

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2018/1211
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<b>Responsible Officer:</b>	Adam Urbancic
<b>Land to be developed (Address):</b>	Lot 21 DP 1017487, 5 A Beach Road PALM BEACH NSW 2108
<b>Proposed Development:</b>	Alterations and additions to an existing dwelling house
<b>Zoning:</b>	E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Vivian Hugh King Wendy Anne Warman King Edward Hugh Warman King
<b>Applicant:</b>	Giles Tribe Architects

<b>Application lodged:</b>	13/07/2018
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	24/07/2018 to 09/08/2018
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 240,000.00
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### 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 - 1.9A Suspension of covenants, agreements and instruments  
Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings  
Pittwater 21 Development Control Plan - A4.12 Palm Beach Locality  
Pittwater 21 Development Control Plan - A5.1 Exhibition, Advertisement and Notification of Applications  
Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures  
Pittwater 21 Development Control Plan - C1.23 Eaves  
Pittwater 21 Development Control Plan - D12.5 Front building line  
Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 21 DP 1017487 , 5 A Beach Road PALM BEACH NSW 2108
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the southern side of Beach Road.</p> <p>The site is irregular in shape with a frontage of 5.03m along Beach Road and an average depth of 58m. The site has a surveyed area of 1,424m<sup>2</sup>.</p> <p>The site is located within the E4 Environmental Living zone and accommodates a four (4) storey concrete, stone and metal dwelling house with a metal roof and an elevated swimming pool located centrally on the site.</p> <p>The site has an overall slope of 32.78% and falls 18.5m from the south-eastern corner of the site to the north-western corner of the site.</p> <p>The site contains a number of canopy trees and ground cover vegetation spread across the site.</p> <p>The site is located within the H1 Geotechnical Hazard zone.</p> <p>A site inspection was conducted on 5 September 2018.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by dwelling houses ranging from one (1) storey to multiple storeys in a landscaped setting. Palm Beach Golf Club adjoins the site on the west.</p>

Map:



## SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

### 12 October 2005

Development Application N0163/05 for the construction of a single dwelling and elevated swimming pool was granted deferred commencement consent.

### 25 November 2005

Documentation received by Council for deferred commencement consent N0163/05 was found to be satisfactory and the consent became operative.

### 19 May 2008

Development Application N0163/05 was modified pursuant to Section 96 (2) of the *Environmental Planning and Assessment Act 1979* (NSW).

### 28 August 2018

Development Application DA2018/1423 for a boundary adjustment from four (4) lots into three (3) lots was lodged with Council. This application is yet to be determined, and as such, does not impact upon the determination of this application.

## APPLICATION HISTORY

### 14 November 2018

Request for Withdrawal of Development Application letter sent outlining areas of non-compliance and insufficient information, specifically with building height (measured at over 10m) and a geotechnical report.

### 28 November 2018

Amended plans (northern and eastern elevations and sections) and geotechnical report received.

## PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for alterations and additions to an existing dwelling house, specifically the following works:

- conversion of the garage located on Level 1 to a bunk room, including the removal of the existing garage door and replacement with a new window;
- construction of new stairs from ground level to the northern terrace on Lower Level 2, including demolishing part of the existing concrete balustrade and installation of a glass balustrade;
- minor internal reconfiguration of the existing laundry, sauna and bathroom on Upper Level 2 to create a larger laundry and relocated bathroom;
- infill of the existing open awning above the balcony accessed from Bedroom 2 with folded zinc sheeting on Level 3;
- replacement of the existing hinged double entry doors and fixed glass panel with a new sliding door on Level 3, including the installation of timber battens on the underside of the existing glazed awning above the entry;
- infill of the existing open awning above the main terrace accessed from the Living Room on Level 3 with zinc sheeting and extendable folding arm;
- conversion of the existing enclosed bar and open roof terrace on Level 4 to new Bedroom 5, including a new roof, new window on the eastern elevation, relocation of the existing bi-fold doors to the northern extent of Bedroom 5, and new internal and external walls; and
- conversion of the existing walkway on Level 4 to an ensuite to service Bedroom 5, including a new metal roof, removal an existing hinged door, new window on the northern elevation, and new internal and external walls.

## 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	None applicable.
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&amp;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>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this</p>

Section 4.15 Matters for Consideration'	Comments
	<p>application.</p> <p>Clauses 54 and 109 of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations.</p> <p>Clause 92 of the EP&amp;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>Clauses 93 and/or 94 of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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) <b>Environmental Impact</b> 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) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site	The site is considered suitable for the proposed



Section 4.15 Matters for Consideration'	Comments
for the development	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 not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

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

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

## MEDIATION

No requests for mediation have been made in relation to this application.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	No objections to the alterations and additions proposed with no altered impact upon the surrounding environment or the amenity of adjoining properties in terms of the landscape outcomes.
NECC (Bushland and Biodiversity)	<p>This proposal has been assessed against the following Pittwater DCP Natural Environment control:</p> <p>B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor</p> <p>The proposed development is generally located within the footprint of the existing development and is unlikely to impact upon remnant native vegetation on site. It is therefore considered that the proposal is consistent with the control.</p>
NECC (Development Engineering)	<p><u>Initial Comments, dated 4/10/2018</u></p> <p>Additional information required.</p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>No on-site stormwater detention system is required for the proposed development since OSD has been required as part of the previous DA. The stormwater shall be collected and connected to the existing internal drainage system.</li> </ul> <p>The Pittwater DCP requires a risk assessment from a geotechnical engineer which has not been provided. As result the DA cannot be supported.</p> <p><u>Revised Comments, dated 3/12/2018</u></p> <p>The site is located within Geotechnical Hazard H1 Area, an "Acceptable Risk Management" Level can be achieved in accordance with the JK geotechnics report. Recommend approval subject to conditions.</p>
Strategic and Place Planning (Heritage Officer)	<b>HERITAGE COMMENTS</b>
	<b>Discussion of reason for referral</b>
	<p>This application has been referred to heritage as it is nearby two heritage items</p>
	<p><b><i>Item – Barrenjoey Heritage Conservation Area</i></b></p>
	<p><b><i>Item – Picnic Shelter Sheds</i></b></p>
	<b>Details of heritage items affected</b>
<p>Details of these items, as contained within the Pittwater Heritage Inventory, is:</p> <p><b><i>Barrenjoey Heritage Conservation Area</i></b></p> <p><u>Statement of Significance</u> The Barrenjoey Heritage Conservation Area includes sites associated with the earliest phase of European settlement in Pittwater. It retains rare evidence of natural and both Aboriginal and European cultural heritage in a scenic location. It is included within Ku-ring-gai Chase National Park, which contains an outstanding representation of the species that contribute to the high endemism value of the Sydney region.</p> <p><u>Physical Description</u> This is a natural conservation area, consisting of the Barrenjoey Headland and the sand isthmus or tombolo which links the headland to Palm Beach</p> <p><b><i>Picnic Shelter Sheds</i></b></p> <p><u>Statement of Significance</u></p>	

Internal Referral Body	Comments		
	<p>Three cruciform Picnic Shelter Sheds made from timber frame, T and G board partitions, flat metal sheet and octagonal roof are early recreational structures of Pittwater. They illustrate the significance of beachside parks for day visitors to eat outdoors and are representative of traditional park pavilion style architecture.</p> <p><u>Physical Description</u> Three cruciform picnic shelter sheds made from timber frame, T and G board partitions, flat metal sheet octagonal roof</p>		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	Consideration of Application		
	<p>The proposal seeks consent for alterations and additions to an existing dwelling. The heritage item and conservation area are opposite the driveway access handle across Beach Road within Governor Phillip Park.</p> <p>Given the separation of the dwelling from the heritage items by way of the driveway access handle and Beach Road, Heritage considers the proposal will have no impact upon the heritage items and their significance. The proposal can be supported by Heritage.</p> <p><b>Consider against the provisions of CL5.10 of PLEP.</b></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		
	COMPLETED BY: Brendan Gavin, Strategic Planner		
	DATE: 4 September 2018		



Internal Referral Body	Comments

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## 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. A321455, dated 12 July 2018).

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

### SEPP (Infrastructure) 2007

#### Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).

- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

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

**Pittwater Local Environmental Plan 2014**

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	10m	10m	N/A	Yes

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
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

**1.9A Suspension of covenants, agreements and instruments**

The subject land is affected by a number of easements and restrictive covenants, numbered 1 through to 15, from the subdivision of the land which were endorsed in 2000. The details of the covenants were not provided to Council with the application, however, the Section 88B instrument for DP1017487 was located in Council's Electronic Management System. The proposed development contravenes the terms of the restrictions on the use of land referred to and numbered 12 and 13 in Part 2 of the Section 88B instrument.

The restriction on the use of land referred to and numbered 12 states that the owner of the land is 'not to erect or permit to be erected any building or structure of any kind in the area marked "K" in the Deposited Plan to which this instrument relates' and the proposed development includes new stairs within this area. Although the covenant does make some allowances for gardens, landscaping and the like, it does not specifically mention stairs as being allowable within the area.

The restriction on the use of land referred to and numbered 13 states that the owner of the land is 'not to erect or permit to be erected on the land any building or structure which shall exceed 16.5 metres Australian Height Datum (AHD) to include chimneys, vents, stacks, aerals to a height of 17.5 metres Australian Height Datum in the area marked "L" in the Deposited Plan to which this instrument relates'. The submitted plans indicate that the east ridge of the proposed development will be at 20.54 AHD, while the existing west ridge is indicated at 21.10 AHD, meaning that the development will and already does contravene the terms of this covenant.

The proposed development does not contravene any terms of the other covenants.

Although the development contravenes two (2) of the restrictions on the use of land, Clause 1.9A of Pittwater Local Environmental Plan 2014 states that for the purpose of enabling development on land in any zone, covenants that restrict the carrying out of that development do not apply to the extent necessary to serve that purpose, therefore, the proposed development can be considered in line with Council's development controls.

#### 4.3 Height of buildings

The proposed development exceeds the 8.5m building height, however, in accordance with Subclause 2D of this clause, the proposed development may exceed this height, but not more than 10m, if the following requirements are satisfied.

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

##### Comment

There are portions of the existing building which are located above the maximum height of 8.5m, namely the northernmost portion of the walls and roof to Bedroom 1. The proposed development includes a new portion of the building which is to be located above the maximum height, which similarly comprises the northernmost portion of the walls and roof, and the full extent of the attached awning, to Bedroom 5. The portion of the building proposed to be located above the maximum height is minor and the total portion of the building which will be located above the maximum height is minor.

- (b) the objectives of this clause are achieved, and

##### Comment

The objectives of this clause are as follows:

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

##### Comment

The building is not entirely consistent with the desired future character of the Palm Beach Locality, but is consistent with its overall intention.

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

##### Comment

The building is compatible with the height and scale of surrounding and nearby development.

- (c) to minimise any overshadowing of neighbouring properties,

Comment

The proposed development minimises the overshadowing of neighbouring properties.

- (d) to allow for the reasonable sharing of views,

Comment

The proposed development allows for the reasonable sharing of views.

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

Comment

The proposed development is generally located within the existing building footprint which sensitively responds to the natural topography.

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

Comment

The proposed development minimises the visual impact of the proposed development on the natural environment, heritage conservation areas and heritage items.

Based on the above, the objectives of this clause are achieved.

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

Comment

The building footprint is situated on a slope of 31.39% when measured from the southern extent of the existing dwelling using the contours of the land (13.5 AHD) to the northern extent of the existing dwelling (6.5 AHD), which are at a distance of 22.3m apart.

- (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 existing building has been sited and designed to account for the steep slope of the land and to minimise cut and fill by incorporating multiple floor levels which step with the site.

Based on the above, the proposed development satisfies the requirements stated under Subclause 2D of this clause, therefore allowing a maximum building height of 10m. The proposed development has been measured at 10m from ground level to the top of the attached awning to Bedroom 5 and therefore complies with the 10m maximum building height.

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	10m	6.86m to new stairs	31.4% (3.14m)	No
Rear building line	6.5m	9.57m to entry awning	N/A	Yes
Side building line	2.5m (E)	7.44m to new Bedroom 5	N/A	Yes
	1m (W)	4.17m to Bedroom 2 awning	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	60% (854.4m <sup>2</sup> )	53.51% (762.02m <sup>2</sup> )	10.81% (92.38m <sup>2</sup> )	No

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100

to equal X, then 100 minus X will equal the percentage variation. Example:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	No	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	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
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
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
C1.23 Eaves	No	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	No	Yes
D12.6 Side and rear building line	Yes	Yes
D12.8 Building envelope	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

## Detailed Assessment

### **A4.12 Palm Beach Locality**

The dwelling house, as existing, is more than the desired maximum two (2) storeys in any one place, which is particularly evident on the northern, eastern and western elevations. The proposed development does not seek to add any additional storeys to the dwelling house, but rather seeks to enclose an existing bar and open roof terrace with new walls and a roof to create additional indoor space, which will alter the building's appearance on the northern and eastern elevations.

Due to the slope of the site and the extended floor plate, the existing dwelling house presents as a four (4) storey building on the northern elevation. The proposed development will alter the appearance of the building on this elevation, as it will increase the prominence of the fourth storey, due to the enclosure of the existing open roof terrace with an extended roof from the enclosed bar and new walls.

The existing dwelling house presents as a two (2) to three (3) storey building on the eastern elevation, which is particularly prominent above the garage. The proposed development will alter the appearance of the dwelling house on this elevation due to the addition of the walls and roof for Bedroom 5, which will increase the extent to which the dwelling house presents as three (3) storeys, however, as the building has been designed to incorporate articulation, the third storey appears as a split storey when viewed on the eastern elevation, which helps to reduce the visual bulk of the dwelling house.

Whilst the proposed development does not achieve the desired future character in its entirety, it is consistent with the overall intention of the desired future character of the Palm Beach Locality and is therefore acceptable.

### **A5.1 Exhibition, Advertisement and Notification of Applications**

As per the provisions of this control, the requirement for notification of the amended plans for the Development Application was dispensed with as Council is of the opinion that the amended application differs only in minor respects from the original application, and does not result in a greater environmental impact.

### **C1.14 Separately Accessible Structures**

The removal of the internal door connecting the existing garage to the lower landing of Stair 1 on Level 1 creates a separately accessible structure, being the proposed bunk room. Whilst the plans show that only minor reconfiguration works are proposed and the Statement of Environmental Effects states that the bunk room is to be used as a recreation space, a recommended condition will be placed to ensure that the bunk room is not used for the purposes of separate habitation and that no cooking facilities are installed to ensure that the space remains ancillary to the dwelling house.

### **C1.23 Eaves**

The existing dwelling house does not incorporate eaves of any dimension on any of the elevations and the proposed development seeks to match the design of the existing dwelling house. Further consideration of the non-compliance will be given in accordance with the outcomes of the control, as below.

- *Housing that reflects the coastal heritage and character of Pittwater. (S)*  
Comment

The proposed development maintains the existing contemporary style of the dwelling house, which although is not specifically coastal, adequately reflects the style of housing within



Pittwater.

- *Optimise roof forms. (S)*

Comment

The proposed development maintains the flat roof form of the existing dwelling house, which reduces the bulk and scale of the development and allows for view sharing from adjoining properties.

- *Appropriate solar access and shading is achieved. (En)*

Comment

The proposed development ensures that an appropriate level of solar access is achieved to the subject dwelling house and surrounding dwelling houses. The dwelling house also incorporates roof coverings over selected windows, doors and entertaining spaces to ensure that an appropriate level of solar access and shading is achieved.

Based on the above, the proposed development is consistent with the outcomes of the control and the non-compliance is supported on merit.

## **D12.5 Front building line**

The application proposes a 6.86m setback from the north-eastern boundary to the proposed stairs connecting the northern terrace to the lawn area below, which does not meet the 10m requirement under this control, however, further consideration of the non-compliance will be given in accordance with the outcomes of the control, as below. It is noted that the subject site is a battle-axe lot and that the north-eastern boundary does not front the street, however, due to the siting of the dwelling house on the subject site and surrounding allotments, it is considered appropriate to consider the north-eastern boundary as a front boundary.

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

Comment

The proposed development does not achieve the desired future character in its entirety, however, it is consistent with the overall intention of the desired future character of the Palm Beach Locality and is considered acceptable.

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

Comment

The proposed development allows for the equitable preservation of views and vistas to and/or from both public and private places.

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

Comment

The development is located on a local road, therefore this outcome is not applicable.

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

Comment

All existing vegetation on the site is to be retained. As the existing vegetation is sufficient in visually reducing the built form, it is not considered necessary to further enhance the vegetation on the site.

- *Vehicle manoeuvring in a forward direction is facilitated. (S)*

Comment

The proposed development does not seek to change the existing arrangement for vehicle

manoeuvring on the site.

- *To preserve and enhance the rural and bushland character of the locality. (En, S)*  
Comment  
The proposed development retains all existing vegetation on the site, therefore, preserving and enhancing the rural and bushland character of the Palm Beach 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 proposed development will enhance the existing streetscape and promote a scale and density that is in keeping with the height of the natural environment.
- *To encourage attractive street frontages and improve pedestrian amenity.*  
Comment  
Although the subject site is a battle-axe lot and does not form part of the Beach Road streetscape, the proposed development is still visible from Beach Road due to the steep topography, and as such, this outcome is considered to be applicable. The proposed development encourages an attractive street frontage by creating a balanced and well articulated facade. The proposed stairs connecting the northern terrace to the lawn area below also improves pedestrian amenity within the subject site.
- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*  
Comment  
The proposed development is generally located within the existing building footprint, therefore, it is considered that the proposed development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.

Based on the above, the proposed development is consistent with the outcomes of the control and the non-compliance is supported on merit.

#### **D12.10 Landscaped Area - Environmentally Sensitive Land**

Existing Landscaped Area: 53.90% or 767.54m<sup>2</sup>

Required Landscaped Area: 60% or 854.4m<sup>2</sup>

Proposed Landscaped Area: 53.51% or 762.02m<sup>2</sup>

Proposed Landscaped Area (with variations): 55.23% or 786.52m<sup>2</sup>

The proposed landscaped area on the site does not meet the 60% requirement under this control, however, the landscaped area currently provided on the site is also deficient of this requirement, as per the above calculations. Further consideration of the non-compliance will be given in accordance with the outcomes of the control, as below.

- *Achieve the desired future character of the Locality. (S)*  
Comment  
The proposed development does not achieve the desired future character in its entirety, however, it is consistent with the overall intention of the desired future character of the Palm Beach Locality and is considered acceptable.
- *The bulk and scale of the built form is minimised. (En, S)*  
Comment

The proposed development is well articulated and is therefore minimised in terms of bulk and scale.

- *A reasonable level of amenity and solar access is provided and maintained. (En, S)*

Comment

The proposed development provides and maintains a reasonable level of amenity and solar access within the subject site and to surrounding properties.

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

Comment

All existing vegetation on the site is to be retained and sufficiently reduces the built form, and as such, it is not considered necessary to enhance the vegetation on the site.

- *Conservation of natural vegetation and biodiversity. (En)*

Comment

All existing vegetation on the site is to be retained, therefore, it is considered that the proposed development conserves the natural vegetation and biodiversity.

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

Comment

The proposed development results in a marginal increase in hard surface area on the site through the addition of the new stairs. Although stormwater runoff is not reduced across the site, Council's Development Engineer has reviewed the proposed development and has determined that the existing on-site stormwater detention tank is sufficient in capturing the additional runoff, therefore preventing soil erosion and siltation of natural drainage channels.

- *To preserve and enhance the rural and bushland character of the area. (En, S)*

Comment

All existing vegetation on the site is to be retained, therefore, preserving and enhancing the rural and bushland character of the area.

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

Comment

As the subject site is constrained by a number of easements, it is considered that the amount of soft surface provided on the site is maximised, therefore providing for infiltration of water to the water table, minimising run-off and assisting with stormwater management. As above, Council's Development Engineer has also reviewed the proposed development and has determined that the existing on-site stormwater detention tank is sufficient in capturing the additional stormwater runoff.

Based on the above, the proposed development is consistent with the outcomes of the control and the non-compliance is supported on merit.

## THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

## **POLICY CONTROLS**

### **Pittwater Section 94 Development Contributions Plan**

## **CONCLUSION**

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

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

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

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

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

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

## **RECOMMENDATION**

THAT Council as the consent authority grant Development Consent to DA2018/1211 for Alterations and additions to an existing dwelling house on land at Lot 21 DP 1017487, 5 A Beach 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA00 Site & Roof Plan, Rev A	06.07.2018	Giles Tribe Architects
DA02 Level 1 Plan, Rev A	06.07.2018	Giles Tribe Architects
DA03 Lower Level 2 Plan, Rev A	06.07.2018	Giles Tribe Architects
DA04 Upper Level 2 Plan, Rev A	06.07.2018	Giles Tribe Architects
DA05 Level 3 Plan, Rev A	06.07.2018	Giles Tribe Architects
DA06 Level 4 Plan, Rev A	06.07.2018	Giles Tribe Architects
DA07 Elevations, Rev B	13.11.2018	Giles Tribe Architects
DA08 Elevations, Rev A	06.07.2018	Giles Tribe Architects
DA09 Sections, Rev B	13.11.2018	Giles Tribe Architects

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate (Cert No. A321455)	12 July 2018	Giles Tribe Architects
Geotechnical Assessment (Ref: 18973SMrpt)	27 November 2018	JK Geotechnics

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan (Job No. 18001)	16 June 2018	Giles Tribe Architects

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

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

## 2. Prescribed Conditions

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

Authority for the work, and

- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

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

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

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

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

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

Reason: Legislative Requirement (DACPLB09)

### 3. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00 am to 5.00 pm inclusive Monday to Friday,



- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

(k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
  - (ii) Swimming Pools Amendment Act 2009
  - (iii) Swimming Pools Regulation 2008
  - (iv) Australian Standard AS1926 Swimming Pool Safety
  - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
  - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

## FEES / CHARGES / CONTRIBUTIONS

### 4. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

prior to the issue of the Construction Certificate.

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

### 5. **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 JK Geotechnics (18973SMrpt) dated 27 November 2018 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.

### 6. **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. (DACPLC02)

### 7. **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](http://www.sydneywater.com.au) for:

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

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

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

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

### 8. **Road Reserve**

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

Reason: Public Safety.

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

### 9. **Geotechnical Certification Prior to Occupation Certificate**

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

### 10. **Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

**Reason:** To protect Aboriginal Heritage.

### 11. **Dead or Injured Wildlife**

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

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

### 12. **Use of Bunk Room**

The bunk room is not to be used for the purpose of separate habitation and is not to contain any cooking facilities.

Reason: To ensure that the bunk room remains an ancillary structure to the dwelling house.

### 13. **External Colours and Materials**

The finished surface materials, including colours and texture of any building, shall match the detail and materials of the existing building.

Reason: To ensure that the external colours and materials meet Council's requirements for dark and earthy tones.

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

**Signed**



**Adam Urbancic, Planner**

The application is determined on 21/12/2018, under the delegated authority of:



**Luke Perry, Acting Development Assessment Manager**