

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1129
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Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 23 DP 572887, 123 Bynya Road PALM BEACH NSW 2108
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Anna Christina Lenahan
Applicant:	Scott Buscall

Application Lodged:	26/07/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	04/08/2022 to 18/08/2022
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 125,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to the existing dwelling house, as follows:

- Conversion of the existing bin storage area for the purpose of a wardrobe, ensuite and services;
- Refurbishment of the existing upper level north-western terrace, including new roof;
- Extension of the existing lower floor deck north-western deck;
- Landscaping works including raising the lawn level, amendment to the pool coping, inclusion of a fire pit, and installation of a daybed with pergola; and
- Construction of a new double garage with plant room, access stairs, and widened driveway (Pacific Road frontage).

In response to concerns raised by Council, amended plans were received in September and October

2022, providing a reduction in the height of the proposed north-western retaining wall and associated privacy screen, replacement of materials for the wall adjoining the north-western access stairs, and a revised treatment to the Pacific Road road reserve. In accordance with Council's Community Participation Plan, re-notification of the application in light of the amended plans was not required, as the proposed amendments result in a lesser environmental impact.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils
 Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
 Pittwater Local Environmental Plan 2014 - 7.10 Essential services
 Pittwater 21 Development Control Plan - A4.12 Palm Beach Locality
 Pittwater 21 Development Control Plan - C1.3 View Sharing
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy
 Pittwater 21 Development Control Plan - D12.5 Front building line
 Pittwater 21 Development Control Plan - D12.6 Side and rear building line
 Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 23 DP 572887 , 123 Bynya Road PALM BEACH NSW 2108
Detailed Site Description:	The subject site consists of one allotment located on the north-eastern side of Bynya Road, Palm Beach. The site is irregular in shape with frontages of 17.675 metres along Bynya Road and 16.145 metres along Pacific Road. The site has a maximum depth of 61.08 metres. The site has a surveyed area of 911.3m².

The site is located within the C4 Environmental Living zone and accommodates a two-storey detached dwelling house with a single carport to the Bynya Road frontage, and a swimming pool.

The site slopes down approximately 8m from the south-western Bynya Road frontage to the north-eastern Pacific Road frontage, and contains some landscaping and mature vegetation.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by generally two-storey detached dwelling houses.

Map:



SITE HISTORY

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

- N0217/02 for alterations and additions to the existing dwelling, swimming pool and landscaping was approved by Council on 18 July 2002.
- N0055/06 for alterations and additions to the existing dwelling was approved by Council on 13 March 2006.
- Pre-lodgement Meeting PLM2021/0299 was held on 7 December 2021 to discuss construction of a garage and roof top terrace.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to the garage, driveway, pergola over the daybed, retaining walls, privacy screen and road reserve treatment. The requested information was satisfactorily provided in August, September and October 2022. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
Section 4.15 (1) (b) – the likely	(i) Environmental Impact

Section 4.15 Matters for Consideration	Comments
impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 04/08/2022 to 18/08/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Lindall Lea West	18c Morella Road MOSMAN NSW 2088
Mr David James Southall Ms Emma Elizabeth Doyle	125 Bynya Road PALM BEACH NSW 2108

The following issues were raised in the submissions:

- Concern about the impact on air quality and acoustic privacy at 40 Pacific Road and 125 Bynya Road with respect to the proposed fire pit.
- The proposed pergola over the daybed and the proposed tree planting along the south eastern boundary may obstruct views.
- The proposed development will result in unreasonable stormwater drainage issues, given the

non-compliant landscaped area.

- The proposed new lawn level and upper level terrace will result in privacy issues for No. 125 Bynya Road.
- Submitted elevations do not show enough detail to establish how high the proposed retaining wall and timber privacy screen on the north-western side boundary are. The proposed privacy screen is noted as "maximum 1.7m".
- The plans indicate hedging that encroaches on No. 125 Bynya Road.
- The proposed garage fronting Pacific Road will set an unreasonable precedent for nil-setback structures.
- The proposal includes non-compliant setbacks.
- The proposal is not consistent with the Palm Beach character statement in the DCP.
- Council's Landscape Officer's referral comments refer to requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features, and that existing ground levels shall be maintained within the tree protection zone of trees to be retained.
- Submitted photomontages do not demonstrate how the proposal will appear in the streetscape and are misleading.
- The proposed development is not supported by an Arborist Report.

The above issues are addressed as follows:

Impacts of Fire Pit - Air Quality and Acoustic Privacy

Comment:

Council's Environmental Health Officer has reviewed the application with reference to air quality and is supportive of the proposal including the fire pit, subject to recommended conditions of consent. The NSW Environmental Protection Authority (EPA) permits open fires for limited infrequent use, including for fire pits in residential yards. Such use does not require a permit or approval. The Protection of the Environment Operations (Clean Air) Regulation 2021 (with which this and all development must comply) permits open fires for recreational purposes so long as only dry seasoned wood, liquid petroleum gas (LPG), natural gas or proprietary barbecue fuel (including a small quantity of fire starter) is used.

In relation to acoustic privacy, the proposed fire pit area is located a minimum of 2.3 metres from the south-eastern side boundary (adjacent to 40 Pacific Road) and 6.9 metres from the north-western side boundary (adjacent to 125 Bynya Road), thus providing suitable distance from adjoining properties.

Additionally, the portion of the fire pit area that can be used for recreational purposes is less than 18m², being of modest dimensions. The proposal is also consistent with the outcomes and controls of Clause C1.6 Acoustic Privacy of the P21 DCP. Given these factors, and that the subject site does not increase in density beyond a single detached dwelling house, the fire pit area is not anticipated to result in unreasonable acoustic privacy impacts.

View Sharing - Pergola and Trees

Comment:

The proposed development is acceptable in relation to view sharing for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP.

Stormwater Drainage / Landscaped Area

Comment:

While the proposed development results in a non-compliance with landscaped area, the proposed works increase the amount of soft open space on site, thereby increasing opportunity for onsite infiltration. Additionally, the proposed development is supported by a suitable stormwater plan and has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to recommended conditions

of consent

Privacy

Comment:

The proposed development is acceptable in relation to privacy to No. 125 Bynya Road for the reasons detailed in the section of this report relating to Clause C1.5 Visual Privacy of the P21 DCP.

Structures and Hedge Planting - North-Western Side Boundary

Comment:

The submitted plans demonstrate the retaining wall along the north-western side boundary will reach a height of RL 99.05, and the timber privacy screen will reach a height of 1.7 metres above the finished level of the lawn, equating to RL 100.75. A condition of consent has been recommended to specify that the privacy screen is to be 1.7 metres in height, not a "maximum of 1.7m". The plans indicate hedging along the north-western side boundary on the subject site only, and not across the boundary to No. 125 Bynya Road.

Setbacks

Comment:

Any non-compliances with required setbacks are addressed on merit in the relevant sections of this report.

Desired Character and Streetscape

Comment:

The proposed development is acceptable in relation to the desired character and streetscape of the area for the reasons detailed in the section of this report relating to Clause A4.12 Palm Beach Locality of the P21 DCP.

Arborist Report

Comment:

In accordance with Council's Development Application Lodgement Requirements, no arboricultural impact assessment report is required to support the proposed development. The proposal has been reviewed by Council's Landscape Officer, who is supportive of the proposed development, subject to recommended conditions of consent.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	The proposal includes includes a fire pit in a garden setting as part of an addition to a residential dwelling. The fuel is not specified ie gas or wood. This issue is whether a fire pit is a domestic heater and designed say for heating a home or is an occasional use item, a form of entertainment or the like. The NSW Environmental Protection Authority(EPA) says, "Smoke from wood heaters is a major cause of air pollution. In fact, during winter, wood heaters can produce up to seven times as much particle pollution as cars." It's for these reasons; we don't recommend wood fire heaters. It is noted that the EPA does permit "open fires" for limited infrequent use: •barbecues or camping •fire pits •eligible hazard reduction work •some agricultural purposes •authorised fire-fighting training

Internal Referral Body	Comments
	NSW residents do not need approval for a backyard fire pit or barbeque. The Protection of the Environment Operations (Clean Air) Regulation, permits open fires as 'similar outdoor activities'. "It is not an offence under this clause: (a) to cook or barbecue in the open, or to light, maintain or use a fire for recreational purposes such as camping, picnicking, scouting or other similar outdoor activities, so long as only dry seasoned wood, liquid petroleum gas (LPG), natural gas or proprietary barbecue fuel (including a small quantity of fire starter) is used" It is considered that the fire pit is a permitted use and does not require specific approval but can be controlled "so long as only dry seasoned wood, liquid petroleum gas (LPG), natural gas or proprietary barbecue fuel (including a small quantity of fire starter) is used" Therefore Environmental Health supports the proposal as submitted without conditions.
Landscape Officer	The development application is for alterations and additions to the existing dwelling, as described and illustrated in the reports and plans. A Landscape Plan accompanies the application and is assessed as part of this Landscape Referral. Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause C4 zone Environmental Living, and the following Pittwater 21 DCP controls (but not limited to): • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • D12 Palm Beach Locality The site is located in the C4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the C4 Environmental Living zone. The Landscape Plan submitted includes additional landscape works to enhance the existing landscape setting of the property, and no concerns are raised except for the proposed tree planting of Tuckeroo (<i>Cupaniopsis anacardoides</i>) which shall not be planted as it is a known environment weed that is self-seeding into coastal bushland areas and this species shall be substituted, and conditions shall be imposed for the landscape works. The proposed development does not impact upon existing trees and vegetation and standard protection conditions shall be included. It is noted that the public road reserve verges fronting the development property to both Bynya Road and Pacific Road are

Internal Referral Body	Comments
	encroached by vegetation, and no minor encroachment approval is located for the property in this instance, and any approval of this development application does not formalise the existing encroachments and Council reserves the future right to seek removal of any encroachment for public safety or for any other public capital works, as defined under the Roads Act 1993 clause 5 'Right of passage along public road by members of public' subclause (1) A member of the public is entitled, as of right, to pass along a public road (whether on foot, in a vehicle or otherwise).
NECC (Development Engineering)	Original Comments: Insufficient information has been provided with regard to the proposed access driveway off Pacific Road. The Applicant shall provide a long-section at both edges and centerline of the proposed access driveway to the proposed garage and demonstrate compliance with AS2890.1. The driveway shall incorporate one of Council's standard vehicle crossing profiles. Updated Comments: Driveway sections have been reviewed. No objections to approval subject to conditions as recommended.
Road Reserve	Original Comments: There is no significant impact on existing road infrastructure. Development Engineering to ensure s138 application for civil works detailing retaining walls and driveway. Retaining walls across verge to be 1.5m clear of kerb. Hedge/landscaping on verge as shown on plans to not restrict sight distance as per AS2890.1. The current plans appear to show that the proposed landscaping significantly restricts safe sight distance and without further detail showing compliance to AS2890.1 T&CI assets cannot support this proposal. Updated Comments: Amended plans (drawing no DA2.01 revision D) received 24 October address sight distance concerns. This amendment is satisfactory and T&CI have no objections to to works. Note that hedges/trees shall be maintained to ensure sight distance remains compliant.

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A465223 dated 1 July 2022). A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Garage: 3.3m	-	Yes
		Cabana: 2.7m	-	Yes
		Dwelling: 6.4m	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Detailed Assessment

7.1 Acid sulfate soils

Clause 7.1 Acid Sulfate Soils requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works. The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map. The proposed development does not rely on significant excavation and is acceptable in relation to acid sulfate soils.

7.2 Earthworks

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

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

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

Comment:

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

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

Comment:

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

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

Comment:

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

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

Comment:

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

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

Comment:

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

(f) the likelihood of disturbing relics

Comment:

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

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

Comment:

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

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

Comment:

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

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

Comment:

The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

7.10 Essential services

Under this clause, 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.

Comment:

The subject site is supplied with the above essential services. The proposed development retains and relies upon these services.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	Primary (Bynya Rd): Min. 6.5m	Dwelling: 5.5m	15.38%	No - Existing
	Secondary (Pacific Rd): Min 3.25m	Garage: 0m	100%	No
Side building line	NW: 2.5m	Dwelling: 1.5m	40%	No - Existing
		Garage: Min. 750mm	70%	No
		Retaining Wall: 750mm	70%	No
	SE: 1m	1m	-	Yes
Building envelope	NW: 3.5m	Dwelling: Within envelope	-	Yes
		Garage: Within envelope	-	Yes
	SE: 3.5m	Dwelling: Unchanged	-	Yes
		Garage: Within envelope	-	Yes
Landscaped area	Min. 60% (546.78m ²)	54.45% (496.18m ² , incl. 6% hard space)	9.25%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	No	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	No	Yes
D12.6 Side and rear building line	No	Yes
D12.8 Building envelope	Yes	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A4.12 Palm Beach Locality

The proposed development is not strictly in compliance with the requirements of this clause, in that it includes alteration of the existing lawn levels to the north. Such works do not include removal of any significant natural features, only requiring replacement of sloped lawn with filled, level lawn. The proposed new lawn level will not generally be visible from the Pacific Road frontage, thereby not impacting upon the streetscape. The proposed built elements of the development are set below the tree canopy and are proposed to be softened by landscaping. The proposal is supported by a suitable landscape plan in this regard, demonstrating a good mix of vegetation types and sizes, from shrubbery to canopy trees and other species in between. The proposal is also supported by a geotechnical investigation report prepared by a suitably qualified geotechnical engineer, demonstrating the proposal is designed to be safe from hazards. Given these factors, the proposal demonstrates a suitable balance between maintaining landform and allowing for acceptable development and is acceptable on merit with respect to the desired character of the subject site and surrounding land.

C1.3 View Sharing

The objection from No. 40 Pacific Road raises concern that the proposed pergola over the daybed and the proposed canopy tree planting along the south-eastern side boundary may result in view loss.

It should be noted that the pergola/daybed structure is freestanding, and therefore able to be moved if necessary. It is representative of furniture rather than a built structure. Further, the pergola is open in construction, thereby reducing its visual impact and the level of obstruction it may cause. As such, it is not anticipated to result in unreasonable view loss. The structure is also consistent with the requirements of Subdivision 6 Subclauses 2.11 and 2.12 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* relating to pergolas, establishing that it is classified as exempt development and does not require development consent. Therefore, deletion of the structure from plans does not serve purpose, as it can be installed regardless of the status of this development.

application.

The proposal seeks additional landscaping and planting, including a number of trees that achieve a mature height of 4 or more metres. The third outcome of Clause C1.3 View Sharing is: *Canopy trees take priority over views*. As such, the inclusion of canopy trees that may impede views cannot be considered unreasonable in this circumstance.

C1.5 Visual Privacy

The objection from No. 125 Bynya Road raises concern about loss of visual privacy as a result of the upper level terrace and the raised lawn levels.

The upper terrace is an existing structure, proposed to be supplemented with roofing, an extended solid balustrade, and sliding timber privacy screening to the north-western elevation. While the extended balustrade is below standing eye height and the proposed timber screening can be moved, the addition of these elements increases visual privacy to No. 125 Bynya Road.

It is understood the level of the northern lawn is proposed to be raised to RL 99.05, to match the existing pool coping and site above the proposed garage. While the fill required to create this lawn level is substantial, the raised lawn is supplemented with a timber privacy screen to a height of 1.7 metres to prevent overlooking from the new lawn level to No. 125 Bynya Road.

The proposed development is compliant with the requirements of this clause and is acceptable with regard to visual privacy.

D12.5 Front building line

The proposed development includes conversion of the existing bin storage area into a walk-in robe and ensuite, using the existing front setback at the Bynya Road frontage. The proposal also includes a new double garage immediately at the Pacific Road boundary, where a setback of 3.25 metres is required (being the secondary street frontage). The underlying outcomes of this control are addressed as follows:

Achieve the desired future character of the Locality.

Comment:

The proposed development is acceptable in relation to the desired character for the reasons detailed in the section of this report relating to Clause A4.12 Palm Beach Locality of the P21 DCP.

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

Comment:

The proposed development is acceptable in relation to view sharing for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP.

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

Comment:

Not applicable. The subject site is not located on a main road,

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

Comment:

The proposal provides 27m² of additional soft landscaping and is supported by a landscape plan that demonstrates a suitable range of planting types to soften the built form.

Vehicle manoeuvring in a forward direction is facilitated.

Comment:

The existing configuration and dimensions of the site prevent vehicular movement in a forward direction for both ingress and egress.

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

Comment:

The proposal is supported by a landscape plan that demonstrates a suitable range of planting types to soften the built form, including around the proposed new garage. The works are also consistent with other developments and approvals in the surrounding locality. Given these factors and that the proposal is acceptable on merit with regard to Clause A4.12 Palm Beach Locality of the P21 DCP, the proposal suitably retains the existing character of the site and surrounds.

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

Comment:

The proposed garage is single-storey in height and is set below the existing canopy tree level in the surrounding natural environment.

To encourage attractive street frontages and improve pedestrian amenity.

Comment:

The proposed works are of high quality design and are softened by landscaping, thereby providing an attractive street frontage to Pacific Road. There are no pedestrian footpaths along the relevant portion of Pacific Road, and the proposal is entirely located on private land, so does not impact upon pedestrian amenity.

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

Comment:

The proposed works do not require substantial excavation, and the proposed fill is acceptable as described in the section of this report relating to Clause A4.12 Palm Beach Locality of the P21 DCP. Given the acceptability of this proposal on merit, the resultant outcome responds, reinforces and relates well to the existing surrounding environment, both urban and natural.

D12.6 Side and rear building line

The north-western side of the development requires a 2.5 metre setback. The existing dwelling house includes a north-western side setback of 1.5 metres, which is not exacerbated by the proposed works. The proposal also includes a garage to the north-western side boundary of 750 millimetres, being an improvement on the setback provided to the existing hardstand space, being 200 millimetres. The proposal also includes a retaining wall within 825 millimetres of the north-western side boundary (when measured as a prolongation of the front boundary or 750mm when measured parallel). The underlying outcomes of the control are addressed as follows:

To achieve the desired future character of the Locality.

Comment:

The proposed development is acceptable in relation to the desired character for the reasons detailed in the section of this report relating to Clause A4.12 Palm Beach Locality of the P21 DCP.

The bulk and scale of the built form is minimised.

Comment:

The proposed additional bulk on site is for minor alterations to the existing dwelling, being compliant with applicable built forms or acceptable on merit, and for the proposed new garage. The new garage is

of minimum dimensions to allow compliance with Australian Standards with regard to parking. The proposal also includes additional structures on site for the purpose of levelling the lawn and providing suitable privacy to adjoining sites. The new levelled lawn is not generally visible from the street (Pacific Road) and will be screened from view by adjoining properties, due to existing fencing and hedging. Additionally, the proposed new built form elements are softened by landscaping, thereby reducing the visual impact of the works. In these ways, the proposal does not amount to unacceptable bulk and scale.

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

Comment:

The proposed development is acceptable in relation to view sharing for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP.

To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.

Comment:

Given the above, the proposal is suitably designed with regard to view sharing.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.

Comment:

The proposed development is compliant with the requirements of the P21 DCP with regard to amenity, particularly as described throughout this report relating to privacy.

Substantial landscaping, a mature tree canopy and an attractive streetscape.

Comment:

The proposal provides 27m² of additional soft landscaping and is supported by a landscape plan that demonstrates a suitable range of planting types to soften the built form. The proposed works are of high quality design and are softened by landscaping, thereby providing an attractive street frontage to both the Bynya Road and Pacific Road frontages.

Flexibility in the siting of buildings and access.

Comment:

The proposed development allows for flexibility in the siting of buildings without resulting in unreasonable impacts on the amenity of the subject site or adjoining sites.

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

Comment:

The proposal provides 27m² of additional soft landscaping and is supported by a landscape plan that demonstrates a suitable range of planting types to soften the built form.

To ensure a landscaped buffer between commercial and residential zones is established.

Comment:

Not applicable. The subject site does not adjoin commercially zoned land.

D12.10 Landscaped Area - Environmentally Sensitive Land

The proposal, while still resulting in a non-compliance with the required landscaped open space, provides 27m² of additional soft landscaping, thereby improving the overall landscaped outcome on site.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

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

A monetary contribution of \$ 625 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 125,000.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2022/1129 for Alterations and additions to a dwelling house on land at Lot 23 DP 572887, 123 Bynya Road, PALM BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA1.02 Proposed Site Plan Revision B	27 September 2022	Design Studio Group
DA2.01 Proposed Garage Plan Revision D	20 October 2022	Design Studio Group
DA2.02 Proposed Lower Ground Floor Plan Revision B	27 September 2022	Design Studio Group
DA2.03 Proposed Ground Floor Plan Revision A	1 July 2022	Design Studio Group
DA2.51 Proposed Roof Plan Revision A	1 July 2022	Design Studio Group
DA3.01 Proposed Elevations 1 Revision A	1 July 2022	Design Studio Group
DA3.02 Proposed Elevations 2 Revision C	27 September 2022	Design Studio Group
DA4.01 Proposed Sections 1 Revision B	27 September 2022	Design Studio Group
DA4.02 Proposed Sections 2 Revision B	27 September 2022	Design Studio Group
DA4.03 Proposed Driveway Section Detail Revision A	9 August 2022	Design Studio Group
DA6.01 Driveway Sections Revision A (marked 'Sheet 1')	12 September 2022	Design Studio Group
DA6.01 Driveway Sections Revision A (marked 'Sheet 2')	12 September 2022	Design Studio Group

Engineering Plans		
Drawing No.	Dated	Prepared By
H-DA-00 Legend, Catchment Calcs. and Sed. Control	30 June 2022	ITM Design
H-DA-01 Stormwater Drainage	30 June 2022	ITM Design

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate A465223	1 July 2022	Design Studio Group
Geotechnical Investigation J4204	9 June 2022	White Geotechnical Group

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
LEN.01.01 Landscape Plan	11 April 2022	Bates Landscape
LEN.01.02 Landscape Plan	11 April 2022	Bates Landscape

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

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

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	17 August 2022

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:

- A. the name and licence number of the principal contractor, and
- B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

Reason: Legislative requirement.

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried

out in accordance with WorkCover requirements and the relevant Australian Standards.

- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork

NSW Codes of Practice.

- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
- Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$625.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$125,000.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or

on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

6. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

7. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy. Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

8. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by White Geotechnical Group dated 9/6/2022 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Certifier. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

9. **Amendments to the Approved Plans**

he retaining wall along the north-western boundary of the subject site is to achieve a height of RL 99.05. The timber privacy screen above that retaining wall is to achieve a height of RL 100.75, being 1.7 metres above the top of the retaining wall. Notations that the retaining wall and privacy screen are to achieve "maximum" heights are to be deleted from plans. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

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

10. **Structural Adequacy and Excavation Work**

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

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

11. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

12. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

13. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

14. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation).

- 125 Bynya Road, Palm Beach
- 40 Pacific Road, Palm Beach

The reports must detail the physical condition of the properties listed, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

The dilapidation reports are to be prepared by a suitably qualified person. A copy of the reports must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
ix) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Principal Certifier must ensure that:

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

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

Reason: Tree and vegetation protection.

16. **Road Reserve**

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

Reason: Public safety.

17. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

18. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

19. Installation and Maintenance of Sediment Control

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

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

20. Vehicle Crossings

The Applicant is to construct one vehicle crossing 4.4 metres wide at the kerb and 8 metres wide at the boundary in accordance with Northern Beaches Council Drawing Maximum High and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifier.

Reason: To facilitate suitable vehicular access to private property.

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

21. Landscape Completion

Landscape works shall be implemented in accordance with the approved Landscape Plans, inclusive of the following conditions:

- i) environmental weed species such as the nominated *Cupaniopsis anacardioides* is not permitted to be planted, and shall be substituted with a locally native tree species as selected from Northern Beaches Council's Native Plant Species Guide - Pittwater Ward, or Council's Tree Guide, and the following species are suggested: Sydney Red Gum - *Angophora costata*; Rough-barked Angophora - *Angophora floribunda*; Grey Myrtle - *Backhousia myrtifolia*; Coast Banksia - *Banksia integrifolia*; Red Bloodwood - *Corymbia gummifera*; Scentless Rosewood - *Synoum glandulosum*; Common Lilly Pilly - *Syzygium smithii*.
- ii) all tree planting shall be a pre-ordered minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees, planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings, and at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- iii) mass planting shall be installed at the spacing centres listed in the Plant Schedule, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,
- iv) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.

Prior to the issue of any Occupation Certificate details (from a landscape architect or landscape

designer) shall be submitted to the Principal Certifier certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

22. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

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

23. Post-Construction Dilapidation Report

Post-construction dilapidation reports for the properties referred to in the Pre-Construction Dilapidation Report condition, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The reports must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the relevant property owner(s) and must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

24. Geotechnical Certification Prior to Occupation Certificate

The Applicant is to submit the completed Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) to the Principal Certifier prior to issue of the Occupation Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

25. Swimming Pool Requirements (existing pool modified by works)

The swimming pool / spa fencing enclosure shall comply with:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018;
- (iv) Australian Standard AS1926 Swimming Pool Safety;
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools;
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

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

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

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

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To protect human life.

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

26. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent. All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

27. **Geotechnical Recommendations**

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

Reason: To ensure geotechnical risk is mitigated appropriately.

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

Signed



Claire Ryan, Principal Planner

The application is determined on 26/10/2022, under the delegated authority of:



Adam Richardson, Manager Development Assessments