

# **STATEMENT OF ENVIRONMENTAL EFFECTS**

Shop Top Housing  
Development

1112 – 1116 Barrenjoey  
Road, Palm Beach

# Statement of Environmental Effects

## Shop Top Housing Development

1112 – 1116 Barrenjoey Road, Palm Beach



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**Attachment 1** PLM and DSAP meeting minute responses

## 1 INTRODUCTION

This Statement of Environmental Effects (SoEE) has been prepared in support of a development application proposing the demolition of the existing site structures and the construction of a shop top housing development incorporating 7 apartments above 2 retail tenancies and basement car parking for 23 vehicles accessed from the Barrenjoey Road frontage.

The Architect has responded to the client brief to develop a scheme displaying superior design quality, amenity, streetscape, landscape, sustainability and heritage conservation outcomes compared to the shop top housing development approved by Council on 16<sup>th</sup> December 2010 comprising 5 residential apartments and basement car parking for 22 vehicles (DA N0102/10). We confirm that this consent was physically commenced on 12<sup>th</sup> December 2014.

In the preparation of this application consideration has been given to the minutes arising from formal pre-lodgement discussions with Council and its Design and Sustainability Advisory Panel (PLM2021/0233) with a response to the minutes arising from such meetings at **Attachment 1**. This submission demonstrates that the proposed development is of exceptional design quality with the proposal appropriately responding to its immediate built form, landscape and heritage context. The resultant development will afford superior levels of amenity for future occupants whilst maintaining appropriate amenity to surrounding development in relation to privacy, views and solar access. The proposed development is sympathetic to its context and hillside location and contemporary in its use of materials and forms in response to local climate and the seaside village character anticipated by the Palm Beach Locality Statement. In addition to this SoEE the application is accompanied by the following:

- Boundary survey
- Architectural plans, elevations, sections, shadow diagrams
- Schedule of finishes
- Landscape plans
- Heritage Impact Statement
- Aboriginal Heritage Investigations Correspondence
- Liveable Housing Design Guidelines Assessment Report
- Traffic and Parking Assessment Report
- Stormwater / erosion and sediment control plans
- Geotechnical Investigation Report
- Detailed Site Investigation Report
- Arboricultural Impact Assessment
- Floodplain Management Report
- Accessibility Capability Statement

- BCA Design Assessment Report
- Photomontages
- BASIX Assessment Report and Certificate
- Waste management plan
- QS Report

In preparation of this document, consideration has been given to the following:

- Environmental Planning and Assessment Act, 1979 (the Act),
- Pittwater Local Environmental Plan 2014 (PLEP),
- Pittwater 21 Development Control Plan (P21DCP),
- State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development,
- State Environmental Planning Policy (Resilience and Hazards) 2021, and
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

We confirm that as the basement excavation is likely to encounter groundwater that the proposal is Nominated Integrated Development pursuant to section 92 of the Water Management act 2000.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the Act. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The proposed development is sympathetic to its context and contemporary in its use of materials and forms in response to local climate and the seaside village character anticipated by the Palm Beach Locality Statement.
- The proposal is of exceptional design quality with the proposal appropriately responding to its immediate built form and heritage context. The resultant development will afford superior levels of amenity for future occupants whilst maintaining appropriate amenity to surrounding development in relation to privacy, views and solar access.
- The proposal is compliant with the building height standard as applied to development on steeply sloping sites, compliant with the building envelope controls which determine an appropriate floor space for development on land and compliant with the residential density standard applicable to shop top housing development on the land.
- The outcome is a development displaying far superior design quality, amenity, streetscape, landscape, sustainability and heritage conservation outcomes compared to the shop top housing development approved by Council on 16<sup>th</sup> December 2010 comprising 5 residential apartments and basement car parking for 22 vehicles (DA N0102/10). We confirm that this consent was physically commenced on 12<sup>th</sup> December 2014.

- The non-compliance with the commercial/retail floor space requirement has been acknowledged and appropriately justified with strict compliance unreasonable and unnecessary given the ability to satisfy the underlying objectives of the control. Such variation succeeds pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of the DCP standard for dealing with that aspect of the development.
- The development achieves the design quality principles contained within State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP65) and the objectives and guidelines contained within the Apartment Design Guide (ADG).

Having given due consideration to the matters pursuant to Section 4.15(1) of the Act it is considered that there are no matters which would prevent Council from granting consent to this proposal in this instance.

## 2 SITE DESCRIPTION AND LOCATION

The subject property is legally described as Lot 21, DP 571298, No. 1112 - 1116 Barrenjoey Road, Palm Beach. The property is irregular in shape with irregular frontage to Barrenjoey Road of 35.965 metres, variable splayed depth of between 33.53 and 36.125 metres, a rear boundary dimension of 46.715 m an area of 1361.5m<sup>2</sup>. The site falls approximately 14 metres across its surface in a westerly direction towards the Barrenjoey Road frontage.

Until recently the subject property was occupied by 3 single storey shops facing Barrenjoey Road with an awning extending over the Council footpath towards the northern end of the property frontage and adjacent to a formalised pedestrian crossing. These shops have recently been demolished. A retaining wall having a height of approximately 2.5 metres bisects the site in a north-south direction providing an informal car parking area on the southern portion of the site accessed via a driveway from Barrenjoey Road. A 1 and 2 storey weatherboard dwelling house is located in the north-eastern corner of property and accessed via stairs from the Barrenjoey Road frontage. The property contains a number of trees as identified in the accompanying arborist report and on the accompanying survey. A bus stop is located immediately adjacent to the subject property towards its southern boundary. An aerial location/ context photograph is at Figure 1 below.



**Figure 1** - Aerial location/context photograph



The accompanying Heritage Impact Statement prepared by Urbis describes the site and its relationship to surrounding development in the following manner.

*Barrenjoey Road is a two way street extending through the northern beaches, terminating at Beach Road and the northern end of the Palm Beach peninsula. The peninsula is characterised by the beach front, bushlands, coastal cliffs, and Barrenjoey Head. Residential development is concentrated along the centre of the peninsula at Whale Beach, and further north Palm Beach.*

*The subject site is located on the western side of Barrenjoey Road on the western side of the Palm Beach peninsula. The subject site is located just south of the pedestrian crossing leading to the beach and carpark. Barrenjoey Road is characterised by predominantly residential development with a small commercial strip of commercial development located opposite the beach front. The commercial development along Barrenjoey Road comprises a fish and chip outlet (now demolished) with outdoor seating area (southern end of the strip); followed by Barrenjoey House further north. The subject site is located immediately north of local heritage item Barrenjoey House.*

*Barrenjoey House comprises a “two-storey plastered brick building with pitched roof, built as a guest house in 1923. It features a sunny dining room with windows the length of one wall overlooking the water and a large terrace with canvas canopy for dining. The interior retains traditional character including wallpaper and emu chandeliers.”*

*East of the subject site, is local heritage item Winten (house), accessed via Palm Beach Road which runs above Barrenjoey Road to the east. Winten is located on a steep site, with the view from the street screened by luxuriant vegetation creating a natural bush setting. Winten is a single storey cottage weatherboard to sill, asbestos sheet and battens with shingle gabled roof and casement windows.*

Photographs of the subject site and development within its visual catchment are over page.



Figure 2 – Photograph of subject property with the dwelling house able to be seen in the background.



Figure 3 – The pre-existing at-grade car parking located on the southern portion of the property with the 2.5 metre high retaining wall bisecting the site able to be seen at the back of the car park area.



**Figure 4** – View looking south past subject property towards Barrenjoey House and the recently demolished fish and chip shop at 1102 Barrenjoey Road.



**Figure 5** – View towards two-storey residential development to the north of the subject property with the dwelling house at 23 Palm Beach Road visible to the rear of the site.



**Figure 6** – View looking north from the subject property towards multilevel residential development located on the escarpment which forms a backdrop to the site.



**Figure 7** – View from the site looking west towards Pittwater Waterway and its western foreshores.

### 3 DESCRIPTION OF PROPOSED DEVELOPMENT

The proposed shop top housing development is depicted on the following architectural plans prepared by Koichi Takada Architecture:

A0000	COVER PAGE
A0001	PROJECT SUMMARY
A0002	PERSPECTIVE 01
A0003	PERSPECTIVE 02
A0004	PERSPECTIVE 03
A0010	CONTEXT PLAN
A0011	SITE ANALYSIS PLAN
A0012	SITE PLAN
A0013	DEMOLITION PLAN
A0019	SURVEY PLAN
A0099	BASEMENT 1 - FLOOR PLAN
A0100	GROUND FLOOR - FLOOR PLAN
A0101	LEVEL 01 - FLOOR PLAN
A0102	LEVEL 02 - FLOOR PLAN
A0103	LEVEL 03 - FLOOR PLAN
A0104	LEVEL 04 - FLOOR PLAN
A0105	ROOF PLAN - FLOOR PLAN
A0200	WEST ELEVATION (BARRENJOEY RD)
A0201	NORTH ELEVATION (SIDE)
A0202	EAST ELEVATION (REAR)
A0203	SOUTH ELEVATION (SIDE)
A0300	SECTION 01
A0301	SECTION 02
A0302	SECTION 03
A0400	GROSS FLOOR AREA DIAGRAMS
A0410	CROSS VENTILATION DIAGRAM
A0411	SOLAR ACCESS DIAGRAM
A0412	SUN EYE VIEW DIAGRAM - 21ST JUN
A0413	SUN EYE VIEW DIAGRAM - 21ST DEC
A0431	10m HEIGHT PLANE DIAGRAM
A0432	REAR SETBACK CALCULATION DIAGRAM
A0440	EXCAVATION DIAGRAM
A0450	LANDSCAPE AREA DIAGRAM
A0470	SHADOW DIAGRAMS - 1
A0471	SHADOW DIAGRAMS - 2
A0472	SHADOW DIAGRAMS - 3
A0480	VIEW ANALYSIS - LOCATION PLAN
A0481	VIEW ANALYSIS - VIEW 01
A0482	VIEW ANALYSIS - VIEW 02
A0483	VIEW ANALYSIS - VIEW 03
A0484	VIEW ANALYSIS - VIEW 04
A0485	VIEW ANALYSIS - VIEW 05
A0486	VIEW ANALYSIS - VIEW 06
A0487	VIEW ANALYSIS - VIEW 07
A0488	VIEW ANALYSIS - VIEW 08
A0489	VIEW ANALYSIS - VIEW 09
A0490	VIEW ANALYSIS - VIEW 10
A0500	MATERIALS SAMPLE BOARD

The proposal provides for the following land use and floor plate outcomes:

#### **Basement Plan**

- Driveway access is provided from Barrenjoey Road to basement car parking accommodation for 23 vehicles incorporating 7 commercial, 14 residential and 2 residential visitor spaces. The basement also incorporates residential storage and mechanical plant areas.
- Lift and stair access is provided to the levels above.

#### **Ground Level Floor Plan**

- This floor plate incorporates 2 x commercial tenancies having a total combined floor area of 378m<sup>2</sup>. The front portion of the retail tenancies are located at RL 2.4m AHD to provide direct level access from the publicly accessible front forecourt area with the rear portion the retail tenancies located at the Flood Planning Level (FPL) of RL 3.12m AHD.
- A publicly accessible forecourt is located adjacent to the property frontage providing outdoor seating opportunities adjacent to the commercial tenancies.
- A separate residential entry and lobby is accessed along the northern boundary of the property. Separate residential and commercial bin storage areas are located towards the rear of this floor plate with a temporary bin collection area located immediately adjacent to the property frontage.
- Bicycle storage is accessed from the residential lobby with stair and lift access to the levels above.
- The required hydrant and booster assembly are integrated into the landscaping adjacent to the northern boundary of the property.

#### **Level 1 Floor Plan**

- This floor plate accommodates 3 x 3 bedroom apartments. The apartments have open plan kitchen, living and dining areas opening onto west facing balconies. 2 of the 3 bedrooms associated with the apartments open onto rear facing terraces.

#### **Level 2 Floor Plan**

- This floor plate accommodates 3 x 3 bedroom apartments. The apartments have open plan kitchen, living and dining areas opening onto west facing balconies.

#### **Levels 3 and 4 Floor Plan**

- These floor plates accommodates 1 x 3 bedroom apartment over 2 levels with access to west facing terraces and balconies with a spa pool and integrated landscaping.

We confirm that 100% of apartments receive at least 2 hours of direct sunlight between 9am and 3pm in midwinter with 100% of apartments naturally cross ventilated.

The proposal involves the implementation of an enhanced site landscape regime as depicted on the accompanying plans prepared by Dangar Barin Smith with at-ground deep soil and elevated on-slab planting utilised to soften and screen the edges of the development.

The palette of materials and finishes accompanying the application provides for the use of natural and contemporary building materials and facade treatments as endorsed by the project heritage consultant.

The extent of excavation is addressed within the accompanying geotechnical report prepared by El Australia with the site deemed suitable for the level of excavation proposed provided the recommendations contained within the report are adopted. No objection is raised to the imposition of a suitably worded condition of consent requiring compliance with the same. The acceptability of the car parking layout is detailed in the accompanying Traffic and Parking Assessment Report prepared by Varga Traffic Planning. All stormwater will be disposed of to the street drainage system as detailed on the accompanying hydraulic plans prepared by Taylor Consulting.

As previously indicated, in the preparation of this application consideration has been given to the minutes arising from formal pre-lodgement discussions with Council and its Design and Sustainability Advisory Panel (PLM2021/0233) with a response to the minutes arising from such meetings at **Attachment 1**. The key changes made in response to the minutes are as follows:

- Compliance with the 3.5 metre front setback control.
- Introduction of landscaped vertical articulation elements to break up massing.
- The relocation of the driveway to the southern end of the site.
- The introduction of light wells at the rear of the building.
- The provision of natural light to residential lobbies.
- A general refinement in the architectural and landscape detailing of the proposal.

## 4 STATUTORY PLANNING FRAMEWORK

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15(1) of the Environmental Planning & Assessment Act, 1979 as amended. Those matters which are required to be addressed are outlined, and any steps to mitigate against any potential adverse environmental impacts are discussed below.

### 4.1 Pittwater Local Environmental Plan 2014

#### 4.1.1 Zoning

The subject property is zoned E1 Local Centre pursuant to Pittwater Local Environmental Plan 2014 (PLEP 2014) with shop top housing permissible with consent in the zone.

The stated objectives of the E1 zone are as follows:

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse, and functional streets and public spaces.*
- *To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.*

Shop top housing is defined as one or more dwellings located above ground floor retail premises or business premises.

The development incorporates dwellings located above ground floor retail premises with all residential apartments located within a single building form. Accordingly, the development is appropriately defined as shop top housing and permissible with consent in the zone.

The proposed development meets the relevant zone objectives given the provision of ground floor retail uses. The height and scale of the development is responsive to context, compatible with that of adjoining development and will not result in unacceptable or jarring residential amenity, streetscape or heritage conservation impacts.



Accordingly, there are no statutory zoning or zone objective impediment to the granting of approval to the proposed development.

#### **4.1.2 Height of Buildings**

Pursuant to clause 4.3(2) PLEP 2014 the height of any building on the land shall not exceed 8.5 metres above ground level (existing) as detailed on the heights of building map. The stated objectives of this clause are:

Clause 4.3(2D) PLEP 2014 states that despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if:

- (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*
- (b) the objectives of this clause are achieved, and*
- (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and*
- (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.*

The stated objectives of the standard 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,*
  - (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
  - (c) to minimise any overshadowing of neighbouring properties,*
  - (d) to allow for the reasonable sharing of views,*
  - (e) to encourage buildings that are designed to respond sensitively to the natural topography,*
  - (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*
- 
- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,*
  - (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

The dictionary to the LEP defines building height to mean:

**building height (or height of building)** means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

**ground level (existing)** means the existing level of a site at any point.

We note that Council has adopted the interpretation of ground level (existing) as that established in the matter of **Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582** (Merman) where at paragraphs 73 and 74 O’Neill C found:

73. *The existing level of the site at a point beneath the existing building is the level of the land at that point. I agree with Mr McIntyre that the ground level (existing) within the footprint of the existing building is the extant excavated ground level on the site and the proposal exceeds the height of buildings development standard in those locations where the vertical distance, measured from the excavated ground level within the footprint of the existing building, to the highest point of the proposal directly above, is greater than 10.5m. The maximum exceedance is 2.01m at the north-eastern corner of the Level 3 balcony awning.*
74. *The prior excavation of the site within the footprint of the existing building, which distorts the height of buildings development standard plane overlaid above the site when compared to the topography of the hill, can properly be described as an environmental planning ground within the meaning of cl 4.6(3)(b) of LEP 2014.*

As indicated on the 8.5 metre height plane diagram on plan A0430C the majority of the proposed development sits comfortably below the 8.5 metre height standard with the exception of minor roof elements which breach the standard by a maximum of 1.4 metres and which extend to a maximum height of 9.9 metres. The 8.5 metre building height breaching elements are depicted in Figure 8 over page with the developments compliance with the 10 metre concessional height standard development on sloping sites depicted in Figure 9.

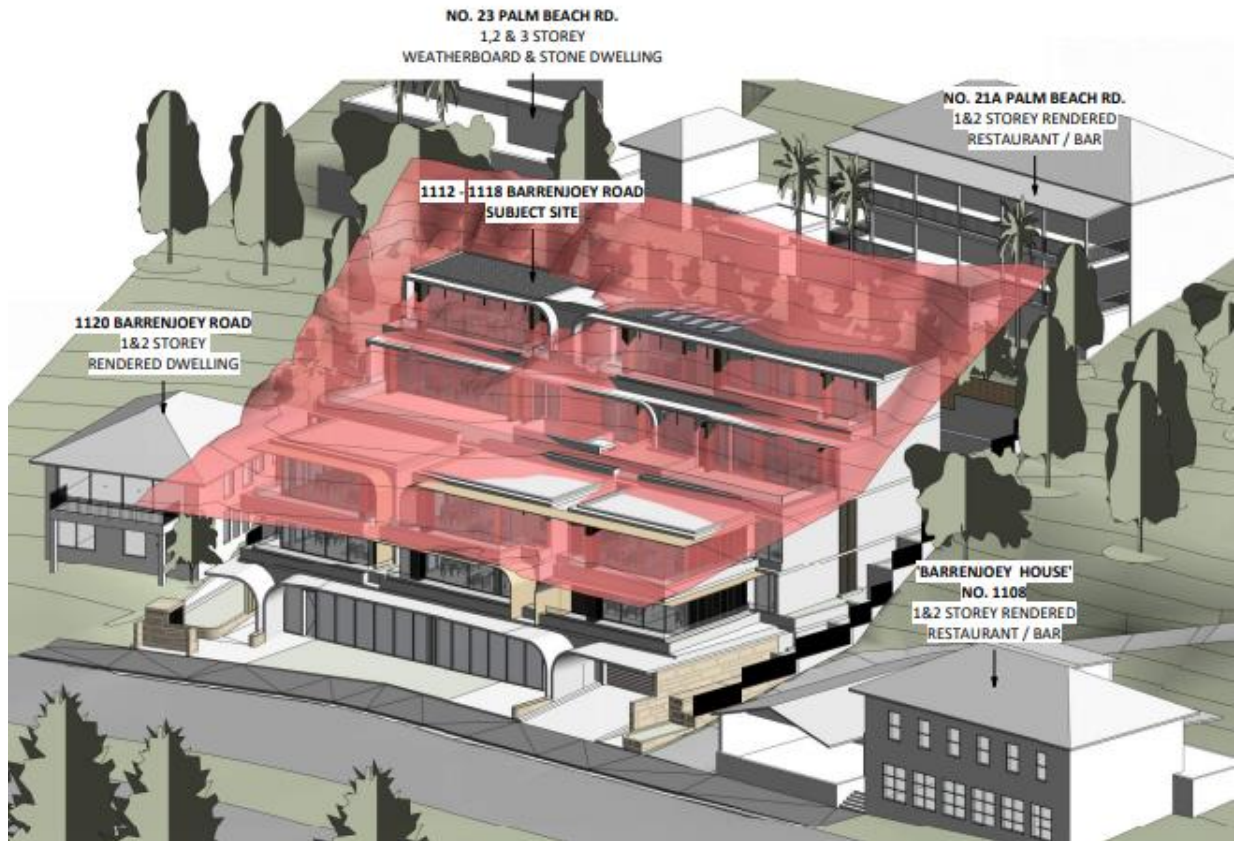
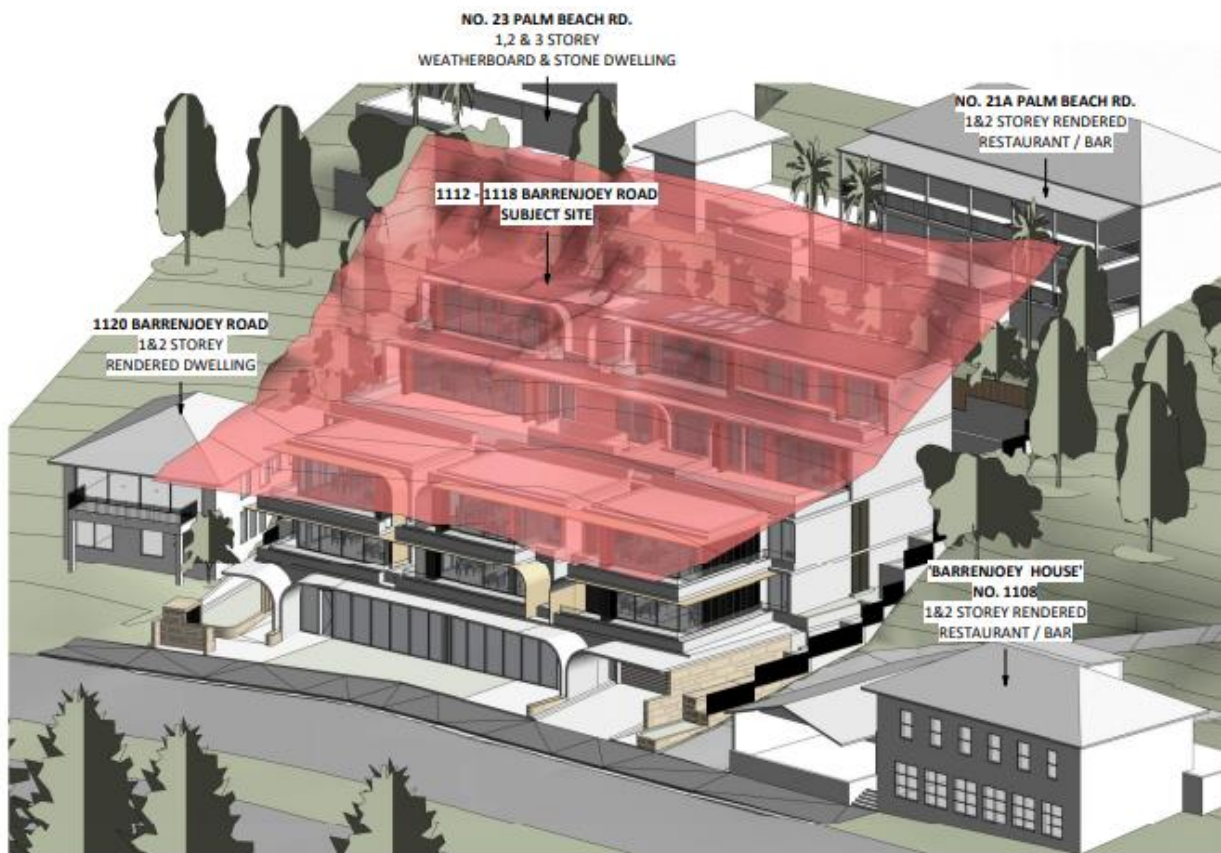


Figure 8 – Relationship of development to 8.5 metre height standard



1 10m HEIGHT PLANE DIAGRAM 01

**NOTE: 10m HEIGHT CONTROL SHOWN AS RED PLANE. THERE IS NO EXCEEDANCE OVER 10m**

**Figure 9** – Diagram showing compliance with the 10 metre concessional height standard

Having regard to the acceptability of the 8.5 metre height breaching elements and the applicable 10 metre concessional height variation considerations we advise as follows:

- (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*

Response: We have formed the considered opinion that the areas of the building in breach of the 8.5 metre height standard and which remain below the 10 metre concessional height standard are both quantitatively and qualitatively described as minor. In forming this opinion, we note that were it not for the previously disturbed and artificially modified ground levels across the site the majority of the building would sit comfortably below the 8.5 m building height standard with a combination of the previously disturbed areas of the site and flooding affectation contributing to the height of the building as measured in accordance with the Merman Investments judgement. The environmental planning grounds associated with the height breach ensure that the portion of the building above the maximum height are appropriately described as minor.

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

Response: An assessment against the objectives is as follows:

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

Response: The subject property is located within the Palm Beach Locality with the applicable locality statement identifying the desired future character as follows:

*The Palm Beach locality will remain primarily a low-density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape.*

*Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancy dwellings will be located on the lowlands and lower slopes that have less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, community and recreational facilities will serve the community.*

*Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.*

*Future development will maintain a building height limit below the tree canopy and minimise bulk and scale whilst ensuring that future development respects the horizontal massing of the existing built form. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment.*

*Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.*

*The design, scale and treatment of future development within the commercial centres will reflect a 'seaside-village' character through building design, signage and landscaping, and will reflect principles of good urban design. Landscaping will be incorporated into building design. Outdoor cafe seating will be encouraged.*

*A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.*

*Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.*

*Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.*

*Palm Beach will remain an important link to the offshore communities.*

In accordance with the desired future character statement the building, which is located within a commercial centre, has been designed to achieve a highly articulated and modulated stepped building form which responds appropriately and effectively to the topographical characteristics of the site. A balance has been achieved between excavation and the appropriate distribution of floor space the quantum of which achieves the orderly and economic development of the land.

The resultant height and scale are commensurate with that of development located along Barrenjoey Road and on the escarpment to the east of the site. The 3 storey streetscape presentation is consistent with that anticipated for mixed use development within a local centre with the development safe from flooding hazard through the adoption of appropriate flood planning levels. The accompanying geotechnical report demonstrates that the proposal can be constructed to be safe from geotechnical hazards.

The overall height of the development will enable it to sit below the height of tree canopy established along the escarpment with the adopted palette of natural materials and finishes ensuring that it will blend into the vegetated escarpment which forms a backdrop to the site.

Whilst seaside village character is an undefined term it is considered that an appropriate design and scale response for development on this particular site, and within this particular Local Centre, is to provide an articulated building form which engages appropriately at street level in terms of retail activation and the ability to provide informal outdoor seating within the front setback area and which then steps up the site in a highly articulated and modulated form in response to topography. The use of wide and deeply recess balconies respond to the site's coastal location, the exceptional views available in a westerly direction towards Pittwater Waterway and the site's exposure to the harsh western sun late in the afternoon.

Landscaping has also been integrated into the design of the development with cascading landscaping elements at each level contributing to the casual coastal character of the building with the overall design, scale and treatment of the building and landscape features reflecting the seaside village character sought by the desired future character statement.

Accordingly, Council can be satisfied that the development is consistent with the desired future character of the Palm Beach Locality.

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

Response: The consideration of building compatibility is dealt with in the Planning Principle established by the Land and Environment Court of New South Wales in the matter of *Project Venture Developments v Pittwater Council [2005] NSWLEC 191*. At paragraph 23 of the judgment Roseth SC provided the following commentary in relation to compatibility in an urban design context:

- 22 *There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.*

The question is whether the building height and scale proposed will be incompatible with the height and scale of surrounding and nearby development. That is, will the proposal by virtue of its height and scale result in a built form which is incapable of coexisting in harmony with surrounding and nearby development to the extent that it will appear inappropriate and jarring in a streetscape and urban design context.

In relation to the developments built form and contextual relationship with Barrenjoey House we rely on the commentary contained within the accompanying Heritage Impact Statement prepared by Urbis which includes the following:

- *The proposed façade articulation relies on a sleek curvilinear profile arranged over a terraced form, ensuring the bulk of the development is concentrated away from the street frontage, concealed by the heavily vegetated sloping site. The curved detailing remains sympathetic to the natural landscape of Palm Beach while the recessive, diminishing profile ensures neighbouring heritage items are adequately interpreted.*
- *The development employs a contemporary aesthetic comprising glass and masonry, light-weight rattanstyle screening and low-impact greenery. The proposed materials are sympathetic to the natural setting of Palm Beach and generally contribute to a recessive, diminishing profile. Proposed materials and finishes are appropriately contemporary and do not detract from or obscure the character of neighbouring heritage items.*
- *The proposed development ensures adequate visual and physical separation from the heritage items. Local item Wintern remains separated from the development by a row of residential development to the rear of the subject site. The development is assessed to have no impact on the heritage significance of Wintern.*
- *The stepped profile of the proposed development ensures the bulk of the site does not visually intrude on the profile or character of Barrenjoey House. As such, views to and from Barrenjoey House are preserved along the commercial strip and beachfront. The development is assessed to have no impact on the heritage significance of Barrenjoey House.*

Accordingly, the proposal has been found to be compatible with the height and scale of Barrenjoey House and residential development higher on the escarpment including the heritage listed dwelling house Wintern.

In relation to the developments compatibility with the adjoining dwelling houses to the west of the site together with those located on the escarpment which forms a backdrop to the site consideration must be given to the fact that unlike the subject property located in the E1 Local Centre zone these adjoining properties are located in the C4 Environmental Living zone with the desired future character statement anticipating 2 storey dwelling houses of a lower density and scale to that of mixed use development anticipated in the Local Centre zone. We note that the desired future character statement contains no reference in relation to the need for a 2 storey building form in the Local Centres to ensure consistency with the desired future character statement. That is, the 2 storey reference only applies to dwelling houses.

That said, the proposal maintains a variable setbacks to the northern zone boundary interface between 3 and 6 metres which are considered to be contextually appropriate in their ability to maintain appropriate spatial separation and deep soil landscape opportunity along this boundary interface. The development has been designed to step back up the site in response to topography and to maintain an overall building height entirely consistent with that established by other 2, 3 and 4 storey dwelling houses and residential flat development located on steeply sloping sites along the escarpment which forms a backdrop to the site as depicted in Figures 4, 5 and 6. Such outcome is also depicted in the plan extract below.



**Figure 10** – Southern elevation plan extract showing the highly articulated and step nature of the building form proposed.

In this regard, we are satisfied that the proposed development will be compatible with the height and scale of surrounding and nearby development as viewed from Barrenjoey Road noting the different building topologies and associated scale anticipated for development within the E1 Local Centre and C4 Environmental Living zones.

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



Response: The accompanying shadow diagrams demonstrate that the portion of the development located above the 8.5 metre height standard will not result in any additional overshadowing to any adjoining residential development on 21<sup>st</sup> June.

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

Response: Having inspected the site and its immediate surrounds to identify potential view corridors across the site we are of the opinion that the proposal, in particular the elements of the development exceeding the 8.5 metre height standard, will not give rise to any adverse public or private view affectation. In this regard, we rely on the view analysis diagrams prepared by the project Architect on plans A0480 to A0490 to demonstrate the maintenance of a view sharing outcome between adjoining development.

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

Response: As previously indicated the building, which is located within a commercial centre, has been designed to achieve a highly articulated and modulated stepped building form which responds appropriately and effectively to the topographical characteristics of the site. A balance has been achieved between excavation and the appropriate distribution of floor space the quantum of which achieves the orderly and economic development of the land.

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

Response: As previously indicated, we are satisfied that the proposed building will not be perceived as inappropriate or jarring in a streetscape or broader urban design context have regard to the built form and landscape outcomes proposed. The application does not propose the removal of any significant trees with appropriate compensatory plantings ensuring that the development will sit within a landscaped setting and not give rise to adverse visual impacts on the natural environment. We rely on the previous commentary in relation to the acceptability of the proposal having regard to its proximity to the adjacent heritage items.

Accordingly, Council can be satisfied that the building heights proposed satisfy the objectives of the height of buildings standard as identified.

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

Response: The building footprint is situated on a slope of approximately 19.96 degrees or 36.32% when measured through the building footprint and is therefore significantly greater the 16.7 degree/ 30% variation provision.

*(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.*

Response: This has been comprehensively demonstrated in response to the previous considerations.

Council can be satisfied that the minor portion of the building which exceeds the 8.5 metre height control satisfies the clause 4.3(2D) PLEP 2014 considerations and accordingly there is no statutory impediment to the granting of consent.

#### **4.1.3 Density Controls for Certain Residential Accommodation**

Pursuant to clause 4.5A(2) of PLEP 2014 development consent must not be granted to development for the purpose of shop top housing in the E1 Local Centre Zone unless development does not have a dwelling density exceeding 1 dwelling per 150m<sup>2</sup> of site area. Based on a site area of 1361.5m<sup>2</sup> a maximum dwelling density of 9 dwellings is prescribed for development on the site.

The application proposes 7 dwellings which is compliant with the development standard and accordingly there is no statutory impediment to the granting of consent.

#### **4.1.4 Heritage Conservation**

Pursuant to clause 5.10(4) of PLEP 2014 the consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.

Further, pursuant to clause 5.10(5) the consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or*
- (b) on land that is within a heritage conservation area, or*
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),*

*require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

The subject property is not heritage listed or located within a heritage conservation area however is located adjacent to the heritage listed Barrenjoey House. In this regard, the final design detailing has been settled in consultation with Urbis – Heritage with the accompanying Heritage Impact Statement containing the following conclusion:

*A detailed impact assessment of the proposed works has been undertaken in Section 5 of this report. The proposed development has been assessed to have no impact on the heritage significance of local item Wintern (house) located at 21 Palm Beach Road, Palm Beach (east of the subject site), or Barrenjoey House located at 1108 Barrenjoey Road, Palm Beach (immediately south of the subject site). Key aspects of the proposal assessment are listed below:*

- *The subject site does not contain any heritage items of built heritage identified under Schedule 5, Part 1 of the Pittwater Local Environmental Plan 2014. It is, however, located immediately south of local heritage item Barrenjoey House, located at 1108 Barrenjoey Road Palm Beach and west of local heritage item Wintern (house), located at 21 Palm Beach Road, Palm Beach. The site is not located within a heritage conservation area.*
- *The proposed façade articulation relies on a sleek curvilinear profile arranged over a terraced form, ensuring the bulk of the development is concentrated away from the street frontage, concealed by the heavily vegetated sloping site. The curved detailing remains sympathetic to the natural landscape of Palm Beach while the recessive, diminishing profile ensures neighbouring heritage items are adequately interpreted.*
- *The development employs a contemporary aesthetic comprising glass and masonry, light-weight rattanstyle screening and low-impact greenery. The proposed materials are sympathetic to the natural setting of Palm Beach and generally contribute to a recessive, diminishing profile. Proposed materials and finishes are appropriately contemporary and do not detract from or obscure the character of neighbouring heritage items.*
- *The proposed development ensures adequate visual and physical separation from the heritage items. Local item Wintern remains separated from the development by a row of residential development to the rear of the subject site. The development is assessed to have no impact on the heritage significance of Wintern.*
- *The stepped profile of the proposed development ensures the bulk of the site does not visually intrude on the profile or character of Barrenjoey House. As such, views to and from Barrenjoey House are preserved along the commercial strip and beachfront. The development is assessed to have no impact on the heritage significance of Barrenjoey House.*

*Overall, the proposed development is assessed to have no adverse impact on neighbouring heritage items Wintern, located at 21 Palm Beach Road, Palm Beach and Barrenjoey House, located at 1108 Barrenjoey Road, Palm Beach. For the reasons outlined above, the proposed works are recommended for approval from a heritage perspective.*

Accordingly, there is no statutory impediment to the granting of consent to the proposed works in this instance.

#### **4.1.5 Acid Sulfate Soils**

Pursuant to clause 6.1 PLEP 2014 the site is mapped as Class 5 and to that extent the consent authority can be satisfied that the proposed works are unlikely to lower the watertable below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land and accordingly no additional investigation is warranted.

#### **4.1.6 Flood Planning**

Pursuant to clause 7.3 PLEP 2014 the site is identified as being affected by flooding and to that extent is at or below the flood planning level. In this regard, the application is accompanied by a Flood Report prepared by Van der Meer consultants which address the impacts associated with the overland flows from Barrenjoey Road and confirms the acceptability of the proposed floor levels including the location of the front portion of the retail tenancies below the flood planning level to enhance accessibility to and from the public domain.

#### **4.1.7 Earthworks and geotechnical hazards**

In relation to the clause 7.2 and 7.7 PLEP 2014 provisions the extent of excavation is addressed within the accompanying geotechnical report prepared by EIAustralia with the site deemed suitable for the level of excavation proposed provided the recommendations contained within the report are adopted. No objection is raised to the imposition of a suitably worded condition of consent requiring compliance with the same.

We confirm that as the basement excavation is likely to encounter groundwater that the proposal is Nominated Integrated Development pursuant to section 92 of the Water Management Act 2000.

#### **4.1.8 Terrestrial Biodiversity**

Having regard to the clause 7.6 Biodiversity provisions and the highly disturbed nature of the existing allotment we confirm that the proposal does not result in any biodiversity related impacts.

#### **4.1.9 Essential Service**

Pursuant to clause 6.12 of PLEP 2014, development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable vehicular access.*

The consent authority can be satisfied that these services will be available prior to occupation, and conditions of consent can be imposed in this regard.

## 4.2 Pittwater 21 Development Control Plan 2013

P21 DCP contains development controls for the design and construction of buildings and the development of land in Pittwater. The proposed development has been assessed against the relevant provisions of P21 DCP as outlined in the following sections of this report.

### 4.2.1 Palm Beach Locality

The property is located within the Palm Beach Locality. The desired future character of the locality described as:

*The Palm Beach locality will remain primarily a low-density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancy dwellings will be located on the lowlands and lower slopes that have less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, community and recreational facilities will serve the community.*

*Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.*

*Future development will maintain a building height limit below the tree canopy and minimise bulk and scale whilst ensuring that future development respects the horizontal massing of the existing built form. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment.*

*Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.*

*The design, scale and treatment of future development within the commercial centres will reflect a 'seaside-village' character through building design, signage and landscaping, and will reflect principles of good urban design. Landscaping will be incorporated into building design. Outdoor cafe seating will be encouraged.*

*A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.*

*Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.*

*Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.*

*Palm Beach will remain an important link to the offshore communities.*

We rely on the commentary contained within section 4.1.2 of this report to demonstrate that the proposal is consistent with the desired future character of the locality as it relates to development in the commercial areas of Palm Beach.

We also confirm that the final design detailing has been settled in consultation with Urbis Heritage with the conclusions contained within the accompanying Heritage Impact Statement previously outlined within this report.

This submission demonstrates that the development is of exception design quality with the proposal appropriately responding to its immediate built form and heritage context as depicted in the photomontage at Figure 11 below. The resultant development will afford superior levels of amenity for future occupants whilst maintaining appropriate amenity to surrounding development in relation to privacy, views and solar access. The proposed development is sympathetic to its context and contemporary in its use of materials and forms in response to local climate and the seaside village character anticipated by the Palm Beach Locality Statement. The development will be safe from flooding hazards.



**Figure 11-** Photomontage showing the proposed development relative to its established built form context, including Barrenjoey House, as viewed from Barrenjoey Road.

In this regard, the development responds positively to the desired future character of the Palm Beach locality and will contribute positively to the streetscape, heritage context and visual amenity of the immediate locality.

#### 4.2.2 Heritage Controls

Pursuant to the clause B1 Heritage Controls the subject property is not heritage listed or located within a heritage conservation area however is located immediately adjacent to the heritage listed Barrenjoey House. In this regard, the final design detailing has been settled in consultation with Urbis – Heritage with the acceptability of the proposal detailed within the accompanying Heritage Impact Statement

Aboriginal Heritage Significance is addressed in the accompanying Aboriginal Heritage Investigations correspondence prepared by Coast History and Heritage.

#### 4.2.3 Shop Top Housing

Pursuant to clause B2 .6 the commercial/retail component of the development must be a minimum of 25% of the gross floor area of the building. The stated objectives of this control are as follows:

- *An appropriate mix of residential and commercial development is provided, ensuring the functionality of commercial centres.*
- *Meet the economic and employment needs of Pittwater Community*

The proposal incorporates 393m<sup>2</sup> of retail floor space representing 22.2% of the overall gross floor area of the development. This represents a non-compliance of 53.5 m<sup>2</sup> or 11.9%.

Have regard to the objectives of the control we are satisfied that notwithstanding the non-compliance that the development provides an appropriate mix of residential and commercial floor space with the ground floor of the development maximising retail floor space and activation to Barrenjoey Road including the provision of a publicly accessible forecourt area capable of accommodating outdoor seating. The ability to provide additional retail floor space is restricted by the required heritage preservation zone at the front of the property.

The amount of retail floor space proposed will meet the economic and employment needs of the Pittwater Community with strict compliance found to be unreasonable and unnecessary in this instance. Such variation succeed pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of the DCP standard for dealing with that aspect of the development.

#### 4.2.4 Stormwater Management

All stormwater will be appropriately disposed of to the street drainage system as detailed on the accompanying hydraulic plans prepared by Taylor Consulting.

#### 4.2.5 Off-street Vehicular Parking Requirements

The acceptability of the proposed quantum of car parking and its layout and regard to the applicable controls and Australian Standards is detailed in the accompanying Traffic and Parking Impact Assessment prepared by Varga Traffic Planning. The proposal provides appropriately for safe and convenient off-street car parking having regard to the basement design/geometry constraints imposed by the required heritage preservation zone at the front of the property.

Notwithstanding the shortfall of 6 retail spaces the development will provide appropriately for off-street carparking based on the actual parking demand generated by the development as detailed within the report.

We note that the driveway has been located adjacent to the southern boundary in accordance with Council's PLM meeting advice with such location requiring the relocation of the adjacent bus stop.

## **Development Type Controls**

### **4.2.6 View Sharing**

Pursuant to clause C1.3 all new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.

Having inspected the site and its immediate surrounds to identify potential view corridors across the site we are of the opinion that the proposal, in particular the elements of the development exceeding the 8.5 metre height standard, will not give rise to any adverse public or private view affectation. In this regard, we rely on the view analysis diagrams prepared by the project Architect on plans A0480 to A0490 to demonstrate the maintenance of a view sharing outcome between adjoining development in particular the dwellings at 21 and 23 Palm Beach Road located to the rear of the site who obtain views in a westerly direction towards Pittwater Waterway and its western foreshores.

The design outcome achieves a view sharing scenario having regard to the view sharing principles established by the Land and Environment Court in the matter of *Tenacity Consulting v Warringah* [2004] NSWLEC 140.

### **4.2.7 Solar Access**

In accordance with Clause C1.4 the main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st. Windows to the principal living areas of the proposal and windows to the principal living area of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st to at least 50% of the glazed area.

The accompanying shadow diagrams demonstrate that given the orientation of the site and its juxtaposition to surrounding residential properties the proposal will not overshadow any adjoining residential property between 9am and 3pm on 21<sup>st</sup> June. We also note that 100% of the proposed apartments will receive compliant levels of solar access.

### **4.2.8 Visual Privacy**

Pursuant to clause C1.5 private open space, recreation areas and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9m by building layout, landscaping, screening devices or greater spatial separation. Elevated decks, verandas and balconies should incorporate privacy screens where necessary and should, where possible, 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.



The proposed development has been designed to maintain appropriate visual amenity to both immediately adjoining properties through the orientation of principal living and open space areas to the front of the site and the minimisation of side boundary facing fenestration. Where side boundary facing fenestration has been provided at the lower levels of the development integrated privacy screens have been nominated to ensure the maintenance of appropriate privacy between adjoining development. Visual privacy is further enhanced through the implementation of the proposed landscape regime with the privacy interface outcome depicted in the plan extract at Figure 12.



**Figure 12** - Plan extract showing integrated privacy attenuation measures to the north facing building façade.

#### 4.2.9 Acoustic Privacy

The juxtaposition of living and bedroom spaces results in a development that satisfies the outcomes of Clause C1.6 of the policy with acoustic privacy outcomes consistent with that reasonably anticipated for development within the E1 Local Centres zone.

#### 4.2.10 Private Open Space

Pursuant to Clause C1.7, a minimum area of 15% of the floor area of the dwelling with no dimension less than 2.5 metres and a grade no steeper than 1 in 10 shall be provided. Dwellings should be designed so that private open space is directly accessible from living areas enabling it to function as an extension of internal living spaces.

The proposed terrace and courtyard spaces satisfy the requirements of the Council policy as detailed on the architectural plans.

#### **4.2.11 Accessibility**

Pursuant to clause C1.9, 20% of units shall be adaptable pursuant to the Liveable Housing Guideline. Further, development shall include the design and construction of works in the public domain to ensure accessibility for the full frontage of the site to any public road and to ensure access to the site from the public domain.

As detailed within the accompanying Liveable Housing Design Guidelines Assessment Report prepared by Design Confidence units 102 and 202 within the proposed development are adaptable in accordance with the Silver Level provisions representing 28% of apartments.

We confirm that the development provides the necessary quantum of accessible units in strict accordance with Council policy as detailed on the architectural plans within the accompanying report prepared by Design Confidence.

#### **4.2.12 Waste and Recycling Facilities**

The application incorporates ground level waste storage for the commercial and residential components with a temporary residential waste collection holding area located immediately adjacent to the frontage. The accompanying waste management plan prepared by Elephants Foot details the mechanism whereby bins will be presented to the front of the property for collection by Council's waste service contractor. Commercial waste will be collected by a private waste contractor.

#### **4.2.13 Storage Facilities**

In accordance with clause C1.15, a lockable storage area of minimum 8 cubic metres per dwelling shall be provided.

In addition to the internal storage spaces within the individual apartments separate storage areas for each unit are provided in the basement in accordance with the Council policy as detailed on the Architectural plans.

### **Locality Specific Development Controls**

The subject site is located in the Palm Beach Locality. The developments performance against the relevant locality specific controls is discussed below.

#### **4.2.14 Character as Viewed from Public Place**

These outcomes have been addressed previously within this report. This submission demonstrates that the development is of exception design quality with the proposal appropriately responding to its immediate built form and heritage context. The resultant development will afford superior levels of amenity for future occupants whilst maintaining appropriate amenity to surrounding development in relation to privacy, views and solar access. The proposed development is sympathetic to its context and contemporary in its use of materials and forms in response to local climate and the seaside village character anticipated by the Palm Beach Locality Statement.

#### **4.2.15 Scenic Protection**

For the reasons outlined throughout this report the development satisfies the scenic protection provisions of the DCP.

#### **4.2.16 Building Colours, Materials and Construction**

The palette of materials and finishes accompanying the application provides for the use of natural and contemporary building materials approved and as endorsed by the project heritage consultant. The colours and materials proposed will enable the development to blend into the vegetated escarpment which forms a backdrop to the site.

#### **4.2.17 Front Building Line and Side and Rear Building Setbacks**

The proposal has been designed and sited through detailed site and context analysis to ensure an appropriate contextual relationship with Barrenjoey House to the south and the adjacent residential dwelling house to the north. In this regard, the proposal maintains front setbacks well in excess of the minimum 3.5 metre front setback control to ensure a complimentary and compatible setback having regard to the setbacks established by Barrenjoey House and the dwelling house at 1120 Barrenjoey Road. The proposal also maintains a compliant 3 metre setback to the rear boundary and side boundary setbacks in excess of the minimum 3 metre setback required pursuant to clause D 12.6 PDCP.

The compliant setbacks proposed ensure the maintenance of the contextually appropriate spatial relationship with adjoining development and deep soil landscape opportunity around the perimeter of the site.

### **4.3 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development**

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) aims to improve the design quality of residential flat developments to provide sustainable housing in social and environmental terms that is a long-term asset to the community and presents a better built form within the streetscape.

It also aims to better provide for a range of residents, provide safety, amenity and satisfy ecologically sustainable development principles. In order to satisfy these aims the plan sets design principles in relation to context, scale, built form, density, resources, energy and water efficiency, landscaping, amenity, safety and security, social dimensions and aesthetics to improve the design quality of residential flat building in the State.

SEPP 65 applies to new residential flat buildings, the substantial redevelopment/refurbishment of existing residential flat buildings and conversion of an existing building to a residential flat building.

Clause 3 of SEPP 65 defines a residential flat building as follows:

*“Residential flat building means a building that comprises or includes:*

- a) *3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and*
- b) *4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia."*

The proposed development involves the construction of a new residential flat (in the form of shop top housing) which will be 4 storeys in height and contain 7 residential apartments.

As per the definition of a 'Residential Flat Building' and the provisions of Clause 4 outlining the application of the Policy, the provisions of SEPP 65 are applicable to the proposed development.

Clause 28(2)(b) SEPP 65 requires any development application for residential flat development to be assessed against the 9 design quality principles contained in Schedule 1. The proposal's performance when assessed against the design quality principles as detailed in the accompanying SEPP 65 Architectural Design/ Verification Statement.

Pursuant to clause 28(2)(c) of SEPP 65 in determining a development application for consent to carry out residential flat development the consent authority is required to take into consideration the Apartment Design Guide. In this regard an Apartment Design Guide compliance table prepared by the project Architect also accompanies this application.

These documents demonstrate that the proposal satisfies the design quality principles contained within SEPP65 and the applicable objectives and design guidelines contained within the ADG.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the residential component of the development and aims to encourage sustainable residential development.

A BASIX Assessment accompanies the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

#### **4.5 State Environmental Planning Policy (Resilience and Hazards) 2021**

##### **4.5.1 Coastal Hazard**

Chapter 2 of SEPP (Resilience and Hazards) aims to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner that is consistent with the objects of the *Coastal Management Act 2016*.

The site is identified as "coastal use area" on the Coastal Use Area Map and as "coastal environment area" on the Coastal Environment Area Map and the provisions of Chapter 2 of this policy are applicable to the proposal.

The proposed development will not create an adverse impact on the biophysical, hydrological or ecological environment, and has been designed to withstand coastal processes. The development will not impact upon marine vegetation, fauna or their habitats, with no works proposed in the vicinity of undeveloped headlands or rock platforms. The proposed development is consistent with the provisions of clause 2.10 of this policy.

The proposed development will not result in any adverse impacts upon access along the foreshore, overshadowing of the foreshore, the visual amenity of the coastline, or any items of heritage significance. Further, the proposal will not result in any adverse impacts upon views to the foreshore.

The application has considered the surrounding coastal and built environment, and the bulk, scale and size of the proposed development, with a high-quality architectural solution that appropriately responds to the context of the site. The proposed development is consistent with the provisions of clause 2.11 of this policy.

Clause 2.12 of SEPP (Resilience and Hazards) prescribes that development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land. The proposed development is not likely to cause increased risk at the site or for adjoining land, and the consent authority can be satisfied in this regard.

#### **4.5.2 Remediation of Land**

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. The site is not identified as a contaminated site on the NSW EPA's list of notified sites, nor is it in the vicinity of any listed sites. That said, the application is accompanied by a Detailed Site Investigation report prepared by EIAustralia which concludes that the site can be made suitable for the proposed development subject to compliance with the recommendations contained within the report. No objection is raised to a suitably worded condition in this regard.

As such, the proposed development is consistent with the provisions of Chapter 4 of this policy.

#### **4.6 Matters for Consideration pursuant to section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended**

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15(1) of the Environmental Planning and Assessment Act 1979 (as amended). Guidelines (in *italic*) to help identify the issues to be considered have been prepared by the Department of Planning and Environment. The relevant issues are:

##### **4.6.1 The provision of any planning instrument, draft environmental planning instrument, development control plan or regulations**

This report clearly and comprehensively addresses the statutory regime applicable to the application pursuant to the Pittwater LEP 2014 and Pittwater 21 DCP.

**4.6.2 The likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality.**

*Context and Setting*

i. *What is the relationship to the region and local context in terms of:*

- *The scenic qualities and features of the landscape*
- *The character and amenity of the locality and streetscape*
- *The scale, bulk, height, mass, form, character, density and design of development in the locality*
- *The previous and existing land uses and activities in the locality*

These matters have been discussed in the body of this report.

ii. *What are the potential impacts on adjacent properties in terms of:*

- *Relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)*
- *visual and acoustic privacy*
- *views and vistas*
- *edge conditions such as boundary treatments and fencing*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be acceptable with regard to the applicable legislation.

*Access, transport and traffic:*

*Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:*

- *Travel Demand*
- *dependency on motor vehicles*
- *traffic generation and the capacity of the local and arterial road network*
- *public transport availability and use (including freight rail where relevant)*
- *conflicts within and between transport modes*
- *Traffic management schemes*

- *Vehicular parking spaces*

These issues have been discussed in detail in the report. The development provides adequate carparking facilities.

#### *Public Domain*

The proposed development will have no adverse impact on the public domain.

#### *Utilities*

This matter has been discussed in detail in the body of this report.

#### *Flora and Fauna*

The site will be landscaped. The planting and landscaping treatments will enhance the landscape quality of the locality.

#### *Waste Collection*

As detailed within this report the proposal provides appropriately for waste collection.

#### *Natural hazards*

Flooding and geotechnical hazards have been addressed.

#### *Economic Impact in the locality*

The proposed development will have a positive economic impact in the locality through the creation of jobs both during the construction and post construction/retail management operations.

#### *Site Design and Internal Design*

- i) *Is the development design sensitive to environmental considerations and site attributes including:*
  - *size, shape and design of allotments*
  - *The proportion of site covered by buildings*
  - *the position of buildings*
  - *the size (bulk, height, mass), form, appearance and design of buildings*
  - *the amount, location, design, use and management of private and communal open space*
  - *Landscaping*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be minimal and within the scope of the desired future character and built form controls of the DCP.

- ii) *How would the development affect the health and safety of the occupants in terms of:*

- *lighting, ventilation and insulation*
- *building fire risk – prevention and suppression*
- *building materials and finishes*
- *a common wall structure and design*
- *access and facilities for the disabled*
- *likely compliance with the Building Code of Australia*

The proposed development can comply with the provisions of the Building Code of Australia as detailed within the accompanying BCA Design Assessment Report prepared by Design Confidence. The proposal complies with the relevant standards pertaining to health and safety and will not have any detrimental effect on the occupants.

#### *Construction*

- i) *What would be the impacts of construction activities in terms of:*
  - *The environmental planning issues listed above*
  - *Site safety*

Normal site safety measures and procedures will ensure that no safety or environmental impacts will arise during construction.

#### **4.6.3 The suitability of the site for the development**

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development prohibitive*
- *Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*
- *Are utilities and services available to the site adequate for the development*
- *Are the site attributes conducive to development*

The adjacent development does not impose any unusual or impossible development constraints. The site is well located with regards to public transport and utility services. The development will not cause excessive or unmanageable levels of transport demand.

The development responds to the topography of the site, is of adequate area, and has no special physical or engineering constraints is suitable for the proposed development.

#### **4.6.4 Any submissions received in accordance with this act or regulations**

It is envisaged that Council will appropriately consider any submissions received during the notification period.



#### **4.6.5 The public interest**

It is considered that the development is sensitive both to the natural and built environments and is consistent with the provisions of the Pittwater LEP and DCP.

## 5 CONCLUSION

The Architect has responded to the client brief to develop a shop top housing scheme displaying superior design quality, amenity, streetscape, landscape, sustainability and heritage conservation outcomes compared to the shop top housing development approved by Council on 16<sup>th</sup> December 2010 comprising 5 residential apartments and basement car parking for 22 vehicles (DA N0102/10). We confirm that this consent was physically commenced on 12<sup>th</sup> December 2014.

This submission demonstrates that the proposed development is of exceptional design quality with the proposal appropriately responding to its immediate built form, landscape and heritage context. The resultant development will afford superior levels of amenity for future occupants whilst maintaining appropriate amenity to surrounding development in relation to privacy, views and solar access. The proposed development is sympathetic to its context and hillside location and contemporary in its use of materials and forms in response to local climate and the seaside village character anticipated by the Palm Beach Locality Statement.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the Act. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The proposed development is sympathetic to its context and contemporary in its use of materials and forms in response to local climate and the seaside village character anticipated by the Palm Beach Locality Statement.
- The proposal is of exceptional design quality with the proposal appropriately responding to its immediate built form and heritage context. The resultant development will afford superior levels of amenity for future occupants whilst maintaining appropriate amenity to surrounding development in relation to privacy, views and solar access.
- The proposal is compliant with the building height standard as applied to development on steeply sloping sites, compliant with the building envelope controls which determine an appropriate floor space for development on land and compliant with the residential density standard applicable to shop top housing development on the land.
- The outcome is a development displaying far superior design quality, amenity, streetscape, landscape, sustainability and heritage conservation outcomes compared to the shop top housing development approved by Council on 16<sup>th</sup> December 2010 comprising 5 residential apartments and basement car parking for 22 vehicles (DA N0102/10). We confirm that this consent was physically commenced on 12<sup>th</sup> December 2014.
- The non-compliance with the commercial/retail floor space requirement has been acknowledged and appropriately justified with strict compliance unreasonable and unnecessary given the ability to satisfy the underlying objectives of the control. Such variation succeeds pursuant to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of the DCP standard for dealing with that aspect of the development.

- The development achieves the design quality principles contained within State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP65) and the objectives and guidelines contained within the Apartment Design Guide (ADG).

Having given due consideration to the matters pursuant to Section 4.15(1) of the Act it is considered that there are no matters which would prevent Council from granting consent to this proposal in this instance.

**BOSTON BLYTH FLEMING PTY LIMITED**



**Greg Boston**

B Urb & Reg Plan (UNE) MPIA

B Env Hlth (UWS)

**Director**



## Attachment 1

PLM meeting controls				
Item	Planning Instrument	Clause	Council Comment	Applicant Response
1	ADG	Part 1	Ground floor of the development fronting Barrenjoey Road is dominated by driveways and podium landscaping which limits the potential to provide an engaging and active streetfront for the public	<p>Addressed.</p> <p>DCP requires shoptop housing to have a min. 4m<sup>2</sup> planter or landscaped area at the ground level of the front building facade. The proposed design provides landscaping within the front setback well in excess of this. This landscaping is now provided at grade.</p> <p>Driveway width at street frontage is as per PLM advice from Council's traffic engineer.</p>

2		Part 1B	Part 1B of the ADG requires development to respond and contribute to the local character and context of the locale. This matter is discussed later under Part A of the Pittwater 21 Development Control Plan 2014 (PDCP) but in summary, is not found to be a proportionally or contextually appropriate response to the existing or desired future character.	<p>Addressed.</p> <p>Proposed development is consistent with desired character for Palm Beach noting the following:</p> <ul style="list-style-type: none"> <li>- Located within a commercial centre with good access to public transport and community facilities.</li> </ul> <p>Proposed development will positively contribute with ground floor retail offering</p> <ul style="list-style-type: none"> <li>- Existing Infrastructure is available to service the development</li> <li>- Building will sit below the tree canopy</li> <li>- Large landscaped vertical breaks in the built-form ensure horizontality is consistent with surrounding buildings</li> <li>- Extensive facade modulation and shade elements are proposed</li> <li>- Building blends into the landscape noting natural materials palette and extensive landscaping incorporated into building design</li> <li>- Positive contribution to native vegetation and tree canopy</li> <li>- Building is consistent with principals of good urban design.</li> </ul>
3		Part 2F	Building separation requires separation distances between buildings of between 6 and 12m. These dimensions exceed and prevail over the side setback requirements stipulated in the PDCP. The northern boundary of the site adjoins land zoned E4 Environmental Living which predominantly lends itself to the continued use of that land as a dwelling house. The development has non-habitable rooms facing this site and should be setback 6m from the	DCP does not include building separation controls, instead relying on setbacks to inform appropriate separation between buildings. Proposed setbacks meet or exceed DCP controls, including to the northern boundary. Privacy screens and extensive landscaping are also utilised along side boundaries to mitigate any privacy concerns and comply with ADG.

			northern boundary.	
4		Part 3D	Communal and public open space seeks to ensure a high quality and usable landscaped area. In the context of this development it is considered acceptable to provide no communal open space for occupants of the apartments, however that dispensation should be countered by an enhanced public domain at ground level.	Addressed. The building is now setback well in excess of the 3.5m front setback control. The public domain will be enhanced by an activated street frontage and quality retail offering, outdoor seating, paving and landscaping. NB: DCP does not require communal areas to be provided for shoptop housing development.
5		Part 3D	A high quality space with robust street furniture, pavings and landscaping should be provided at the street frontage to create a destination or a place of respite rather than just a footpath. The site presents an opportunity to blur the lines between the public and private domain.	Addressed. Refer above comments.
6		Part 3F	Visual privacy pertains to internal privacy within the development. It is unclear if the large entertaining terraces for each apartment would be adequately protected from one another, and whether any degree of privacy would exist were the landscaping on site to die.	Addressed. The building is designed and oriented to maximise visual privacy for residents and neighbours. Additional privacy measures include extensive landscaping and privacy screens.

7		Part 3F-1	A 6m building separation / setback will be required to both the north and south boundaries of the site, to be consistent with Part 3F-1 of the ADG.	DCP does not include building separation controls, instead relying on setbacks to inform appropriate separation between buildings. Proposed setbacks meet or exceed DCP controls, including to the northern boundary. Privacy screens and extensive landscaping are also utilised along side boundaries to mitigate any privacy concerns and comply with ADG.
8		Part 3G	A minimum 10% of deep-soil landscaping will also be required to meet Part 3G.	Addressed. The proposal provides deep soil planting of ~23%, well in excess of ADG requirement. Note: ADG requirement for deep soil planting is 7% of site area per objective 3E-1.
9		Part 4A	Solar and daylight access stipulates the required hours of sunlight for each apartment and states that single aspect, single storey apartments should have a northerly or easterly aspect.	Addressed. No apartments have a single aspect.
10		Part 4C.1	Ground floor ceiling heights of 4m should be provided to F+B spaces to meet Part 4C.1.	Addressed. Non-food retail proposed for the ground floor. ADG recommends 3.3m floor to ceiling heights. Proposed floor to ceilings for front of house is 3.6m and back of house 2.9m .
11		Part 4D	The maximum depth of open plan layouts that combine living, dining and kitchen spaces is 8 metres. The depth proposed results in a dark environment that relies heavily on artificial lighting. The depth of apartments proposed is not supported.	Addressed.



12	LEP	Objectives of B1 Zone	An objective of the B1 zone is to: To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood. The physical form of the proposed development is not considered to be “small-scale”, in contrast with the existing development that adjoins the site. This is also demonstrated by the non-compliance with the Height of Buildings development standard. Hence, the proposal is not consistent with the Objectives of the zone.	Addressed. Design is compliant with LEP height and density controls as well as DCP setback controls, which together inform building envelope.
13		4.3 Height of Buildings	A calculation of the slope on the proposed building footprint is at 26%, which is insufficient to qualify for the 10.0m height limit. More detailed survey information (and cross-sections on the architectural plans) will be required to prove that the 10.0m standard applies. Irrespective of this, based on the current design the proposal does not have sufficient merit to warrant the extent of the variation proposed.	Addressed. Refer architectural sections which demonstrate the slope is in excess of 16.7 degrees (30%).
14		4.3 Height of Buildings	The applicant is reminded that the 10m height limit is subject to satisfying the objective that: (d) the buildings are sited and designed to take into account the slope of the land and to minimise the need for cut and fill by designs that allow the building to step down the slope. As the proposal seeks to excavate the entirety of the site to below ground level it is unclear how it could be justified that the design achieves compliance with this objective.	Addressed. The building has been designed to terrace down the slope. Basement size is dictated by Council car parking requirements. Excavation has been minimised by providing a single level of basement parking. Residential parking has been minimised by providing 7x apartments (less than 9x permitted per LEP density control) and reduced retail parking based on actual expected parking needs.

15		Clause 4.6 - Exceptions to Development Standards	Failure to respond to the character of the surrounding areas means that there are no sufficient planning grounds to vary the Height of Buildings development standard and any request based on the current design will not be supported.	Addressed. Refer Statement of Environmental Effects by BBF for a detailed discussion of how the proposal responds appropriately to the character of the surrounding area. The building complies with the 10m height control.
16		5.10 Heritage conservation	The proposal does not create an adequate spatial relationship with this significant building. Hence, the proposal fails the requirements of this clause.	Addressed. Refer Heritage Impact Assessment prepared by Urbis. The report notes curved detailing and natural materials are sympathetic to the natural landscape of Palm Beach while the recessive, diminishing profile ensures neighbouring heritage items are adequately interpreted.  The development is assessed to have no impact on the heritage significance of Barrenjoey House or Wintern.
17		5.21 Flood planning	The ground floor level and the driveway access to the basement will need to be modified to meet the Flood Planning Level for the site. Hence, the proposal fails the requirements of this clause.	Addressed. Driveway crest now raised to the Flood Planning Level
18		7.1 Acid sulfate soils	The land is subject to Class 5 land for acid sulfate soils. A geotechnical report must demonstrate if the water table beneath the site will be effected by the proposed works, which in turn may require further investigation on acid sulfate soils.	Addressed. Refer Detailed Site Investigation prepared by EI Australia.

19	DCP	The Desired Future Character (DFC)	The design, scale and treatment of future development within the commercial centres will reflect a 'seaside-village' character through building design, signage and landscaping, and will reflect principles of good urban design. Landscaping will be incorporated into building design. The bulk and scale of the proposal is too significant to reflect a "seaside village" character, and is more reminiscent of densely populated urban commercial areas, rather than a village. There are insufficient areas of landscaped open space, particularly at ground level, due to the significant areas of excavation. The proposal is therefore not consistent with this Section of the P21 DCP.	Addressed. Bulk and scale of the proposal has been addressed via two large landscaped vertical slots which "break up" the mass of the building and address Council comments regarding horizontality. The building is consistent with principals of good urban design. Proposed landscaping is integrated into the building, and is well in excess of both ADG and DCP requirements. Excavation is dictated by the requirement for a basement to address DCP controls for car parking.
20			It is not agreed that the scale and continual horizontality of the built form lends itself to be reflective of a 'seaside village' and is it not found that an adequate provision of landscaping is afforded to contribute to this character. As described in the meeting it is the vastness of the built form which gives rise to the concern about meeting the DFC. Council is not anticipating a 'boatshed' like building with weatherboarding, however it does anticipate that the widths and heights of any proposal would be congruent with their surroundings.	Addressed. Refer above comments.
21			Council is supportive of the raw and natural material choices of the development as they will blend in with the environment immediately, and more so in longevity.	Noted

22	Clause D12.5 Front building line	3.5m ground floor setback. The proposal generally complies with this requirement, but the drawings show projecting wall elements within the setback area. Providing a greater front setback that than proposed (and required) would allow for a significantly enhanced public domain area and outdoor seating for the future restaurants alongside more landscaping. Alongside the redesign of the whole development consideration should be given to substantially increasing this front setback.	Addressed. Front setback has been increased and exceeds DCP control.
23	D12.6 Side and rear building line	Whilst the proposal is consistent with the part of the DCP, the setbacks specified by the ADG, would require a 6m setback from the north and south boundaries of the site.	Side and rear setbacks meet or exceed DCP controls. Privacy screens have been incorporated to side boundaries to comply with ADG.
24	D12.9 Landscaped Area - General	An objective of Landscaped Area is to ensure that: "The bulk and scale of the built form is minimised". The reliance on planter boxes on the upper level and the lack of landscaped area at ground level does little to minimise the bulk and scale of the proposed development.	Addressed. Landscaped area is well in excess of ADG and DCP requirements. Above ground planters are incorporated into each dwelling at all levels. Landscaping is also provided at the front sides and rear of the development.
25	D12.14 Scenic Protection Category One Areas	The site is located in a visually prominent area, on a heavily trafficked State road, adjoins highly used public open space, a transport terminal (the ferry wharf) and a popular Sydney metropolitan waterway to the west. All these factors mean that great importance must be placed on the ability of any new development to be consistent with the scenic values of the adjoining area. The proposed development fails to respond to these values.	Addressed. 5x Cabbage Tree Palms are proposed near the front boundary of the property. Screen planting is proposed along the side boundaries. The landscape design positively contributes to restoration of native vegetation on site. We are not proposing the removal of any native canopy trees. A neutral materials palette allows the built form to blend in with the natural surroundings.

PLM Meeting Recommendations			
Item	Category	Recommendation	Applicant Response
1	Heritage	In further development of the proposal, consideration should be given to the comparative scale and bulk of the proposal with Barrenjoey House. The form of the building might be usefully articulated as two forms either side of a central bay, which combined with a reduction in height, would effectively recall the scale back closer to that of Barrenjoey House.	Addressed. Bulk and scale of the proposal has been addressed via two large landscaped vertical slots which "break up" the mass of the building and address comments regarding horizontality.  The proposal is compliant with the 10m height limit.
2	Landscape	Front of site: - Retention of existing street tree - Provision of additional street trees - Provision of substantial landscape elements in the front setback	Addressed. Refer landscape plans prepared by Dangar Barin Smith. Landscaping within the front setback exceeds the relevant DCP control (C2.1), which is for a planter or landscaped area with minimum 4m <sup>2</sup> at the ground floor.
3		Side setbacks: - Provision of substantial landscape planting and canopy trees - Maintenance access for side setback landscaping and side planter boxes to the units - Landscape treatment and transition to adjoining R2 Zone	Addressed. Refer landscape plans prepared by Dangar Barin Smith. Substantial landscaping proposed to side setbacks
4		Clarification of the proposed Pedestrian connection to the ROW to Palm Beach Road at the rear of Level 3 and impacts on existing vegetation	Addressed. The pedestrian connection has been

		and new planting	removed.
5		Extent of the encroachment into the rear setback for terraced areas from Level 3 Units and impacts on opportunities for new planting.	Addressed. The rear setback has been increased to accommodate a light well at the rear of the building. There is no encroachment into 3m setback, which is landscaped.
6		Investigation of the site for significant rock outcrops/overhangs should be undertaken to enable proposer assessment of the impacts of the proposal on the natural landscape	Addressed. Site has been inspected for rocky outcrops/overhangs by a surveyor. Refer letter Beveridge Williams.
7		An Arborist's Report from a Consulting Arborist with minimum qualification AQF Level 5 is required to detail trees to be removed and retained and any required tree protection measures.	Addressed. Refer Arboricultural Impact Assessment prepared by Tree Management Strategies
8		Detailed Landscape Plans prepared by a qualified Landscape Designer or Landscape Architect are to be provided to indicate location and species of canopy trees and general tree, shrub and groundcovers proposed. Depth of any proposed above ground/above slab planters are to be provided.	Addressed. Refer landscape plans prepared by Dangar Barin Smith.
9	Traffic	The quantum of parking and parking area layout appears satisfactory	Noted

10		The driveway should be no less than 6m in width. The width of 6m should ideally be extended along the full length of the driveway to the basement carpark however must extend at that width for at least the first 6m inside the property boundary.	Addressed. The driveway is 6m wide at street frontage and extends over 6m inside the boundary at this length. A single lane driveway with waiting bay and traffic control is proposed. This is consistent with what is proposed at 1102 Barrenjoey Road and was supported by Council's traffic engineer in the referral response.
11		The uses associated with each of the parking spaces would need to be noted on the plans.	Addressed. Parking uses now shown on the plans.
12		The Pittwater DCP requires that adequate space be provided within the building site for the loading and unloading of vehicles. An off-street loading/unloading bay is required or if it is not provided discussion on how deliveries and loading/unloading requirements will be accommodated	Addressed. An off-street retail service space is provided.
13		Ideally the driveway would be better located at the southern end of the site.	Addressed. Driveway has been relocated to southern end of building as per Council request.
14	Flood	The Flood Planning Level (FPL) for most of the site is 3.2m AHD, which includes climate change.	Noted
15		The crest level of the basement carpark will have to be at this height.	Addressed. Driveway crest at Flood Planning Level (FPL) now included on plans.

16		Floor level must be at or above the FPL except for the first 5 metres of the shopfront	<p>All residential floor space is above the Flood Planning Level.</p> <p>The front of the retail shops is below FPL. Direct internal access is provided to areas above the FPL within each shop.</p> <p>Refer Flood Management Report prepared by Van Der Meer.</p>
17	Civil & Stormwater	OSD will not be required for the proposal and connection of stormwater from the site to the existing piped drainage system in Barrenjoey Rd is acceptable. A stormwater management plan detailing the collection and connection of stormwater from the site is to be submitted with the DA. Water quality devices will be required for the proposal.	<p>Noted and addressed.</p> <p>Refer stormwater plans prepared by Taylor Consulting.</p>
18		The position and width of the proposed driveway crossing is to be provided by Council's Traffic Engineer	<p>Addressed.</p> <p>A 6m wide driveway crossing is provided as per Council comments.</p>
19		The internal driveway ramp grades are to be in accordance with AS/NZS2890.1:2004.	Noted
20	Waste	Two separate waste bin storage rooms are required – one for the residential waste bins and one for the commercial waste bins	<p>Addressed.</p> <p>Separate bin rooms are provided.</p>
21		Bin storage room to be located on ground level and within 6.5 metres of the property boundary with the street. Access to the bin storage room for servicing staff must be separate from the vehicular driveway, be a flat smooth path with a non-slip surface, no steps or ramps greater than 1 in 8.	Addressed. Bin holding area located within 6.5m of street and easily accessible from the bin storage rooms.



22	Coastal and Catchments	The objectives and requirements of both the CM Act and the CM SEPP must be addressed by the Statement of Environmental Effects (SEE) as they relate to development within the coastal zone. Clause 15 of the CM SEPP will also apply to the proposed development.	Addressed. Refer Statement of Environmental Effects by BBF.
23		As the Flood Planning Level (FPL) for most of the site is RL 3.2m AHD however, which is higher than the EPL, the FPL and provisions of the B3.11 Flood Prone Land controls will prevail for development proposed at the site.	Addressed. Refer Statement of Environmental Effects by BBF.

<b>DSAP Meeting</b>		
<b>Item</b>	<b>Recommendation</b>	<b>Applicant Response</b>
1	Redesign is required to achieve a seaside village character with adequate deep soil landscape areas to achieve a balance between maintaining the landforms, landscapes and other features of the natural environment, and the development of land.	Addressed. Design is consistent with desired character for Palm Beach. Design meets deep soil requirements.
2	Consider articulating the built form with vertical landscape breaks of a significant scale to deliver a finer grain built form characteristic of a seaside or coastal village	Addressed. Design has been revised to incorporate two vertical slots (9m deep) which serve as significant vertical landscaped breaks in the built form.
3	Building heights should fully comply with the 10m height limit to ensure the building forms are better integrated with topography by stepping closely with natural slopes of the landform.	Addressed. Design is fully compliant with 10m height control and built form terraces down the slope with the natural topography.
4	Ground floor ceiling heights of 4m should be provided to F+B spaces in accordance with ADG 4C Figure 4C.1. This will increase the BOH Kitchen ceiling heights to 3m which will accommodate commercial kitchen exhaust hood minimum dimensions	Addressed. Non-food retail proposed. Floor to ceilings comply with BCA and ADG requirements.

5	Reduce the number of storeys by one	Design is compliant with height and density controls. PLM comments note this recommendation is irrelevant pending consistency with Clause 4.6 of LEP.
6	Any application should consider and demonstrate how NCC BASIX and ADG requirements are met with a 3100mm residential floor to floor height.	Addressed. Refer BASIX Certificate, BCA Assessment Report by Design Confidence and SEPP 65 Design Statement by Koichi Takada.
7	Increase the building setbacks on the eastern and northern boundaries to 6m as recommended in the ADG. This will allow significant native planting between buildings and ensure the development contributes to the desired future character of the Palm Beach locality.	Setbacks to east and north meet or exceed DCP requirements. Privacy screens are incorporated to comply with ADG. Significant building separation exists to the heritage building to the south. Significant landscaping is proposed along both side setbacks.
8	Reduce the amount of car parking on site to provide deep soil to the 3.5m building setback zone.	Addressed. Carparking provisions have been balanced between implementation of a heritage preservation zone, minimising amount of excavation and addressing Council's DCP parking controls. Residential parking provisions are per the DCP requirements. Retail parking has been reduced on the basis of <i>actual</i> anticipated requirements.
9	If the number of units is reduced, the required number of car spaces should not be exceeded	Addressed. Residential parking requirements are as per DCP controls.
10	Prior to DA lodgement remove all weed and waste from rear slope and undercover and survey any original sandstone cliff line and/ or endemic trees or ground storey vegetation.	Addressed. Site has been inspected for rocky outcrops/overnags by a surveyor. Refer letter

		Beveridge Williams.
11	Incorporate these features into the design proposal and further revegetate this rear setback to provide a landscape feature at the rear of development. Design lower apartments so as to provide cross flow ventilation and entry of light and capitalising on the shaded rock mass as a cooling element.	Addressed. The rear setback has been increased to accommodate a light well at the rear of the building. There is no encroachment into 3m setback, which is landscaped. 100% of apartments meet adg cross-flow requirements.
12	Provide an updated Arborist report to assess trees discovered in the above action and asses impacts on any trees to be retained.	Addressed. Refer Arboricultural Impact Assessment prepared by Tree Management Strategies
13	Design terrace planting on common property with external access available to ensure adequate maintenance and survival of planting. Demonstrate responsibility for ongoing management is within a strata title management structure	Addressed. Strata By-Laws will be drafted so as to ensure landscaping is appropriately maintained.
14	Ensure design plans indicate greater soil volumes than currently shown to support the green terraces illustrated.	Addressed. Soil depths are consistent with DCP landscape controls and appropriate plant species have been selected.
15	A minimum 10% of the site area is to be deep soil with a minimum dimension of 3m to achieve the standard for ADG 3E-1	Addressed. The proposal provides deep soil planting of ~23%, well in excess of ADG requirement of 7% of site area.
16	The street power lines should be undergrounded to enable the provision of additional street trees	Undergrounding of power lines will be assessed with power authority following DA approval
17	The building street setback should be provided with substantial landscape elements in deep soil.	Addressed. The rear setback is a landscaped deep soil area.

18	The building setback to Barrenjoey Road should be designed to allow at least two large endemic canopy trees to be provided.	Addressed. 5x Cabbage Tree Palms are proposed near the front of the property.
19	The rear setbacks should contain a minimum clear width of 3m for endemic tree planting. The private terrace areas should not encroach into the deep soil setback areas.	Addressed. 3m landscape width has been provided. Private terraces do not encroach on rear setback.
20	Resolve detailed amenity and interior planning issues, including: <ul style="list-style-type: none"> <li>• Natural light and ventilation of lobbies</li> <li>• Locate studies to have windows</li> <li>• Consider strategies to obtain light and ventilation to deep apartments such as replacing walk in robes of external walls with open spaces and windows to kitchens and studies or the provision of rear sunken courtyards</li> <li>• Provide compliant separation to boundaries where habitable rooms are adjacent existing adjacent dwellings</li> </ul>	Addressed. Natural light and ventilation provided to lobbies on upper floors. Internal layouts have been revised to increase light and ventilation, through the introduction of the light well at the rear.
21	Ensure kitchen exhaust and car park exhaust ducts are designed to ensure no impact on the amenity of residents and neighbours from fumes and odours	Not applicable. Non-food retail is proposed. Kitchen exhaust no longer required.
22	Where materials such as bamboo are proposed they need to be sustainably sourced and as an imported product considerations of the carbon footprints are made	Noted
23	The Panel also notes the aspiration stated in the presentation to the Panel of a carbon neutral project and strongly encouraged that aspiration to be achieved and supported by calculations. The Panel observed that the project included a lot of concrete and recommended mixes with reduced Portland cement are alternatives including CLT structures be considered	At no point did the Applicant state an aspiration for a carbon neutral project. We are unsure how the panel reached that conclusion. Nevertheless, we are intending to incorporate a number of sustainability features. Refer architectural plans and BASIX certificate for commitments.
24	Consider utilising electric heat pump hot water and induction cooktops to replace the use of gas.	The use of electric heat pump hot water and induction cooktops are not a requirement of

		Council's planning controls nor BASIX requirements.
25	<p>The sustainability features that were mentioned in the presentation for a proposed electrified building with PV on a green roof should be included on the plans to demonstrate the commitments.</p> <p>The Panel recommends inclusion of a substantial amount of rooftop PV (1.5kW/unit). Where PV cells are overlooked by adjoining residences ensure an arrangement that avoids the possibility of specular reflection when the sun is low and consider black frames and low reflectivity black panels.</p>	<p>Addressed.</p> <p>While roof space is limited, a PV system has been included. Refer architectural plans and BASIX certificate for commitments.</p>
26	Add external windows to bathrooms and utility rooms wherever possible including ground level retail toilets	<p>Addressed.</p> <p>External windows to bathroom and utility rooms are provided where practical. Mechanical ventilation will also provided per BASIX certificate.</p>
27	Provide electric charging for cars and scooters	This will be considered at a later time.
28	Reconsider the building setbacks to the north and the apartment layouts so that they can achieve northern light to the apartments on the north side of the building and better daylight amenity all round.	<p>Addressed.</p> <p>100% of apartments achieve ADG solar access requirements</p>