

Our ref: DOC24/849234-12

Northern Beaches Council
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Letter uploaded to the NSW Planning Portal

Address: 1112 – 1116 Barrenjoey Road, Palm Beach

Proposal: Demolition of existing structures and construction of a shop top housing development incorporating 7 apartments above 2 retail tenancies and basement car parking for 23 vehicles.

Development Application no: DA2023/1289, CNR-60226, A-91060. Received: 17 October 2024

Subject: General Terms of Approval for Integrated Development Application, *National Parks and Wildlife Act 1974*

Dear Northern Beaches Council

This letter contains our general terms of approval for the above integrated development application that will require an Aboriginal Heritage Impact Permit pursuant to s.90 of the *National Parks and Wildlife Act 1974*.

We have reviewed the Aboriginal Cultural Heritage Assessment Report, prepared by Coast History & Heritage (Coast) dated May 2023 and letter correspondence from Coast dated 20 July 2023 and 13 June 2024. The letters state the report supported an application for Aboriginal Heritage Impact Permit 5127 that was issued to Palmdev Pty Ltd on 19 July 2023 for 5 years for a mixed used development approved under consent DA N0102/10 by the former Pittwater Council in 2010 (now Northern Beaches Council). Permit 5127 provides for archaeological salvage excavations of a portion of site 45-6-0164, which has been undertaken by Coast. Schedule A3 of permit 5127 identifies a no-harm midden preservation area.

The Statement of Environmental Effects notes the Development Control Plan requires shop top housing to have a minimum of 4m² planter or landscaped area at the ground level of the front building. Revised architectural plans submitted (Koichi Takada Architects, 11 September 2024) identify three new streetscape trees and building footings or blade walls at the plaza level in the no-harm midden preservation area. Plans identify an external blade façade element sits above the plaza ground level.

Architectural plans identify no footings are proposed at the basement level within the heritage preservation area. The plans identify no proposed impacts to the heritage preservation area.

Landscape plans submitted by Dangar Barin Smith state that “large tree plantings are not possible as root depth will impact the midden. Shrub and small tree plantings may be possible in raised planters.” Heritage NSW supports this conclusion and notes under Permit 5127, impacts such as tree roots would not be permitted to encroach on the no-harm midden preservation area.

Public submissions were uploaded to the portal on 25 November 2024. The following public submissions referred to Aboriginal cultural heritage matters:

- A submission received on 3 November 2024 objected to the proposal for several reasons, one being the impact on Aboriginal heritage recorded on the property. Heritage NSW notes Aboriginal Heritage Impact Permit 5127 was issued for the property and includes a no-harm cultural heritage preservation area.
- A submission received on 23 October 2023 objected to the proposal for several reasons, one being that they noted Aboriginal objects and bones are present at the site and need to be handled sensitively. Heritage NSW notes consultation has occurred with Registered Aboriginal Parties regarding cultural heritage for this proposal as documented in the Aboriginal cultural heritage assessment and Aboriginal Heritage Impact Permit 5127 was issued for the property.
- A submission received on 24 July 2024 objected to the proposal noting several reasons including impact on Aboriginal heritage recorded on the property. Heritage NSW notes Aboriginal Heritage Impact Permit 5127 was issued for the property and includes a no-harm cultural heritage preservation area and an Aboriginal cultural heritage assessment has been prepared.
- A submission received on 18 October 2023 queried if there are any impacts on Aboriginal heritage items on or in close proximity to the site. Heritage NSW notes Aboriginal Heritage Impact Permit 5127 issued for the property includes a no-harm cultural heritage preservation area and permits harm in other parts of the site following an archaeological salvage excavation.
- A submission received on 2 September 2024 objected to the proposal noting several reasons including impact on Aboriginal heritage recorded on the property. Heritage NSW notes Aboriginal Heritage Impact Permit 5127 was issued for the property and includes a no-harm cultural heritage preservation area and an Aboriginal cultural heritage assessment has been prepared for the current proposal.
- A submission received on 22 July 2024 objected to the proposal noting several reasons including such a large excavation would bring many geotechnic problems and be detrimental to the Aboriginal heritage recorded there. Heritage NSW notes Aboriginal Heritage Impact Permit 5127 issued for the property includes a no-harm cultural heritage preservation area and an Aboriginal cultural heritage assessment has been prepared for the current proposal.

Considering the above, and in accordance with Section 4.47 of the *Environmental Planning and Assessment Act 1979*, the following general terms of approval are granted:

Approved development

Development must be in accordance with:

- a. Aboriginal Heritage Impact Permit 5127.

- b. Statement of Environmental Effects Shop Top Housing Development 1112 – 1116 Barrenjoey Road, Palm Beach (33F Town Planner, September 2023).
- c. Landscape Plans (Dangar Barin Smith, 6 August 2024).

Except as amended by the following general terms of approval:

1. A s.90D Variation to the Aboriginal Heritage Impact Permit for the proposed works must be sought and granted prior to the commencement of works.
2. The Aboriginal Heritage Impact Permit variation application must be accompanied by appropriate documentation and mapping as outlined in Applying for an Aboriginal Heritage Impact Permit: Guide for applicants (2011).
3. Development works such as building footings, blade walls, architectural elements, landscaping or tree roots must not impede the no-harm area identified in schedule A3 of Aboriginal Heritage Impact Permit 5127. Works in the vicinity of the no-harm area must be conducted in accordance with the conditions of Permit 5127, and as varied.
4. Vegetation and landscaping such as plants, shrubs or trees must be designed and placed to ensure there is no harm to the midden preservation area identified in schedule A3 of Permit 5127. Engineering solutions such as a hard surface concrete barrier or planter boxes may be considered to ensure tree or plant roots do not encroach on the subsurface no-harm preservation area.

Please note that any modification of the above development that will result in impacts to Aboriginal cultural heritage must be referred to Heritage NSW to determine whether changes to these general terms of approval are required.

Aboriginal community consultation must be maintained

Consultation with the registered Aboriginal parties must be maintained. We recommend updates on the project are provided to the registered Aboriginal parties every six months to ensure the consultation is continuous.

If you have any questions regarding these general terms of approval, please contact Lyndon Patterson, Senior Assessments Officer, at Heritage NSW on 6022 0619 or lyndon.patterson@environment.nsw.gov.au.

Yours sincerely

Nicole Davis

Nicole Davis
Strategic Manager, Heritage Referrals
Heritage NSW
Department of Climate Change, Energy, the Environment and Water
As Delegate under *National Parks and Wildlife Act 1974*
25 November 2024