

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/1094
Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 317 DP 16362, 326 Whale Beach Road PALM BEACH NSW 2108
Proposed Development:	Demolition works and construction of a dwelling house including swimming pool
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Walter Barda Design Pty Ltd
Application Lodged:	14/08/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	21/08/2024 to 04/09/2024
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 3,095,492.00

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for the demolition of the existing dwelling house and construction of a new dwelling house at the subject site as follows:-

- Demolition of the existing dwelling,
- Construction of a new multi-level dwelling comprising:
 - o Basement: double garage, bin store, plant room, storage, lobby, rainwater tank (5000L), internal lift and stair access;
 - o Lower Ground: gym and bathroom, internal lift and stair access;
 - o Ground: office, swimming pool, pool terrace & cabana, entrance lobby, bathroom, wine cellar, internal lift and stair access;
 - o Level 1: three (3) bedrooms, two (2) bathrooms, laundry, TV/study, balcony, internal lift and stair access, external drying terrace;
 - o Level 2: open plan kitchen/living/dining, butlers pantry, powder room, balcony, internal lift and stair access;
 - o Level 3: master bedroom with ensuite, WIR and balcony, internal lift and internal stair access and external stair access to roof top terrace; and
 - o Roof: roof terrace and roof

- Access driveway and internal driveway,
- Landscaping, and
- Stormwater infrastructure.

Application History

13 August 2024 - Development Application (DA) accepted by Council.

15 August 2024 - DA notified in accordance with Northern Beaches Community Participation Plan (NBCPP)

30 August 2024 - Biodiversity Referral Response - Supported subject to conditions

4 September 2024 - Ausgrid Referral Response - Supported subject to conditions

19 September 2024 - Coastal Referral Response - Supported subject to conditions

1 October 2024 - Site inspection

4 October 2024 - Development Engineer Referral - Not Supported (Request for Additional Information)

15 October 2024 - Site inspection of 324 Whale Beach Road (adjoining property to the south)

29 October 2024 - Aboriginal Heritage Referral - Supported subject conditions

15 November 2024 - Roads and Assets Referral - Supported subject to conditions

20 November 2024 - Request for Further Information (RFI) Letter sent to the applicant with the following issues:-

- Front Building Line
- Excavation / Objectives of the C4 Environmental Living zone
- View Sharing
- Boundary Envelope
- Driveway / Engineers

27 November 2024 - Concept Plans for discussion issued by the applicant to Council

28 January 2025 - Amended Architectural Plans, Landscape Plans, Addendum to the Geotechnical Report, Amended BASIX and NatHERS Certificates, Amended Stormwater and Driveway Plans submitted by the applicant

31 January 2025 - Development Engineers Referral - Supported subject to conditions

31 January 2025 - Site inspection

13 February 2025 - Informal re-notification to the owner of 324 Whale Beach Road

27 March 2025 - Site inspection

1 April 2025 - Roads and Assets Referral - Supported

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 - Zone C4 Environmental Living
Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings
Pittwater Local Environmental Plan 2014 - 7.2 Earthworks
Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards
Pittwater 21 Development Control Plan - A4.12 Palm Beach Locality
Pittwater 21 Development Control Plan - B3.1 Landslip Hazard
Pittwater 21 Development Control Plan - B6.2 Internal Driveways
Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill
Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan
Pittwater 21 Development Control Plan - C1.3 View Sharing
Pittwater 21 Development Control Plan - C1.4 Solar Access
Pittwater 21 Development Control Plan - C1.5 Visual Privacy
Pittwater 21 Development Control Plan - C1.7 Private Open Space
Pittwater 21 Development Control Plan - C1.19 Incline Passenger Lifts and Stairways
Pittwater 21 Development Control Plan - C1.23 Eaves
Pittwater 21 Development Control Plan - C1.25 Plant, Equipment Boxes and Lift Over-Run
Pittwater 21 Development Control Plan - D12.1 Character as viewed from a public place
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 - D12.8 Building envelope
Pittwater 21 Development Control Plan - D12.13 Construction, Retaining walls, terracing and undercroft areas

SITE DESCRIPTION

Property Description:	Lot 317 DP 16362 , 326 Whale Beach Road PALM BEACH NSW 2108
Detailed Site Description:	The subject site consists of one (1) allotment located on the western side of Whale Beach Road. The site is irregular in shape with a frontage of 15.24m along Whale Beach Road and a depth of 36.355m. The site has a surveyed area of 538.5m². The site is located within the C4 Environmental Living zone and accommodates a two storey dwelling, with a detached double garage accessed via a partially shared driveway to Whale Beach Road. The land falls significantly from a large rock outcrop at the upper rear boundary down towards the street, with an average slope in excess of 60%. The site does not contain any significant vegetation. The site is surrounded by large dwelling houses of varying age and character, that are oriented towards available ocean views.

Map:



SITE HISTORY

BC0183/07 - A two storey brick, timber and stone sole occupancy dwelling with a tile roof together with a detached garage issued 2 November 2007

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)(iiia) – 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>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested on 20 November 2024 in relation to front building line, excavation/objectives of C4 Environmental Living zone, view sharing, building envelope and driveway/engineers. On 28 January 2025 Council received amended architectural plans, landscape plans, addendum to the geotechnical report, amended stormwater and driveway plans, BASIX and NatHERS Certificates.

Section 4.15 Matters for Consideration	Comments
	<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>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 impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. (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 application has been publicly exhibited from 21/08/2024 to 04/09/2024 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 1 submission/s from:

Name:	Address:
Dfp Planning Pty Ltd Ms Rachel Mary O'Brien Leighton O'Brien	11 Dartford Road THORNLEIGH NSW 2120

Two (2) submissions were received—one from the owner of 324 Whale Beach Road, Palm Beach, and one from a

planning consultant acting on their behalf. In accordance with the Northern Beaches Community Participation Plan (NBCPP), these are treated as a single (1) submission.

The issues raised within the submission are addressed below:

- **Excavation**

A submission was received from the planning consultants engaged by the owners of 324 Whale Beach Road (to the south), raising concerns regarding the proposed excavation. The submission reviewed the original and addendum Geotechnical Reports prepared by Crozier Geotechnical Consultants, the amended architectural plans (Revision 2), the survey of the subject site, and included a site inspection and review of the approved plans for DA2024/0624 at 324 Whale Beach Road. That application was approved on 24 July 2024 by the Development Determination Panel (DDP) for alterations and additions to a dwelling house and a detached studio, incorporating a 36.1% variation to the 8.5m building height standard under PLEP 2014.

Key Issues Raised:

- Excavation up to a maximum depth of 12m.
- Excavation to form the lower terrace at Level 1 is proposed within 0.25m of the southern boundary (shared with 324 Whale Beach Road).
- The terrace and retaining walls encroach within the 2.5m side setback required by the DCP.
- The Geotechnical Report is largely based on interpreted data and assumptions and does not sufficiently address concerns regarding risks associated with excavation so close to the boundary, thereby not complying with the DCP side setback controls.

The submission highlighted concerns with the development when assessed against the controls, specifically opposing the southern terrace and associated excavation works due to the lack of assurance that the development would comply with:

- Objective (i) of Clause 1.2 of the Pittwater LEP 2014 (*"to minimise risks to the community in areas subject to environmental hazards including climate change"*),
- Objectives (1)(a) and (c), and provisions of sub-clauses (2), (3), and (4) of Clause 7.7 (Geotechnical Hazards) of the PLEP,
- Section B3.1 (Landslip Hazards), and
- Appendix 5 (Geotechnical Risk Management Policy) of the Pittwater DCP 2021.

Comment:

Council's Development Engineers have reviewed the Geotechnical Reports and amended plans and support the proposal, subject to recommended conditions.

Council's Planner has reviewed of the extent of the proposed terrace at Level 1 and the retaining walls adjacent to the southern boundary. A reduction in the width of the terrace area is considered appropriate to address concerns raised in the submission while maintaining necessary light and ventilation access in accordance with the National Construction Code (NCC) for Bedroom 3 (Level 1) and the powder room (Level 2).

To balance these competing considerations—compliance with NCC, the variation sought to Clause D12.6 (Side and Rear Building Line) of the Pittwater DCP, and the objections raised—it is recommended that a condition be

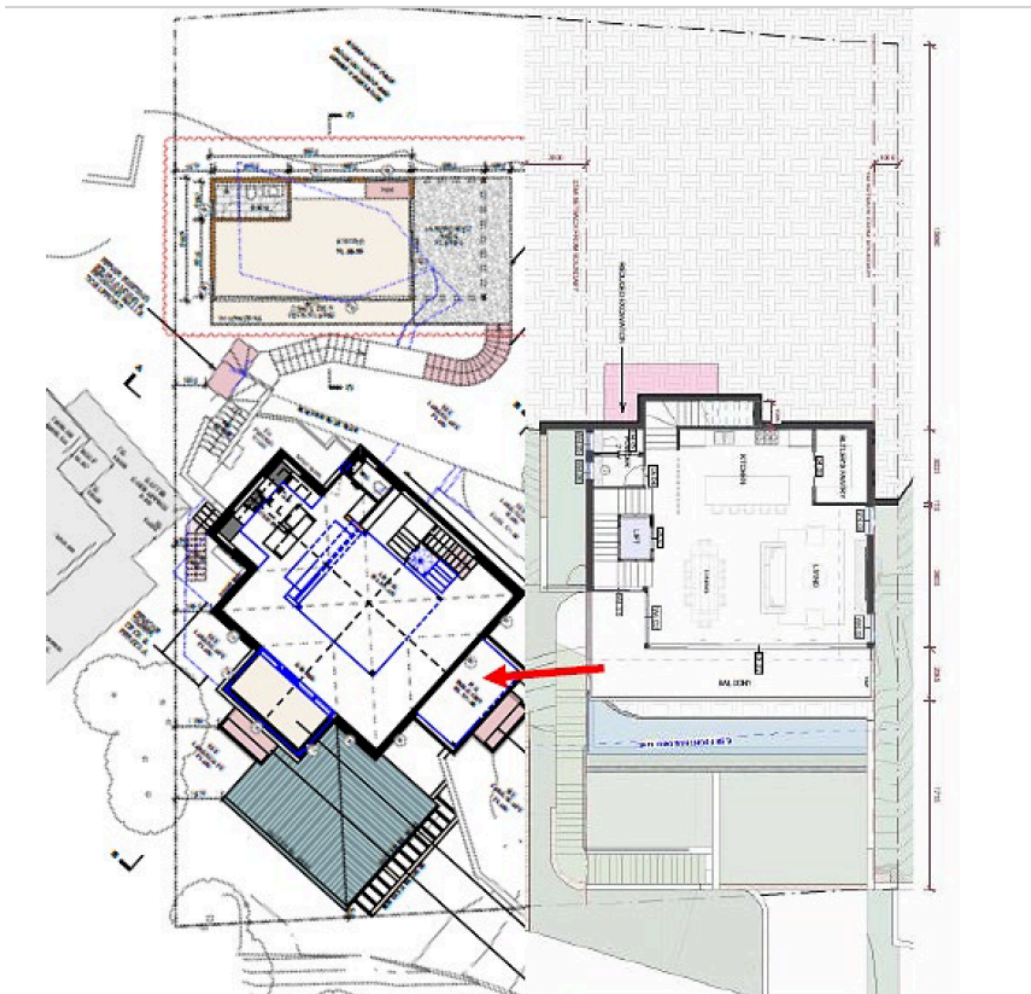
imposed requiring:

- A minimum setback of 1.5m from the southern boundary for the retaining wall (noting the walls 0.3m width),
- This would result in a residual 0.7m clearance between the retaining wall and the southern boundary, providing sufficient space for light, ventilation, and maintenance access.

In addition, the development is found to be satisfactory with the relevant provisions of Clause 7.7 (Geotechnical Hazards) of the PLEP 2014, Section B3.1 Landslip Hazard, and Appendix 5 (Geotechnical Risk Management Policy) of the Pittwater DCP 2021.

• **Privacy**

Privacy concerns were raised by the planning consultants acting on behalf of the owners of 324 Whale Beach Road. These concerns relate primarily to potential overlooking from the Level 1 and Level 2 balconies of the proposed dwelling at 326 Whale Beach Road into the habitable rooms and balcony of their property. It is noted that the existing dwelling and garage at 324 Whale Beach Road are oriented to the north-east, positioning the primary outlook of the residence towards the shared side boundary with 326 Whale Beach Road. This orientation increases the sensitivity of any potential overlooking impacts from the proposed development and has been a key consideration in Council's assessment.



Figures 1 & 2 - Extract from consultants submission on behalf of the owner of 324 Whale Beach Road

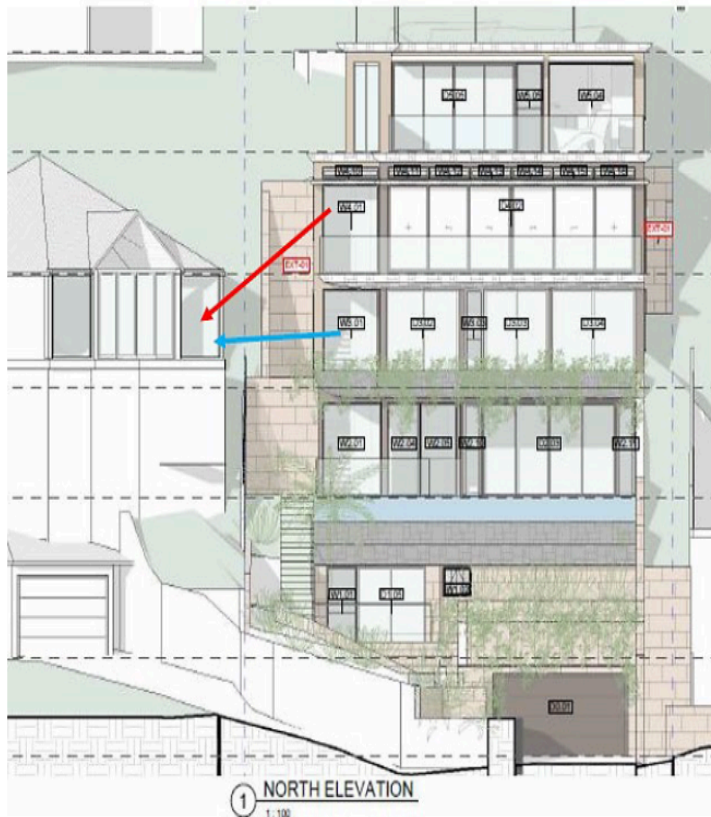


Figure 4: Composite elevations showing overlooking from the proposed level 1 and 2 balconies of 326 Whale Beach Road to the balcony of 324 Whale Beach Road.

The submission recommended that:

- "a. The existing lattice privacy screen be retained,
- b. The proposed southern wrap-around portion of the Level 2 balcony be deleted, and
- c. Effective screening or design measures be implemented to ensure mutual privacy between the Level 1 balcony of 326 and the Level 2 balcony of 324 Whale Beach Road."

Comment:

A detailed assessment of the amended architectural plans (Revision 2) has been undertaken, including consideration of the recommendations from the submission.

(a) The lattice privacy screen cannot be retained as the development proposes full demolition of the existing dwelling and garage.

(b) It is agreed that the southern wrap-around section of the Level 2 balcony be deleted. A condition to this effect is recommended.

(c) The southern wrap-around section of the Level 1 balcony will also be deleted, and the planter box relocated to this area as a privacy measure. This will also be secured via condition.

Conclusion:

All relevant issues raised in the submission have been fully considered as part of the assessment. Where appropriate, amendments to the design have been recommended via consent conditions to achieve a balanced and reasonable planning outcome that addresses amenity, privacy, environmental risk, and compliance with Council's planning controls.

- **Potential view loss & Potential impacts on the retaining wall of the driveway to 324 Whale Beach Road**

Comment:

It is noted that both these issues were not raised within the recent submission from the planning consultant on

behalf of the owner of the 324 Whale Beach Road.

Please refer to Clause 1.3 Views Sharing of P21DCP.

Regarding the retaining wall please refer to the comments from Council's Development Engineer under the heading 'REFERRALS'.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	The comments in this referral relate to the following applicable controls and provisions: • SEPP (Resilience and Hazards) 2021 - Coastal Environment Area • Pittwater LEP Clause 7.6 Biodiversity Protection • Pittwater DCP Clause B4.17 Littoral Rainforest Endangered Ecological Community The proposal would take place in a heavily disturbed area and will not require the removal of any prescribed trees. Important habitat features are present on the Western half of the site which should not be impacted by the proposed works. The submitted landscape plan is consistent with applicable controls and has not included any plants identified as weeds that could impact the littoral rainforest. The development is designed, sited and will be managed to avoid any significant adverse environmental impact.
NECC (Coast and Catchments)	SUPPORTED WITH CONDITIONS This application was assessed in consideration of: • Supplied plans and reports; • State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.11 & 2.12); • Relevant LEP and DCP clauses. State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021. Hence, Clauses 2.11 and 2.12 of the CM (R & H) apply for this DA. Comment: On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Northern Beaches Planning dated July 2024 the DA satisfies requirements under clauses 2.11 and 2.12 of the SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021 Pittwater LEP 2014 and Pittwater 21 DCP No other coastal related issues identified. As such, it is considered that the application does comply with the requirements

Internal Referral Body	Comments
	of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.
NECC (Development Engineering)	The proposed development includes significant excavation of the road reserve in order to accommodate the proposed garage level. The current driveway crossing will need to be reinstated to suit the crossing which will require retaining walls in the road reserve. As the road reserve will be impacted by the proposal, comments and concurrence from Council's Road Asset Team must be provided. It is considered that if the Road Asset Team support the proposed new driveway crossing, Civil Engineering drawings for the proposed works including sections indicating the existing and proposed levels must be provided for assessment. The plans must include all retaining walls, battering etc. Sight distances in accordance with AS/NZS2890.1:2004 must also be considered in the design. The driveway crossing levels are to be designed to ensure no flows from Whale Beach Road enter the proposed garage. Any proposed landscaping in the road reserve will need to be assessed by Council's Landscape Officer. The submitted stormwater plan indicates the provision of a new stormwater outlet to the road which could impact an existing retaining wall. It is considered that the Civil Engineering plans requested for the new driveway crossing must also include the new outlet pipe location. The submitted Geotechnical report addresses the relevant DCP controls. Development Engineering cannot support the proposal due to insufficient information to address vehicular access in accordance with clause B6. Amended plans submitted 28/01/2025 The amended plans have addressed the previous issues raised. Development Engineering support the proposal, subject to conditions as recommended.
Road Reserve	No in principle objections to the proposed walls or driveway on the road reserve however Development Engineering shall provide conditions requiring a Road Act application that includes appropriate geotechnical and structure details and conditions of approval are to include that the property owner (current and future) are responsible for the maintenance and repairs of the walls and any landscaping into the future. Therefore the proposal is supported 1/4/25 Updated set reviewed. No further comments

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.
Aboriginal Heritage Office	The Aboriginal Heritage Office has provided the following comments: "Reference is made to the proposed development at the above area and Aboriginal heritage. No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites. Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development. Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects

External Referral Body	Comments
	are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted."

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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1755766S_02 dated 20 January 2025).

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 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as

follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - f) Aboriginal cultural heritage, practices and places,
 - g) the use of the surf zone.

Comment:

This Clause is relevant to the subject site. The proposed works are generally sited to the existing building footprint, notwithstanding with some additional works to the front and rear. Council's Coast and Catchments Officer has reviewed the proposed development and no issues were identified. In this instance, Council, as the consent authority, has considered the matters as prescribed above and is satisfied the proposal does not have an adverse impact upon these matters.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

This Clause is relevant to the subject site. The proposed works are generally sited to the existing building footprint, notwithstanding with some additional works to the front and rear. Council's Coast and Catchments Officer has reviewed the proposed development and no issues were identified. In this instance, Council, as the consent authority, is satisfied that the proposed development has been designed, sited and will be managed appropriately to avoid an adverse impact upon the matters as prescribed in subclause (1).

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - iv) Aboriginal cultural heritage, practices and places,
 - v) cultural and built environment heritage, and
 - b) is satisfied that:

- i) the development is designed, sited and will be managed to avoid an adverse impact
 - ii) referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

This Clause is relevant to the subject site. The proposed works are generally sited to the existing building footprint with some additional works to the front and rear. Council's Coast and Catchments Officer has reviewed the proposed development and no issues were identified. In this instance, Council, as the consent authority, has considered the matters as prescribed above and is satisfied the proposal does not have an adverse impact upon these matters.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

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.

Comment:

The proposed development is unlikely to increase the risk of coastal hazards.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

The proposed development does not require the need for a coastal management program.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (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:	10m*	2.3m - 9.6m	-	Yes

* Pursuant to Clause 4.3 (2D) a height of 10m applies where slope under the proposed building footprint site exceeds 30%. The slope in this instance is estimated at 79%.

Compliance Assessment

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

Detailed Assessment

Zone C4 Environmental Living

The proposed development involves demolition works of the existing dwelling house and associated structures and construction of a new dwelling house, garage, swimming pool and associated landscaping works. Dwelling houses are permissible with consent in the C4 Environmental Living zone. The proposal is considered against the objectives of the zone as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment:

The area of the site that is subject to the development has been subject to previous disturbance by previous development. The proposed development will maintain sufficient landscape open space and subject to conditioning suitable native plants, shrubs and trees will be able to be planted and grow which will soften the visual impacts of the development when viewed from Whale Beach Road. Furthermore, the proposed development will be appropriately sited and scaled, such that the works will not unreasonably detract from the visual qualities of the locality.

Overall, the development is considered to have an acceptable impact upon the ecological, scientific or aesthetic values of the area.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment:

As demonstrated above, the proposed development does not have an adverse effect on the ecological, scientific or aesthetic values listed above.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

Comment:

The proposed development will require removal of some vegetation and this will be replaced with appropriate landscaping both on site and at the front of the site. Furthermore, the building height steps up with the slope of the land, which visually reduces the built form and sensitively responds to the natural topography. The proposal also does not change the existing low density residential land use and the scale of the development is commensurate with nearby residential development within the locality. Overall, the proposal meets this objective.

- To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.

Comment:

The proposal does not result in the removal of the vegetation in the rear portion of the site. Conditions have been included with this consent to mitigate impacts to this vegetation and incorporate plants surrounding the dwelling including planter boxes above the garage and the balcony on level 1.

Conclusion

As demonstrated above, the proposed development satisfies the objectives of the C4 Environmental Living zone.

4.3 Height of buildings

The site is located within Area I on the Pittwater LEP 2014 Height of Buildings Map. Within this area, the maximum building height permitted is 8.5m above the existing ground level. The maximum height of the proposed development is 10m above the existing ground level, which exceeds the 8.5m prescribed requirement.

Notwithstanding, Clause 4.3(2D) of the Pittwater LEP 2014 contains an exemption provision that stipulates that the maximum building height within Area I can be increased to 10m, providing the following is demonstrated:

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

Comment:

The areas of the dwelling house that protrude above the 8.5m height plane are confined to minor portions of the roof terrace within these portions of the dwelling. The breaches occur for a horizontal length of 1.6m for a vertical length of 1m on the roof terrace. Figure 3 (Section 1) below depicts the areas that protrude above the 8.5m height plane. These areas above the 8.5m height limit are considered minor given the low percentage (1.2%) these areas demonstrate overall versus the high percentage (98.8%) of the building demonstrates compliance with the 8.5m height control.

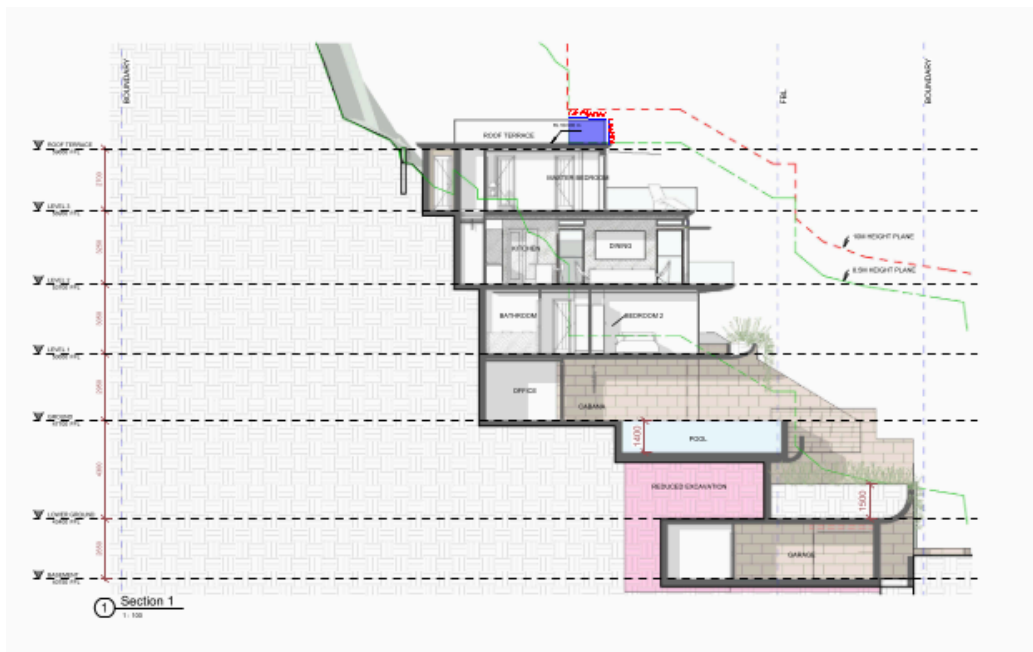


Figure 3: Area above 8.5m height plane highlighted in purple and calculation of slope under the building footprint

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

Comment:

A detailed assessment against the objectives of Clause 4.3 of Pittwater LEP 2014 is provided below. In summary, the proposal is found to be consistent with the objectives of this clause.

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

Comment:

The slope of the land under the building footprint is 26.4 degrees (49.6%).

(d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.

Comment:

The building provides a terraced style design that steps down in height with the slope of the land to integrate with the landform and landscape.

When considered against the objectives of Clause 4.3 of Pittwater LEP 2014, it is noted as follows:

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

Comment:

The built form is considered consistent with the desired scale of development within low density residential areas. Sufficient areas of landscaped open space will be maintained allowing for the planting of native plants, shrubs and trees to be into the proposal.

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

Comment:

The height, bulk and scale of the proposed development is commensurate with established low density residential development within the Palm Beach area.

(c) to minimise any overshadowing of neighbouring properties,

Comment:

The adjacent properties (324 & 328 Whale Beach Road) are already significantly overshadowed on June 21 (winter solstice) by the existing development on the subject site and due to the steep terrain shadowing that is created due to the topography. The overshadowing is largely attributed to the northeast-southwest orientation of the allotments and the steep topography that rises up from the street. The minor areas of the proposed roofline that exceed the 8.5m height plane do not contribute to a materially worsen impact to the adjacent property with regards to solar access to warrant refusal and/or further amendment via condition(s). Thus, the development is considered acceptable in this regard. It is further noted that the subject site itself receives limited sunlight due to the slope of the land and orientation of the allotments.

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

Comment:

This matter is discussed in detail within the section of this report relating to Clause C1.3 of the Pittwater 21 DCP. In summary, it is concluded that the proposal allows for reasonable view sharing.

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

Comment:

The proposal steps down in height with the slope of the land to integrate with the landform and landscape. Thus, it is

considered that the proposal responds sensitively to the natural topography.

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

Comment:

The site does not contain a heritage item, is not located within a heritage conservation area and is not located in close proximity to heritage items. Therefore, the proposal will not have an adverse impact upon environmental and built heritage. The chosen colours and materials also harmonise with the coastal setting.

Conclusion

Having regard to the above assessment, it is concluded that the proposal satisfies the requirements of Clause 4.3(2D) of Pittwater LEP 2014. Therefore, the 10m maximum building height is applied to the site. The maximum height of the proposed development is 9.6m above the existing ground level, which complies with the 10m dispensation.

7.2 Earthworks

The objective of Clause 7.2 - '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 (subject to conditions).

(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 including a request for a dilapidation reports for all adjoining properties (324 & 326 Whale Beach Road, Palm Beach and 13, 15 & 17 Pacific Road, Palm Beach).

(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 excavation works are generally limited to previously disturbed areas of the site and thus, the earthworks are not likely to disturb relics.

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

Comment:

Council's Biodiversity and Coastal Officers have reviewed the application and are satisfied that the proposal is not likely to have an adverse impact upon the foreshore vegetation, subject to adherence to the conditions of consent.

(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.

Conclusion

Having regard to the above assessment, it is concluded that the proposed development is consistent with Clause 7.2 of Pittwater LEP 2014, subject to conditions.

7.7 Geotechnical hazards

Under Clause 7.7 Geotechnical Hazards, before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

- (a) site layout, including access,*
- (b) the development's design and construction methods,*
- (c) the amount of cut and fill that will be required for the development,*
- (d) waste water management, stormwater and drainage across the land,*
- (e) the geotechnical constraints of the site,*
- (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment

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

Development consent must not be granted to development on land to which this clause applies unless:

- (a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and*

Comment

The proposed development is supported by a geotechnical risk assessment and stormwater management plans that

demonstrate waste water, stormwater and drainage are suitably managed on site. The application has been reviewed by Council's Development Engineer, who is supportive of the proposal, subject to conditions of consent.

(b) the consent authority is satisfied that:

(i) the development is designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, or

(ii) if that risk or impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that risk or impact, or

(iii) if that risk or impact cannot be minimised - the development will be managed to mitigate that risk or impact.

Comment

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

Conclusion

Having regard to the above assessment, it is concluded that the proposal satisfies the requirements of Clause 7.7 of Pittwater LEP 2014, subject to conditions.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m (east)	Garage: 1.34m - 1.8m	72.3% - 79.4%	No
		Lower ground: 0.3m* - 6.1m (Gym)	6.2% - 95.4%	No
		Ground: 4.9m* - 5.8m (swimming pool)	10.8% - 24.6%	No
		Level 1: 6.85m* - 8.1m	-	Yes
		Level 2: 7.715m	-	Yes
		Level 3: 9.8m	-	Yes
Rear building line	6.5m (west)	12.7m	-	Yes
Side building line	2.5m (south)	0.6m - 2.5m	Nil - 76%	No
	1m (north)	1m	-	Yes
Building envelope	3.5m (south)	Breach of 1.9m (length) x 3.2m (height)	91.4%	No
	3.5m (north)	Breach of 3.7m (length) x 3m (height)	85.7%	No
		Breach of 4m (length) x 2m (height)	57.1%	No
Landscaped area	60% (323.1m ²)	63.5% (341.7m ²)**	-	Yes

* Planter boxes

** Includes 6% variation allowable for impervious landscape for outdoor recreational areas (32.3m²)

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
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.17 Littoral Rainforest - Endangered Ecological Community	Yes	Yes
B5.15 Stormwater	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	No	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	No	Yes
C1.23 Eaves	No	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D12.1 Character as viewed from a public place	No	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	No	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	No	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes
Appendix 5 - Geotechnical Risk Management Policy for Pittwater	Yes	Yes

Detailed Assessment

A4.12 Palm Beach Locality

The development is generally consistent with the desired character statement of the Palm Beach Locality with exception of the dwelling being four (4) storeys above ground level and two (2) storeys below ground level.

Specifically, the locality statement provides that the *"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"*.

The fourth storey element is a result of the basement carparking level and lower ground floor, which is a site specific response to providing adequate access, while maintaining compatible with the natural landform and surrounding residential development. In addition, sites situated along the southern side of Whale Beach Road similarly display three (3) and four (4) storey developments with basement carparking. In addition, the amended proposal has made clear attempts to limit the extent of excavation to only what is required to provide sufficient access to the garage level. Additionally, the lightwell/retaining wall/terrace on level 1 will be conditioned to have a minimum 1.5m side setback to the southern side setback, further reducing the amount of excavation. Overall, the dwelling appropriately responds to

the topography of the site, while minimising excavation (subject to conditions).

In this regard, the built form will sit comfortably with surrounding two (2), three (3) and four (4) storey residential developments. Further, proposed landscaping, in conjunction with existing and required landscaping by recommended conditions contained within this report, will assist to visually screen the bulk and scale of the built form and integrate the built form into the landscape.

On balance, the proposal is considered consistent with the desired future character of the Palm Beach locality.

B3.1 Landslip Hazard

See development engineer's comments and Clause B8.1 for further detail.

B6.2 Internal Driveways

Council's Development Engineers have reviewed the proposal and are satisfied that appropriate access can be facilitated for the site subject to imposed conditions.

B8.1 Construction and Demolition - Excavation and Landfill

As highlighted by Council's Development Engineer earlier in this report, the proposal include excavation exceeding 11m in depth. In order to address the requirements of this clause, the applicant submitted the original and addendum Geotechnical Reports, certified forms 1 and 1A. Council's Development Engineer reviewed these documents, and raised no objections, subject to conditions as recommended. It is therefore considered that supporting information submitted addresses concerns relating to potential impact of excavation on land stability.

Based on the above, the proposal is considered to therefore meet the outcomes of the control and is supported on merit in this particular instance.

B8.6 Construction and Demolition - Traffic Management Plan

A condition has been imposed requiring the applicant to submit an application for a Construction Traffic Management Plan (CTMP) to Council for approval prior to issue of the Construction Certificate.

The CTMP shall be prepared to RMS standards by an appropriately certified person and further conditions are imposed to ensure this will be implemented during demolition and construction works.

C1.3 View Sharing

Merit consideration

A view assessment has been considered from 324 Whale Beach Road.

The development is considered against the underlying Outcomes of the Control as follows:

- *A reasonable sharing of views amongst dwellings.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

Water views are achieved over the northern side boundary, eastern front boundary and southern side boundary. Distant headlands views are available over the northern side boundary.

2. What part of the affected property are the views obtained

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

Comment to Principle 2:

As discussed above the water views are achieved over the northern side boundary, eastern front boundary and southern side boundary. Distant headlands views are available over the northern side boundary.

3. Extent of impact

"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating".

Comment to Principle 3:

Based on this assessment the view loss to 324 Whale Beach Road is considered to be negligible given the existing view over the northern side boundary is currently obscured by the privacy screen which is located 8.3m from the eastern front boundary and on the southern side boundary (see photo below) attached to the garage at 326 Whale Beach Road. The garage and the screen will be demolished as part of this development application and the new retaining wall/light well to be built as part of the new dwelling will be located 12.8m from the front eastern boundary and positioned at 1.5m away from the southern side boundary (via condition).

Given the above it is considered that the view angle will be opened up allowing better opportunities for view sharing from 324 Whale Beach Road.

Photo 1: View from front balcony at 324 Whale Beach Road



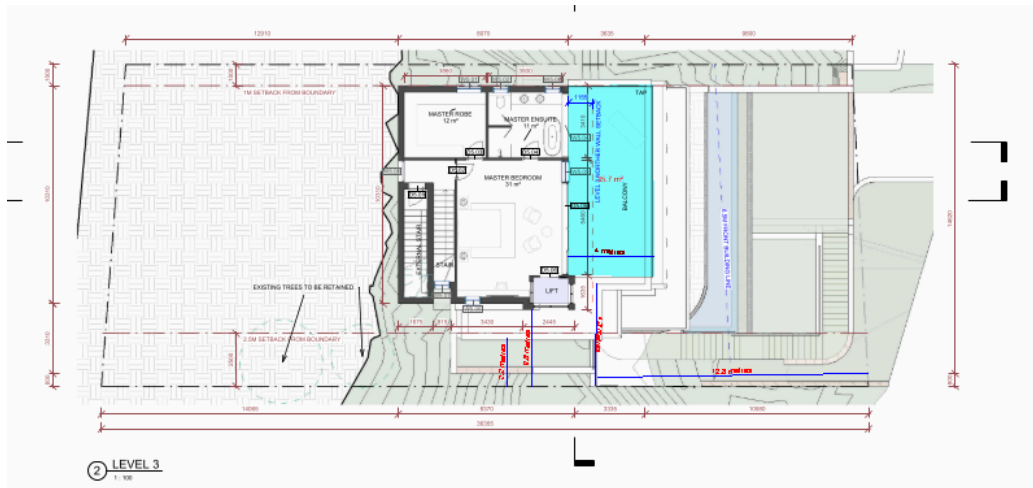


Figure 5 - Level 3 Plan with the proposed retaining wall 12.8m from the eastern front boundary and conditioned 1.5m off the southern side boundary

4. Reasonableness of the proposal that is causing the impact

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."

Comment to Principle 4:

It is noted that the proposed dwelling house has a number of non-compliances created mainly due to the very steep terrain of the site. However, the amended design and specific conditions including as part of this assessment will ensure the development is considered acceptable and view sharing is reasonable.

- Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced.

Comment: Views and vistas from Whale Beach Road and public places to the water and headlands will be protected, maintained and enhanced.

- Canopy trees take priority over views.

Comment: The proposed development does not unreasonably impact upon protected trees and maintains two (2) existing trees in the rear yard.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 / P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C1.4 Solar Access

Private Open Space

It is important to note that the areas of private open space for 324 and 328 Whale Beach Road currently do not receive the required amount of solar access on June 21 as a consequence of the northeast-southwest orientation of the allotments, the steep topography that falls towards the northeast and the existing development on the subject site.

Windows to the principal living area

328 Whale Beach Road

The living room and kitchen are located on the third floor level of the dwelling and given its position closer to the front northeastern boundary than the proposed dwelling at 326 Whale Beach Road (subject site) it is considered that the proposal will receive a minimum of 3 hours of sunlight between 9am and 3pm on 21 June.

324 Whale Beach Road

The living room and kitchen are located on the second floor level of the dwelling and given its position closer to the front northeastern boundary than the proposed dwelling at 326 Whale Beach Road (subject site) it is considered that the proposal will receive a minimum of 3 hours of sunlight between 9am and 3pm on 21 June.

Solar collectors electricity or hot water

324 Whale Beach Road

The approved solar system on top of the garage at 324 Whale Beach Road has been assessed to receive the required six (6) hours of sunshine between 8:00 AM and 4:00 PM during midwinter, given its position at the front of the property.

Additionally, the approved solar system on the studio roof (RL62.78) is situated higher than the proposed dwelling at 326 Whale Beach Road. However, as the studio roof is tilted towards the rear boundary, and considering both its northern orientation and the need to tilt the panels upwards, it may not fully meet the solar access requirement.

Furthermore, the orientation and position of the dwelling at 324 Whale Beach Road—facing northeast and positioned near the northern side boundary—reduces the likelihood of the solar system on the main dwelling achieving full compliance with this requirement.

Given the steep terrain within this area of Whale Beach Road, a variation to this requirement is considered supportable in this instance.

C1.5 Visual Privacy

Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)

However, to ensure a high level of amenity is achieved for the subject site and those adjoining, some windows, doors, and outdoor balconies require further treatment. Accordingly, conditions have been recommended.

Given the height of Level 3 and its proximity to adjoining properties, the following conditions are recommended:

Window W5.07 (Stairwell): To be treated with obscured/frosted glazing.

Page 26 of 56

material.

Windows W5.01 (Master Robe), W5.02, and W5.03 (Master Ensuite): To be treated with obscured/frosted glazing up to 1.5m or provided as a highlight window with a minimum sill height of 1.5m above the finished floor level.

Southern wrap-around section of the balcony (adjacent to the lift): To be deleted.

These conditions are considered necessary to maintain reasonable amenity for both the subject site and adjoining dwellings.

All other windows and doors on this level face either the front or rear boundaries and are not considered to result in unreasonable overlooking of the neighbouring properties at 324 and 328 Whale Beach Road.

Second Floor

Given the high usage of the living, dining, and kitchen areas, the following conditions are recommended for side-facing windows:

Windows W4.02, W4.03, and W4.04: To be treated with obscured/frosted glazing up to 1.5m or designed as highlight windows with a minimum sill height of 1.5m above the finished floor level.

Windows W4.05 and W4.06 (Powder Room): To be fitted with obscured/frosted glazing.

Window W4.01 and Door D4.02 face the front boundary and are not considered to result in unreasonable overlooking of 324 and 328 Whale Beach Road.

First Floor

Window W3.07 (Bedroom 3) and Door D3.07 are oriented to the south but are screened by a proposed retaining wall, ensuring reasonable amenity for 324 Whale Beach Road.

Window W3.02 (Study/TV Room): Located within 9m of the southern side boundary and to be treated with obscured/frosted glazing up to a minimum height of 1.5m from finished floor level or designed as a highlight window with the same sill height.

The southern wrap-around section of the balcony is to be deleted, and the proposed planter box is to be relocated to this area (adjacent to Window W3.02).

Windows to Bedroom 1 (W3.04 & W3.05) and the Ensuite (W3.06) are considered low-use and are acceptable in this instance.

Ground Floor

Door D2.01 and Windows W2.02 and W2.03 are sufficiently set back from the southern side boundary and are located below natural ground level. These elements are considered to maintain a reasonable level of amenity for both the subject site and 324 Whale Beach Road.

All other windows and doors at this level are oriented to the front boundary and are not considered to cause any unreasonable privacy impacts on neighbouring properties/dwellings.

Lower Ground and Basement Levels

At the Lower Ground Level, the proposed gym features windows oriented toward the front boundary. These are not considered to result in unreasonable overlooking of neighbouring properties/dwellings.

The Basement Level contains no habitable rooms or windows, and therefore does not raise any amenity concerns.

Conclusion on Visual Privacy:

Subject to the recommended conditions, the proposed development is considered to achieve an appropriate balance between design and privacy and is acceptable with regard to visual privacy provisions.

A Sense of Territory and Safety is Provided for Residents (S)

The proposed development provides a clear delineation between public and private spaces through appropriate setbacks, screening, and landscaping. It achieves a satisfactory level of safety and territorial definition for the future occupants of the dwelling and for adjoining neighbours (subject to conditions).

Overall Conclusion

Having regard to the above assessment, the proposed development is considered consistent with the relevant outcomes of the Pittwater 21 Development Control Plan and the objectives set out in Section 1.3 of the Environmental Planning and Assessment Act 1979. Accordingly, the proposal is supported in this instance.

C1.7 Private Open Space

Description of non-compliance

The P21DCP requires a minimum of 80m² of dedicated private open space for residential sites in this locality. The proposal provides 56.6m² of land/balcony that qualifies as private open space, resulting in a non-compliance with this control.

This non-compliance arises due to the site's composition and topography, which is steep. The site's slope presents grades unsuitable for the recreational and service activities intended for private open space, making strict compliance challenging.

Notwithstanding this, the proposal has been assessed on its merits against the relevant objectives outlined below.

Merit Consideration

The outcomes of the control require:

Dwellings are provided with a private, usable and well-located area of private open space for the use and enjoyment of the occupants.

Comment: The site provides open space of reasonable dimensions at the front and roof (terrace) of the new dwelling. This space is considered suitable for both recreational and service functions.

Private open space is integrated with, and directly accessible from, the living areas of dwellings.

Comment: The front balconies constitute the majority of the available open space and are directly integrated with the dwelling's living areas.

Private open space receives sufficient solar access and privacy.

Comment: The private open space is located at the front of the dwelling and while the level of privacy is not fully achieved, the solar access is adequate and complies with the relevant control of the P21DCP (Clause C1.4 Solar Access).

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C1.19 Incline Passenger Lifts and Stairways

Description of non-compliance

The proposal includes the addition of an external staircase and landing located adjacent the site's southern side boundary. This staircase and landing is provided external access from the front portion to the dwelling house.

The location of this staircase (1.3m from the southern side boundary) results in non-compliance (0.7m - 35% variation) with the control as it is not set back 2 meters from the side boundary.

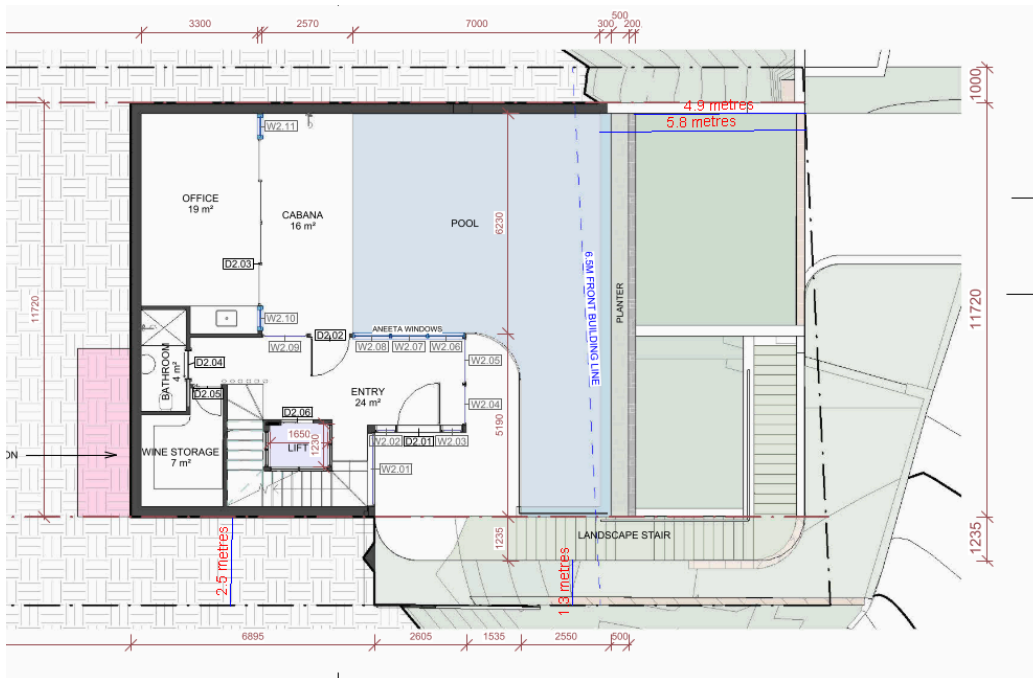


Figure 7: Location of proposed landscape stair and landing

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *Incline passenger lifts and stairways that cause minimal visual and acoustic disturbance to the environment and neighbours. (En, S)*

Comment:

Given the steep slope of the site, it is considered reasonable to provide an external staircase/landing to the dwelling to provide access between levels. As the function of staircases is to provide access between levels and are not typically used for long periods of standing this proposal is not considered to result in unreasonable amenity impacts.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of the P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C1.23 Eaves

Description of non-compliance

Clause C1.23 Eaves of Pittwater 21 Development Control Plan requires dwellings to incorporate eaves on all elevations with a minimum width of 450mm. The proposed new dwelling include eaves with a width that is less than 450mm.

The underlying Outcomes of this clause are as follows:

- *Housing that reflects the coastal heritage and character of Pittwater.*
- *Optimise roof forms.*
- *Appropriate solar access and shading is achieved.*

Merit consideration

It is considered that the overall design reflects a dwelling house that is suitable and consistent with the coastal character of Pittwater. The proposal incorporates a flat roof form for the dwelling and is accompanied by a BASIX Certificate that demonstrates appropriate solar access and appropriate shading will be achieved. It is also noted that the proposed development satisfies the necessary commitments of the BASIX SEPP.

For the reasons outlined above, it is concluded that the outcomes of the clause are achieved and is supported on merit in this particular circumstance.

C1.25 Plant, Equipment Boxes and Lift Over-Run

Conditions for the use of the lift have been imposed to ensure consistency with this control.

D12.1 Character as viewed from a public place

Merit Consideration

Clause D12.1 Character as viewed from a public place stipulates that parking structures should not be the dominant feature when viewed from the street and should be set beyond the prescribed building setback line with a width no greater than 50% of the width of the site or 7.5m, whichever is lesser.

The control may permit a variation for parking spaces within the front setback area where site constraints limit location.

The proposed garage is setback 1.34m - 1.8m from the front boundary and is suspended in design due to the site topography. The non-compliant front setback as a result of the garage is assessed under Clause D12.6 Front building line, listed below in this report. The garage design however, provides a width of 6.6m, and is lesser than 50% of the lot frontage.

Due to the steep slope of the subject site, the garage design is considered reasonable in relation to the spatial characteristics of the existing built environment within the immediate vicinity.

It is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

D12.5 Front building line

(Description of non-compliance)

The proposed garage (located on the basement with the proposed bin storage, plant room, rainwater tank, storage, lobby, access stairs and lift) is located garage is located 1.34m - 1.8m from the front boundary, presenting a variation of 72.3% - 79.4%. Additionally, on the lower ground the planter box is located at 0.3m and the gym is 6.1m, presenting a variation of 6.2% - 95.4%. At the ground level the planter box is located at 4.9m and the swimming pool is 5.8m, presenting a variation of 10.8% - 24.6%.



Figure 8 - Basement (garage) and lower ground floor levels

It is noted along Whale Beach Road (in particular this section) there are number of garages, structures and portions of dwellings within the front boundary line.

Under Clause D12.5 Front building line of Pittwater 21 Development Control Plan the following variation applies:

"Where carparking is to be provided on steeply sloping sites, reduced or nil setbacks for carparking structures and spaces may be considered, however all other structures on the site must satisfy or exceed the minimum building line applicable."

It is considered the subject site, is a steeply sloping site, and as such the reduced setback for carparking and associated structures is acceptable. In this instance, the dwelling house on site, is located behind the 6.5m front building line.

An assessment against the outcomes of the control has been undertaken, and it is considered the variation meets the outcomes of the control as detailed below.

Merit consideration

With regards to the consideration for a variation, the development is considered against the underlying Outcomes of the Control as follows:

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

Comment:

The proposed development is consistent with the desired future character of the Palm Beach Locality.

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

Comment:

The proposal demonstrates compliance with the height of buildings development standard, and as such continues to preserve views and vistas to and from public and private places.

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

Comment:

The proposal does not adjoin a main road, therefore this outcome is not relevant.

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

Comment:

The proposal includes a Landscape Plan that details enhanced plantings that will assist to visually reduce the built form.

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

Comment:

The proposal includes a new garage and driveway and as such vehicular manoeuvring in a forward direction is not possible given the existing site constraints, as well as the constraints of Whale Beach Road.

Notwithstanding, Council's Development Engineer has reviewed the proposal and has not raised concerns surrounding the limitation to enter and exit in a forward direction.

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

Comment:

The proposal retains the rural and bushland character of the Palm Beach locality, particularly with the retention of the rock outcrop located at the rear of the site.

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

Comment:

The proposal will enhance the existing streetscape through the extensive plantings proposed, as well as the materials and finishes selected. It is considered that the scale and density is in keeping with the height of the natural environment.

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

Comment:

The proposal encourages an attractive street frontage that will improve pedestrian amenity to access the frontage of the site.

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

Comment:

The proposal responds to and sensitively reinforces consistency with the spatial characteristics of the existing urban environment. The proposed garage location and other structures are generally consistent with existing parking facilities and associated structures along Whale Beach Road that are located within the front setback area. Therefore, the proposal is supportable in this instance as the proposal is compatible with the streetscape.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.6 Side and rear building line

Detailed description of non-compliance

This control requires the following side setback distances:

- 1m on one side and,
- 2.5m to the other side

For the assessment of this application, the northern boundary is required to provide a 1m setback, while the southern boundary must provide a 2.5m setback. In this instance, the Level 3 balcony has a 2.2m setback, and the proposed lightwell retaining wall and drying terrace on Level 1 are set back only 0.6m from the southern side boundary. These setbacks represent non-compliances of 12% to 76%.

The current siting of both the Level 3 balcony and the Level 1 lightwell/retaining wall/terrace is not supported in their proposed form. Conditions will be included requiring the deletion of the southern portion of the Level 3 balcony to achieve compliance with the 2.5m setback. In addition, the lightwell retaining wall and drying terrace on Level 1 will be required to be set back a minimum of 1.5m from the southern boundary. This amendment would reduce the extent of non-compliance from 76% down to 40%, representing a substantially more supportable outcome.

This control also requires a rear setback of 6.5m. The proposed development complies with this requirement.

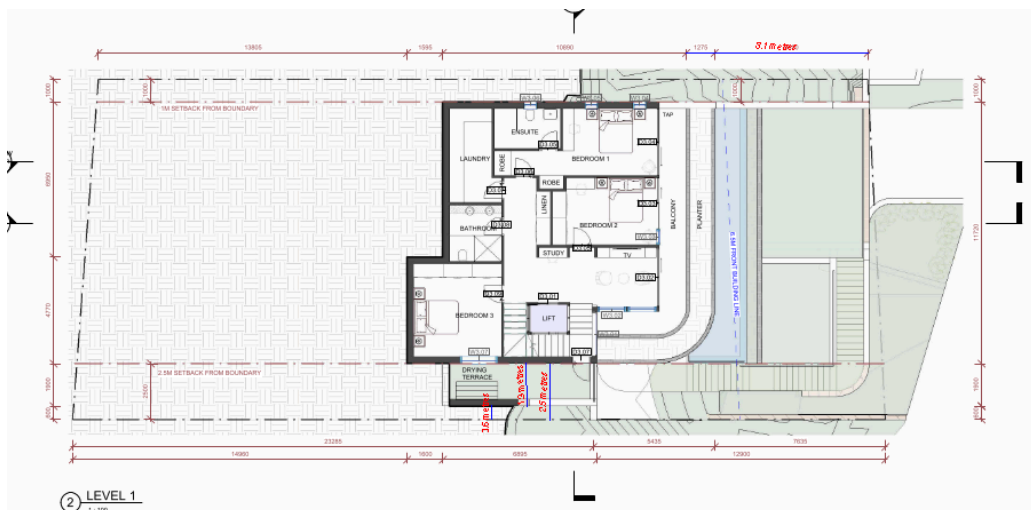


Figure 9: Level 1 with only a 0.6m setback to the lightwell/retaining wall/drying terrace

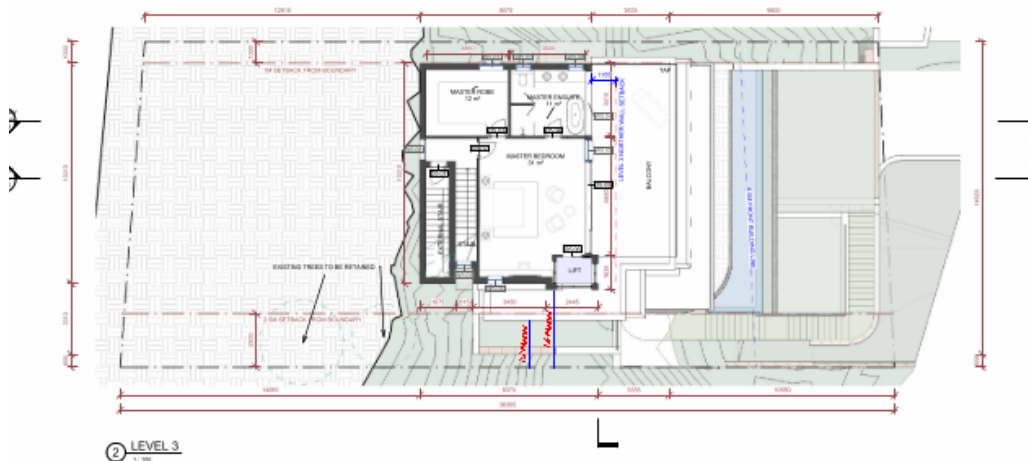


Figure 10: Level 3 with a 2.2m side setback to the southern side boundary

Merit consideration

- *To achieve the desired future character of the Locality. (S)*

Comment:

The proposed development, as amended and conditioned, will achieve the desired future character of the Palm Beach locality in that the amendments show a lesser environmental impact upon the subject site, maintaining a height well below the surrounding natural environment. The proposal, as amended, will provide for low-impact residential development within an area of Palm Beach that is characterised by low-density residential developments within a landscaped setting.

- *The bulk and scale of the built form is minimised. (En, S)*

Comment:

The proposed development (subject to conditions) is sufficiently articulated and retains a reasonable quantum of landscaped area. Bulk and scale of built form is therefore considered to be minimised.

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

Comment:

For the reasons as detailed above, the proposed non-compliance (subject to conditions) does not cause any impact upon existing views obtained by adjoining and nearby properties.

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

Comment:

As detailed above, a reasonable level of view sharing is maintained.

- *To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*

Comment:

The proposed works will not result in any unreasonable overlooking impacts subject condition(s). The proposed solar access arrangement is also acceptable. Additionally, suitable conditions of consent are recommended in relation to the acoustic impacts of the mechanical plant equipment which will ensure reasonable amenity for adjoining and surrounding properties.

- *Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*

Comment:

The proposed development will allow for substantive landscaping across the site and this is supported with the amended landscape plans submitted with the proposed development and maintaining the existing landscaping

and rock outcrops within the rear boundary setback.

- *Flexibility in the siting of buildings and access. (En, S)*

Comment:

Notwithstanding the extent of non-compliance, the siting of the proposed works (subject to conditions) will continue to provide flexibility and access throughout the site.

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

Comment:

The proposed development includes adequate vegetation and landscaping to soften and visually reduce the built form.

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

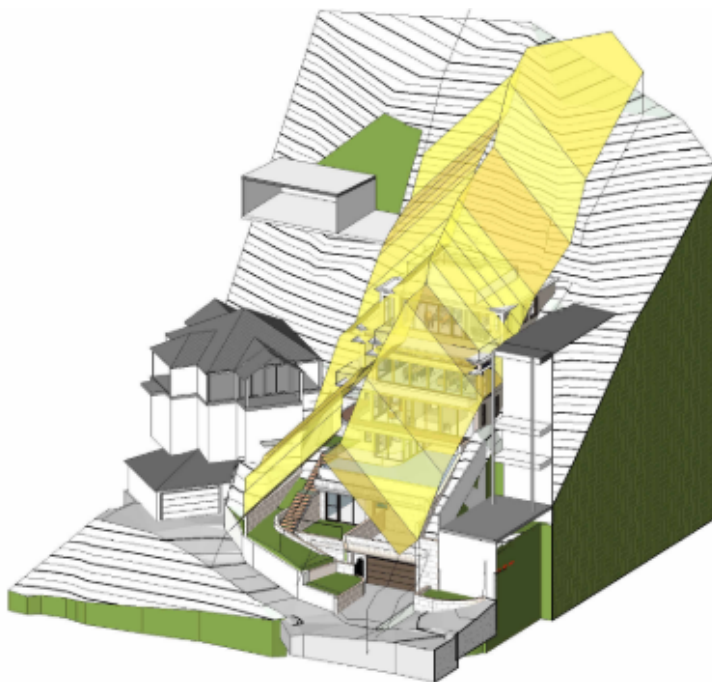
Comment:

The subject site is located within, and surrounded by, residential zoning. Therefore, this outcome does not apply.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.8 Building envelope

The proposed development is non-compliant with the building envelope control on both the southern and northern elevations. Where the building footprint is situated on a slope over 16.7 degrees (30%), variation to this control will be considered on a merits basis. The proposed development is situated on land with a slope of approximately 26.4 degrees (49.6%). As such, the non-compliance arises due to the steep topography of the land. The proposed development, subject to condition(s) requiring reduction to the width of the balconies at Level 3, Level 2 and Level 1 which reduces the extent of building envelope breach on the southern side is acceptable in relation to the relevant outcomes of this clause, as follows:



6 BUILDING ENVELOPE

**Figure 11 - Envelopes demonstrating breaches of the envelope
(3D images supplied by the applicant's architect)**

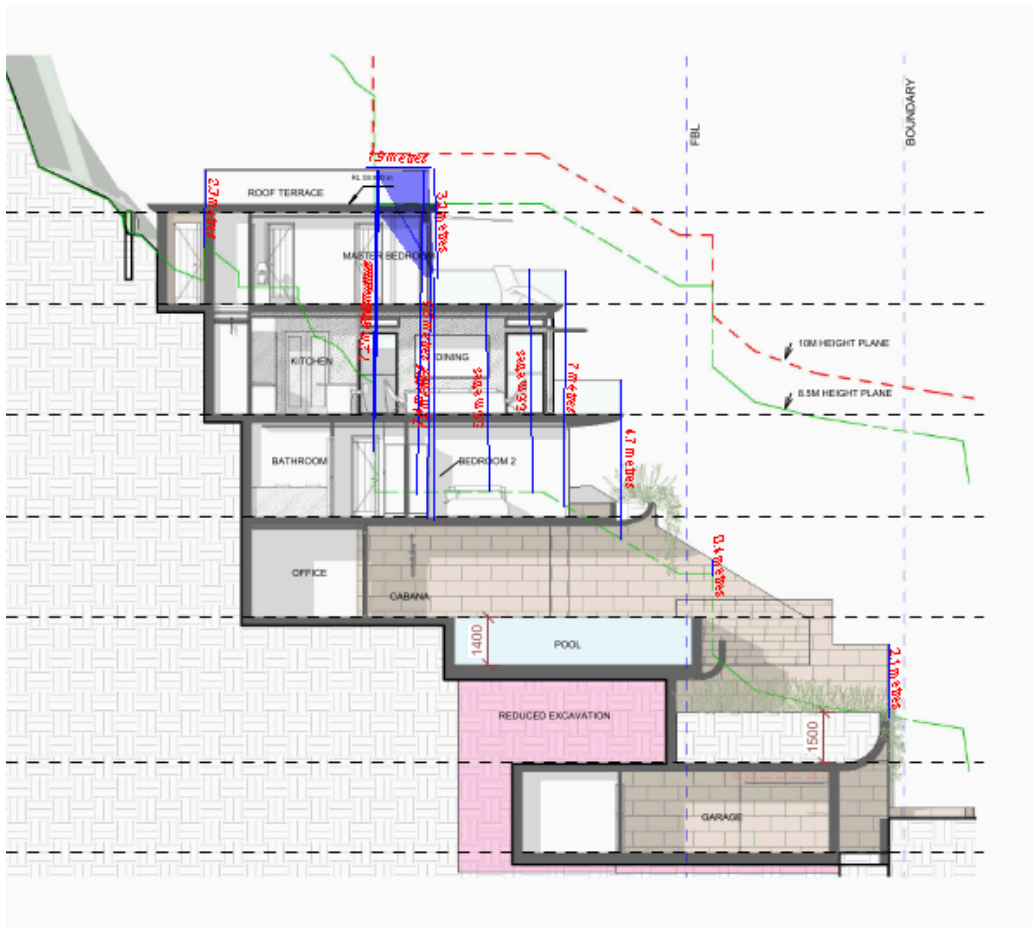


Figure 12 - Southern side boundary envelope

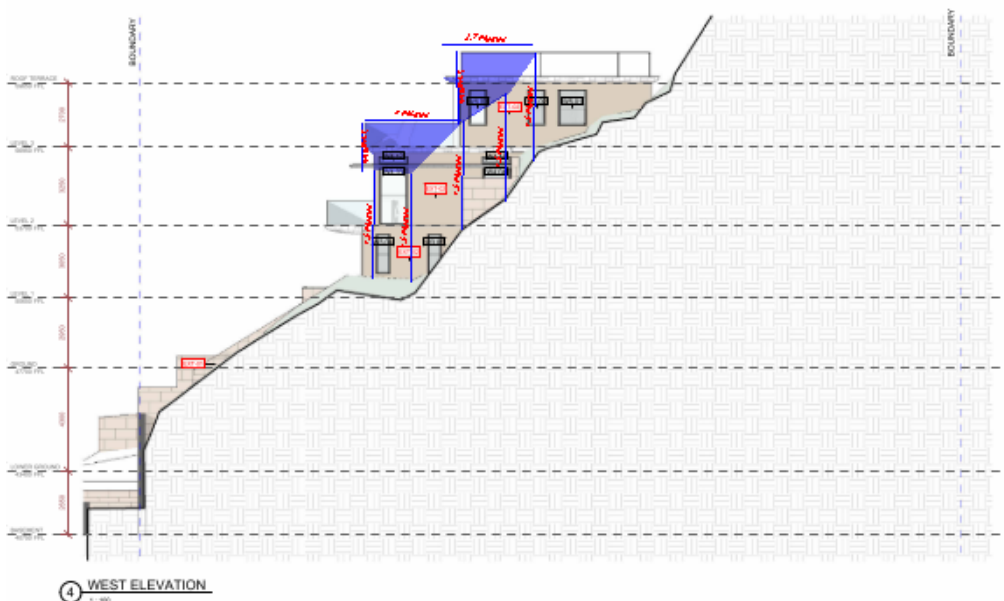


Figure 13 - Northern side boundary envelope

To achieve the desired future character of the Locality. (S)

Comment: The proposed development is consistent with the desired future character of the locality for the reasons detailed in the section of this report relating to Clause A4.12 Palm Beach Locality of the P21 DCP.

To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.

Comment: The proposed development steps up the slope of the land, away from the street level. The proposal includes adequate vegetation in order to screen the built form of the proposed development. The proposed development is generally set below the height of the trees on site and in the locality.

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

Comment: The proposed development requires significant earthworks due to the steep topography of the land. The proposal is acceptable in relation to Clause 4.3 Height of Buildings of the Pittwater LEP 2014. Finally, the proposal includes comparable setbacks, and bulk and scale to existing developments in the locality. As such, the proposal provides an adequate response and relationship to the spatial characteristics of the existing natural environment.

The bulk and scale of the built form is minimised. (En, S)

Comment: The proposed resultant dwelling is of generally comparable building bulk and scale to existing developments in the locality. The proposed development provides generally compliant side setbacks to the dwelling and garage. It is considered that given the steep topography of the site the building envelope breaches are not as a result of excessive built form, but rather the balance between providing usable habitable floor plans and a built form which relates to and respects its environment. Notwithstanding this, it is considered that the breach on the southern envelope at the upper most storeys can be reduced by deletion of the balconies of southern ends at Levels 1, 2 and 3. As such, by way of recommended condition(s), the proposed development is considered to adequately minimise the bulk and scale of the built form.

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

Comment: The proposed development adequately preserves views and vistas to and from public and private places for the reasons detailed in the section of this report relating to Clause C1.3 View Sharing of the P21 DCP.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties. (En, S)

Comment: The proposed development is appropriately designed so as to provide a reasonable level of privacy, amenity and solar access for the subject site and adjacent sites.

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

Comment: The submitted plans demonstrate adequate retention and provision of vegetation in order to visually reduce the built form.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant outcomes of P21DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.13 Construction, Retaining walls, terracing and undercroft areas

The proposed development involves significant excavation rather than employing lightweight construction with pier and beam footings. The proposal has been assessed and is considered acceptable in relation to the relevant outcomes of this clause, as outlined below:

"To achieve the desired future character of the locality."

Comment: The proposed development is considered consistent with the desired future character of the locality, as outlined in the assessment under Clause A4.12 Palm Beach Locality of the P21 DCP. The level of excavation proposed is consistent with other developments in the Whale and Palm Beach areas, where the steep topography and orientation to valuable coastal views often necessitate more substantial earthworks. In such cases, higher pier and

beam construction may result in greater visual and physical impacts than well-managed excavation.

"To protect and minimise disturbance to natural landforms."

Comment: While the proposal includes an increase in excavation relative to the existing site conditions, the resultant earthworks are not considered to unreasonably impact the natural landform. The proposed development retains key rock outcrops and existing trees, thereby mitigating adverse impacts on the site's natural character.

"To encourage building design to respond sensitively to natural topography."

Comment: The design of the proposed development steps down with the natural slope of the land, despite the significant excavation. This approach helps reduce potential impacts relating to bulk and scale, view loss, overshadowing, and privacy—particularly when considered in conjunction with the recommended conditions of consent.

Amended plans (Rev 2) were submitted on 28 January 2025, which substantially reduced the extent of excavation. These revisions, along with additional conditions that increase the side setback to the retaining wall and reduce the terrace area on Level 1 on the southern elevation, further limit excavation and associated impacts.

Accordingly, it is considered that the supporting documentation submitted with the application adequately addresses concerns regarding excavation and potential impacts on land stability, as required under Clause 7.7 of the PLEP, Section B3.1 of the P21 DCP, and the Coastal Management SEPP.

Conclusion:

Given the above, it is considered that the proposed development satisfies the merit-based considerations of the relevant planning provisions and is supported, subject to conditions.

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 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$30,955 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$3,095,492.

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 DA2024/1094 for Demolition works and construction of a dwelling house including swimming pool on land at Lot 317 DP 16362, 326 Whale Beach Road, PALM BEACH, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A100	2	Site Analysis Plan	Walter Barda Design	26 November 2024
A200	2	Basement and Lower Ground Plan	Walter Barda Design	26 November 2024
A201	2	Ground Floor and Level 1 Plan	Walter Barda Design	26 November 2024
A202	2	Level 2 and Level 3 Plan	Walter Barda Design	26 November 2024
A203	2	Roof Terrace	Walter Barda Design	26 November 2024
A300	2	Elevations	Walter Barda Design	26 November 2024
A311	2	Section New and Existing	Walter Barda Design	26 November 2024
A312	2	Section New and Existing	Walter Barda Design	26 November 2024

A313	3	Building Envelope	Walter Barda Design	6 January 2025
A500	2	Landscape Plan	Walter Barda Design	26 November 2024
A501	2	Landscape Calculation	Walter Barda Design	26 November 2024
A600	2	Window and Door Schedule	Walter Barda Design	26 November 2024
A800	2	Demolition Plan	Walter Barda Design	26 November 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared/Submitted By	Date of Document
BASIX Certificate (1755766S_02)	2	Efficient Living Pty Ltd	20/1/2025
Addendum to Geotechnical Assessment	-	Crozier Geotechnical Consultants	9/1/2025
Geotechnical Investigation Report	-	Crozier Geotechnical Consultants	6/2024
Waste Management Plan	-	Walter Barda Design	13/8/2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

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	4 September 2024
Aboriginal Heritage Office	Aboriginal Heritage Office - Referral Response	29 October 2024

(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) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of 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.
- (e) 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.
- (f) 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.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% 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.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) 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.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) 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.
- (m) 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.

- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) 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 2024

A monetary contribution of \$30,954.92 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 \$3,095,492.00.

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 \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the

Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

7. No Clearing of Vegetation

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

8. Traffic Management and Control

The Applicant is to submit a Traffic Control Application to Council for approval prior to issue of the Construction Certificate.

The Traffic Management Plan shall be prepared to TfNSW standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

9. Stormwater Disposal

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent in accordance with AS/NZS 3500 and Council's Water Management for Development Policy, prepared by an appropriately qualified and practicing Civil Engineer who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG), indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the kerb in Whale Beach Road.

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

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

10. 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 Crozier Geotechnical Consultants, Project Number 2024-076 dated June 2024 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

11. **Amendments to the approved plans**

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

Third Floor – Privacy Treatments

a) Window W5.06 (Master Bedroom):

To be constructed with obscured or frosted glazing up to a minimum height of 1.5m above finished floor level; or designed as a highlight window with a minimum sill height of 1.5m above finished floor level.

b) Window W5.07 (Stairwell):

To be constructed with obscured or frosted glazing.

c) Lift Shaft – Southern Elevation:

To be constructed with obscured or frosted glazing; or finished with a solid, non-transparent material.

d) Windows W5.01 (Master Robe), W5.02, and W5.03:

To be constructed with obscured or frosted glazing up to a minimum height of 1.5m above finished floor level; or designed as highlight windows with a minimum sill height of 1.5m above finished floor level.

e) Southern Wrap-Around Balcony Section (Adjacent to Lift):

To be deleted in its entirety, with a balustrade installed at a minimum distance of 4.8m from the southern side boundary.

Second Floor – Privacy Treatments

f) Windows W4.02, W4.03, and W4.04 (Living/Dining/Kitchen):

To be constructed with obscured or frosted glazing up to a minimum height of 1.5m above finished floor level; or designed as highlight windows with a minimum sill height of 1.5m above finished floor level.

g) Windows W4.05 and W4.06 (Powder Room):

To be constructed with obscured or frosted glazing.

h) Southern Wrap-Around Balcony Section (Adjacent to Lift):

To be deleted in its entirety, with a balustrade installed at a minimum distance of 4.8m from the southern side boundary.

First Floor – Privacy Treatments

i) Window W3.02 (Study/TV Room):

To be constructed with obscured or frosted glazing up to a minimum height of 1.5m above finished floor level; or designed as a highlight window with a minimum sill height of 1.5m above finished floor level.

j) Southern Wrap-Around Balcony Section (Adjacent to Window W3.02):

To be deleted and replaced with a relocated planter box.

Retaining Wall (Southern Side Setback)

k) Retaining Wall:

To be relocated to achieve a minimum setback of 1.5m from the southern side boundary.

Details demonstrating compliance with this condition must be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure reasonable privacy in accordance with Clause C1.5 Visual Privacy, to achieve an improved side setback in accordance with Clause D12.6 Side and Rear Building Line, and to reduce the non-compliance with Clause D12.8 Building Envelope of P21DCP.

12. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, shall be provided in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

13. Submission Roads Act Application for Civil Works in the Public Road

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include Civil Engineering plans for the design of the driveway crossing and associated retaining walls and battering of the redundant crossing and associated landscaping which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer and Landscape Architect. The design must include the following information:

1. 4 metre wide concrete driveway crossing generally in accordance with Council's standard crossing drawing and the design by NB Consulting Engineers, drawing number 2404059 C00, C01, C02, C03, C04, C10, C11, C20, C21, C30, C31, C32, C33, C34 and C40 Revision A dated 28/01/2025.
2. Retaining wall structural details including sections with existing and proposed levels.
3. Stormwater outlet pipe design.
4. Battering details for the reinstatement of the existing redundant crossing from the existing crossing to number 328 Whale Beach Road.
5. Landscaping details for the battered areas and planter boxes.
6. Services plan, including concurrence from any affected service authority if the works require the relocation of services
7. Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP).

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 Principal Certifier prior to the issue of the Construction Certificate.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

14. **Shoring of Council's Road Reserve (Temporary road anchors)**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

15. **Compliance with Standards**

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

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

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

16. **Sydney Water "Tap In"**

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

17. **Construction Traffic Management Plan**

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to Council via an application for a Permit to Implement Traffic Control. The application form can be accessed via <https://www.northernbeaches.nsw.gov.au/council/forms>. Approval of the permit application by the Northern Beaches Council Traffic Team is required prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across

public parks or reserves being allowed.

- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
 - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
 - No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
 - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
 - If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture
 - demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
 - A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on
 - the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets
 - (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
- A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,
 - Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use any basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as

(but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.

- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

Property / Properties:

- 324 and 328 Whale Beach Road, Palm Beach
- 13, 15 and 17 Pacific Road, Palm Beach

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report 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. If access is denied, then no dilapidation report is required.

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.

19. **Sediment and Erosion Controls**

For developments that include more than 2500sqm of disturbance:

A Soil and Water Management plan (SWMP), in accordance with section 2.3 of the Blue Book, must be

prepared and certified by a suitably qualified professional.

For sites larger than 250sqm and less than 2500sqm of disturbance:

An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified person in accordance with the following considerations and documents:

- Sites that have slopes exceeding 20% (measured in any direction across the site), and/or where works are within the high-water mark or adjacent to a waterway or watercourses are considered environmentally sensitive areas. These sites require a site-specific ESCP which must be prepared and certified by a suitably qualified professional,
- The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate – Volume 1, 4th Edition (2004)' (the Blue Book), and
- The 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure).

The ESCP must include the following as a minimum:

- Site Boundaries and contours,
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application),
- Location of site access, proposed roads and other impervious areas (e.g. parking area and site facilities),
- Existing and proposed drainage patterns with stormwater discharge points,
- Locations and methods of all erosion and sediment controls that must include sediment fences, stabilised site access, materials and waste stockpiles locations, location of any stormwater pits on the site and how they are going to be protected,
- North point and scale,
- Type of erosion control measures to divert and slow run-off around and within the site.

Environmentally sensitive areas (i.e. Sites that have slopes exceeding 20% and/or where works are within the high-water mark or adjacent to a waterway or watercourses) must also consider:

- Identify and mark any environmentally sensitive areas on and immediately next to the site and how you will protect these, including any appropriate buffer zones (for example, marking them out as 'no-go' areas),
- Details on vegetation you will clear, as well as areas of vegetation you will keep (mark no go areas),
- Detail on soil information and location(s) of problem soil types, especially dispersive soils and potential or actual acid sulfate soils,
- Location of any natural waterways that could receive run-off and how these will be protected these from run-off.

For sites smaller than 250sqm or where the disturbance is less than 50sqm:

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- Diverting uncontaminated run-off around cleared or disturbed areas, and
- Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- Preventing the tracking of sediment by vehicles onto roads, and
- Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.
- Identifying any environmentally sensitive areas on and immediately next to the site, and demonstrating how these will be protected (for example, by designation as no-go areas).

Details demonstrating compliance with the relevant requirements above are to be submitted to the Certifier, and the measures implemented, prior to the commencement of works.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

DURING BUILDING WORK

20. **Wildlife Protection**

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

Reason: To protect native wildlife.

21. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

22. **Road Reserve**

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

Reason: Public safety.

23. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

24. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

25. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

26. Maintenance of Sediment and Erosion Controls

Erosion and sediment controls must be adequately maintained and monitored at all times, particularly surrounding periods of rain, and shall remain in proper operation until all development activities have been completed and the site is in a state where no substance other than rainwater can enter the stormwater system and waterways.

All sediment control measures must be maintained at, or above, their design capacity.

Where more than 2500 square metres of land are disturbed or if the site has a slope of more than 20%, a self-auditing program must be developed for the site. A site inspection using a log book or inspection test plan (ITP) must be undertaken by the site supervisor:

- at least each week
- immediately before site closure
- immediately following rainfall events that cause runoff.

Details demonstrating compliance must be provided to the Certifier during demolition and building works.

Reason: Protection of the receiving environment and to ensure no substance other than rainwater enters the stormwater system and waterways.

27. Waste Management During Development

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

Details demonstrating compliance must be submitted to the Principal Certifier.

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

28. Traffic Control During Road Works

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

Reason: Public Safety.

29. Stockpiling materials

During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of according to local regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

30. Geotechnical Issues

All conditions outlined in Geotechnical Investigation Report prepared by Crozier Geotechnical Consultants

dated June 2024 are to be complied with and adhered to throughout development.

Reason: To ensure excavation, foundations, retaining structures, footings is undertaken in an appropriate manner and structurally sound.

31. Aboriginal Heritage

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning, Housing and Infrastructure.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning, Housing and Infrastructure.

Reason: Aboriginal Heritage Protection.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

32. Native Landscaping

Any new landscaping is to incorporate a minimum 80% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the relevant section of the Native Planting Guide available on Council's website.

Details demonstrating compliance are to be provided to the Principal Certifier prior to issue of any Occupation Certificate.

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

33. No Weeds Imported On To The Site

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

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

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

34. Priority Weed Removal and Management

All Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed using an appropriate control method.

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

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

35. Certification of Civil Works in accordance with Roads Act Approval

The Applicant shall submit a certification to Council for acceptance, by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) that the completed works have been constructed in accordance with this consent and the approved Section 138 and/or Construction Certificate plans.

Council's acceptance shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure compliance of works with Council's specification for engineering works.

36. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified Civil Engineer.

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

Occupation Certificate.

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

37. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report 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 property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies 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.

38. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

39. **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.

40. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

41. **Swimming Pool Requirements**

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

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

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 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 certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifier, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall

be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

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

(e) Signage showing resuscitation methods and emergency contact

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

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

Details demonstrating compliance are to be submitted to the 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

42. **Protection of Habitat Features**

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

Reason: To protect wildlife habitat.

43. **Control of Domestic Dogs/Cats**

Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife and habitat.

44. **Passenger Lift Noise**

Noise produced by the passenger lift shall not exceed 60dB(A), when measured one metre from any adjoining premises.

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

45. **Swimming Pool/Spa Motor Noise**

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

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

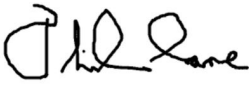
46. **On-going Maintenance of Structures and Landscaping in the Road Reserve**

The registered proprietor is to maintain the structures and landscaping constructed in the road reserve approved by the Infrastructure Works on Council Roadway Application.

Reason: To ensure compliance with Section 142 of the Roads Act 1993.

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

Signed



Phil Lane, Principal Planner

The application is determined on 10/04/2025, under the delegated authority of:



Adam Richardson, Manager Development Assessments