system within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user for the on-site stormwater detention system is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of final Occupation Certificate.

Reason: To ensure the on-site stormwater detention system is maintained to an appropriate operational standard and not altered.

37. **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

38. **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.

39. **Swimming Pool Requirements**

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the 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

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite 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. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life.

40. **Removal of All Temporary Structures / Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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 bushland management.

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

41. Landscape Maintenance

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

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

42. Protection of Habitat Features

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

Reason: To protect wildlife habitat.

43. Replacement of Canopy Trees

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.

44. Maintenance of Asset Protection Zones

Vegetation clearing for ongoing APZ maintenance must only occur within the surveyed and marked APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries.

Reason: To protect native vegetation and wildlife.

45. Geotechnical Recommendations

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

Reason: To ensure geotechnical risk is mitigated appropriately.

46. Swimming Pool/Spa Motor Noise

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.