

Southern Regional Planning Panel  
Planning Panels, Panels and Housing Delivery  
Department of Planning, Housing and Infrastructure

15 June 2025

Copy: C Watkins, Senior Development Assessment Planner, Eurobodalla Shire Council

By email: [enquiry@planningpanels.nsw.gov.au](mailto:enquiry@planningpanels.nsw.gov.au); [council@esc.nsw.gov.au](mailto:council@esc.nsw.gov.au)

Dear Panel

**Request for review by the Southern Regional Planning Panel – s8.3**

**Application: DA0095/24 – PPSSTH-414 Eurobodalla Shire Council**

**Property: 217A Beach Road, Denhams Beach NSW 2536**

**Proponent: Natalie Colbert**

We refer to the application lodged on behalf of Canplay Pty Ltd by Adhami Pender Architecture for DA0095/2024 for a dual occupancy and relocation of sewer including environmental cliff works (**DA**).

The DA was considered by the Southern Regional Planning Panel (**Panel**) earlier this year and the Panel's determination on 13 February 2025 was to refuse the DA.

Canplay Pty Ltd (owner of the land) hereby seeks a review of the Panel's determination pursuant to section 8.3 of the *Environmental Planning and Assessment Act 1979*. I have been informed that there is no application form and accordingly this letter lodged on the NSW Planning Portal comprises Canplay Pty Ltd's request for review.

The development the subject of the DA comprised the following:

- Construction and use of a dual occupancy;
- Relocation of sewer mains;
- Landscaping works and use of environmental protection works (comprising terra matting and rock bolts) and use of the reconstructed beach access stairs and pathway;
- Use of the retaining wall at the base of the cliff; and
- Construction and use of beach storage shed.

This application for review provides further information and proposes minor amendments responsive to the considerations raised in the Panel's Determination and Statement of Reasons dated 13 February 2025 (**Statement of Reasons**).

Canplay Pty Ltd requests that the DA (as modified below) be approved.

## **1. Contents of this application for review**

The documents comprising the DA are listed in **Annexure A**. Consent is sought for

- Construction and use of a dual occupancy;
- Relocation of sewer mains;
- Landscaping works and use of environmental protection works (comprising terra matting and rock bolts) and use of the reconstructed beach access stairs and pathway; and
- Use of the retaining wall at the base of the cliff.

### ***a) Further Information***

The Panel identified an insufficiency of information regarding coastal and coastal engineering risks as required by the *Coastal Management Act 2016*. The **enclosed** report prepared by Mr James Carley of UNSW Water Research Laboratory (**WRL Report**) provides this assessment (**Annexure B**).

Additionally, further information is provided to assist in clarifying matters raised by Eurobodalla Shire Council (**Council**) in its 21 January 2025 assessment report (**Council Report**) relating to vegetation removal, landscaping and bulk, and scale and character (see **Annexure C** and Table 1 in Annexure A).

### ***b) Minor Amendment of the proposed development***

The following minor amendments have also been made to the proposed development the subject of the DA under review:

<b>Amendments</b>	<b>Drawing / Document No</b>
<b>1. Beach Storage Shed</b> - Consent is no longer sought for construction and use of a beach storage shed	<ul style="list-style-type: none"><li>• Site plan – 013 – Issue DA02</li></ul>
<b>2. Building Height</b> - Roof encroachment into building height limit has been removed, and the proposed dual occupancy is entirely within the 8.5m maximum height limit.	<ul style="list-style-type: none"><li>• Building Height Envelope - 085 - Issue DA02</li></ul>
<b>3. Stormwater</b> – Storm water management has been relocated to the north boundary.	<ul style="list-style-type: none"><li>• Stormwater Management Plan – 681-04 – Revision E</li></ul>
<b>4. Amenity</b> – The Kitchenette has been removed from L0 plan to remove any ambiguity that the lower ground floor may be capable of separate occupation (or future dwelling provision)	<ul style="list-style-type: none"><li>• L0 Floorplan – 110 – Issue DA02</li></ul>

Additional documentation providing further assessment of overshadowing, visual impact, vehicle manoeuvring, sewer main clearance, front set back compliance and landscaping/vegetation management is also provided. These additional documents are listed in Table 1 of Annexure A.

## **2. Resolution of reasons for refusal**

The following provides a response to each of the five grounds for refusal of the DA identified by the Panel in its Statement of Reasons.

In short, all of the matters relevant to the Panel's refusal of the DA have been addressed either by the provision of further information, or the minor amendment of the development (identified in (1) above).

### **a) Ground 1: "The reasons outlined in the Council Report"**

The Council Report provides "Reasons for Refusal" in its Attachment A and identifies specific "Key Issues" in its section 5. The two tables in Annexure B (attached), prepared by my architect, provide a response to each of the Reasons for Refusal and Key Issues. In summary:

- all matters related to asserted non-compliance with DCP controls regarding setbacks/heights have been addressed by minor amendment of the development;
- information is provided to confirm that all vegetation removal undertaken was approved (or required no approval); and
- information is provided to assess the bulk and scale, view loss, overshadowing, and visual impact considerations identified by Council.

### **b) Ground 2: Insufficiency of information regarding arrangements for beach restoration/maintenance (s27(1)(b) of the Coastal Management Act 2016).**

The attached WRL Report provides an assessment of the matters relevant under s27(1)(b) of the *Coastal Management Act 2016*. Specifically:

- Section 6 assesses the potential impacts of the works on erosion and concludes that: *"the limited veneer of sand and generally cliffed nature of the back beach would limit any toe scour potential due to the presence of the cliff stabilisation works". "The five properties to the south all have some form of gabion works protecting the seaward portion of their property from wave forces (and undermining of the cliff), and are thus not impacted by any perceived end effects from the subject property's works."* In relation to the property to the north: *"With the quantum of short term erosion being so small, the works on the subject property do not exacerbate the potential erosion at 217 Beach Road, but rather buttress its southern boundary, while its northern boundary is buttressed by the natural headland".*
- Section 7 of that WRL Report provides an assessment of the design life and maintenance of the works. It concludes that: *"For the subject property, with a semi-rigid concrete structure above the intertidal level, the likely maintenance for a 50 year design life is zero".*

### **c) Ground 3: Insufficiency of information regarding structural integrity of the seawall/retaining wall (s27(1)(b) of the Coastal Management Act 2016).**

The attached WRL Report provides an assessment of the matters relevant under s27(1)(b) of the *Coastal Management Act 2016*. Information on wave forces have been provided to the Structural Engineer (Gerin Hingee, Structural Engineer) and Mr Hingee has confirmed that the design and construction of the retaining wall is suitable for the identified potential wave forces – as per the attached letter. Specifically, in relation to the stability of the wall, Mr Carley has addressed in section 12 of the WRL Report how all 8 main potential failure modes have been assessed and addressed.

d) Ground 4: Interaction between Council compliance action and the approval sought in the DA

The Statement of Reasons identifies a concern that approval of the DA has “*the potential to create an anomalous situation where the proposed dual occupancy and beach storage shed are approved but the supporting structure (seawall) may require rectification*”. It is standard practice for consent to be issued subject to a deferred commencement condition requiring the obtaining of a Building Information Certificate (**BIC**). Two BIC applications have been prepared and have been lodged with Council simultaneously with this application for review.

The two BICs seek confirmation that (a) the retaining wall and (b) the landscaping/erosion control works on the cliff face and the associated refurbishment of the private access stairs and pathway, have been constructed in accordance with relevant standards. Information has been provided in the BIC applications and in this application for review to confirm that relevant building codes and engineering standards have been complied with. I confirm for your information that the beach storage shed has been removed from the DA.

e) Ground 5: Approval would set an undesirable precedent

While it is regrettable that the retaining walls were erected prior to the obtaining of development consent, it is not considered that this would set an undesirable precedent. The works have occurred in a unique context:

- “North” Denhams Beach is not listed in “Beaches of the NSW Coast” by Professor Andrew Short (Short, 2007). It has not been identified or assessed in the Coastal Hazard Study (Coghlan et al., 2017), nor the Coastal Management Program (CMP, Rhelm, 2022).
- The works occurred in the context of significant landslide on the adjoining properties after considerable discussions with council, noting more extensive retaining walls had been agreed/constructed on adjacent properties, that engineering advice recommended their immediate urgency of construction, and under an assumption that Council had discussed and agreed with our engaged town planner (PM Anderson) that retaining walls for the cliffside stabilisation (217A) would be treated as emergency erosion protection works.
- As identified in the WRL Report: “*there is no public access to this beach from land, either via public pathways or around the surrounding headlands. The only access is via the water or through eight private properties which front the beach and have stair access down the cliff. ... There is no public access to the beach via land, with access only through eight private properties or via water through the small keyhole gap in the surrounding rocky reefs.*”
- As documented in the WRL Report: “*Seven of these eight private properties have some form of coastal protection works at the base of the cliff (predominantly gabions, Figure 4-3) and five of these properties have a boatshed type structure fronting the beach (Figure 4-3).*”

- I am not aware of development consent having been obtained for any other gabion or beach shack structures. Although I understand, a BIC was obtained from Council on 8 July 2021 for the Seaside Deck built at 219A Beach Road and there have been no approvals granted for the new retaining walls associated with that development, or other retaining walls at 219A or 219B, or the gabion walls across 219A and 219B, 220, 221, Beach Road, or the erosion protection works at 217 Beach Road. I note the retaining walls at 219A are at the same height and set-back as the 217A walls.
- The engineering advice determined the retaining wall system requirements, based on natural contours and achieving slope stability, (as matching other adjacent properties). Consent for the erection of a beach shed (now removed from this DA) was initially sought to provide amenity consistent with other neighbouring properties and their decks and beach sheds.
- The works are more than 5m landward of the seaward private property boundary and are above the intertidal level.
- The beach is predominantly a rocky cove, with limited potential for erosion from storm events.
- Significant engineering advice was sought and complied with consistency from start-to-finish, and Council was consistently engaged in discussion, and DA submissions.

In relation to the matters required to be addressed by s27 of the *Coastal Management Act 2016*:

- The works are on private land (5m within the boundary and above the intertidal level), there is no relevant public access to the beach and the design and construction of the walls has been certified as suitable. The retaining walls will not unreasonably limit or be likely to unreasonably limit public access to or the use of a beach or headland (s27(1)(a)(i)), and they will not pose or be likely to pose a threat to public safety (s27(1)(a)(ii)).
- Given that the likely maintenance of the retaining walls for a 50-year design life is zero and the presence of the works are not considered to cause increased erosion, the requirements of s27(1)(b) regarding satisfactory arrangements for the life of the works would be met by a condition requiring monitoring of the retaining wall following significant events.

## Conclusion

Canplay Pty Ltd requests that the Panel review its decision to refuse the DA. It asks that the Panel review the matter having regard to the amendments to the proposal outlined in section (1) above.

The dual occupancy proposed is consistent with the land zoning and is compatible with the surrounding development. Minor amendments documented above have been proposed to address Council's concerns in relation to compliance of the proposed building with the DCP.

A BIC has been sought from Council for the landscaping works and reconstructed beach access stairs/pathway and the works undertaken provide private beach access compliant with current Australian Standards. Information clarifying the extent of landscaping works undertaken and proposed and the interaction with tree removal permits obtained is provided in the BIC applications and in this application for review. Approval for the use of the landscaping works, the environmental protection works (comprising terra matting and rock bolts) and the reconstructed beach access

stairs and pathway is sought in the DA so that the approval reflects the totality of the development on the site.

Canplay Pty Ltd now understand that while the retaining wall is clearly for the purpose of cliff stability, due to its location adjacent to tidal waters, it would most appropriately be characterised as “coastal protection works” and ought to have been constructed with the prior consent of the Panel, or via lodgement of an earlier BIC adjacent to the DA. A separate BIC has now been sought from Council for the retaining walls constructed at the base of the cliff and in this DA, Canplay Pty Ltd seeks approval for the use of the retaining walls.

Information confirming the satisfaction of the retaining walls with the matters prescribed by s27 of the *Coastal Management Act 2016* has now been provided. Canplay Pty Ltd obtained specialist coastal engineering advice and the structural engineer has confirmed the suitability of the design of the wall having regard to the information on wave energy provided by Mr Carley.

Canplay Pty Ltd request that the DA0095/2024 for a dual occupancy and relocation of sewer including environmental cliff works be approved.

Yours faithfully,

Natalie Colbert,

Canplay Pty Ltd  
15 June 2025

## ANNEXURE A

The DA the subject of the application for review comprises the documents listed below and at the attached dropbox link. The WRL Report and the Structural engineering assessment and associated WRL Wave Forces Assessment are also provided at Annexure B. For completeness a list of the amendments to the development and the corresponding additional drawings/assessment materials is also listed in table 1 below.

	Document Name	Author	Date
1	Architectural Plans/ DA Submission (Duplex)	adhami pender	August 2023
2	Architectural Plans/ DA Submission (adding retaining walls and Beach Shed)	adhami pender	13/02/2024
3	Architectural Plans/ DA Submission	adhami pender	13/05/2024
4	Revised Architectural Plans/ DA Submission	adhami pender	15/06/2025
5	Revised 217a Beach Road Civil Engineering Plans	Southeast Engineering and Environmental	12/06/2025
6	Response Package to SRPP	adhami pender	16/09/2024
7	Response to RFI from SRPP	PM Anderson	11/10/2024
8	Revised Preliminary Environment Assessment	ACT Geotechnical Engineers Pty Ltd	16/04/2024
9	Amended Statement of Environment Effects	PM Anderson	June 2024
10	GEOTECHNICAL INVESTIGATION REPORT ref OB/C14369	ACT Geotechnical Engineers Pty Ltd	30/06/02023
11	Preliminary Environmental Assessment Report	ACT Geotechnical Engineers Pty Ltd	16/04/2024
12	BASIX and Nathers		13/08/ 2023
13	Deposited Plan	Bereza Engineering	11/06/2025
14	Cliff stabilisation works at 217A Beach Road Denhams Beach	UNSW Water Research Laboratory – James Carley	28/04/2025
15	Cliff stabilisation works at 217A Beach Road Denhams Beach – wave forces	UNSW Water Research Laboratory – James Carley	1/05/2025
16	Structural Engineer – Site inspection letter and structural advice and design	Gerin Hingee	21/09/2023
17	Structural Engineer – Cliff Stabilisation letter	Gerin Hingee	23/10/2023
18	Structural Engineer – Cliff Stabilisation letter	Gerin Hingee	30/05/2024
19	Structural Engineer – Retaining / Sea Wall (Review/ Waves forces and Design)	Gerin Hingee	12/06/2025
20	Waratah Ecology - Flora and Fauna Report	Waratah Ecology	12/05/2025
21	217A Beach Road Denhams Beach NSW 2536 Arboriculture Assessment & Report	Arbor Express	5/03/2025
22	217A Beach Road Combined Arboriculture Assessment & Report Memorandum	Arbor Express	29/04/ 2025
23	217A Beach Road Denhams Beach NSW 2536 Arboriculture <u>Assessment &amp; Report</u>	Arbor Express	07/12/2023
24	217A Beach Road Denhams Beach NSW 2536 Arboriculture Assessment & Report <u>Memorandum</u>	Arbor Express	07/12/2023
25	217A Beach Rd Horticulture Revegetation Summary Notes (002)	Garden Thumb	21 May 2025
26	Council advice approving emergency erosion protection works (vegation and tree removal) and advising BIC	E-mails from Eurobodalla Council Development Officers	11 Jan 2024

## Amendments to the proposal and additional assessment

Four amendments to the development are proposed and several drawings/reports have been prepared to address concerns raised. These are summarised in below.

TABLE 1: AMENDMENTS AND ADDITIONAL ASSESSMENT	
Amendments to Development	Drawing / Document No
<b>1. Beach Storage Shed</b> - Consent is no longer sought for construction and use of a beach storage shed	<ul style="list-style-type: none"> <li>Site plan – 013 – Issue DA02</li> </ul>
<b>2. Building Height</b> - Roof encroachment into building height limit has been removed, and the proposed dual occupancy is entirely within the 8.5m maximum height limit.	<ul style="list-style-type: none"> <li>Building Height Envelope - 085 - Issue DA02</li> </ul>
<b>3. Stormwater</b> – Storm water management has been relocated to the north boundary .	<ul style="list-style-type: none"> <li>Stormwater Management Plan – 681-04 – Revision E</li> </ul>
<b>4. Amenity</b> – The Kitchenette has been removed from L0 plan to remove any ambiguity that the lower ground floor may be capable of separate occupation (or future dwelling provision)	<ul style="list-style-type: none"> <li>L0 Floorplan – 110 – Issue DA02</li> </ul>
Additional Drawings / Assessment	
<b>1. Overshadowing</b> – Shadow diagrams have been updated post building height reduction demonstrating hourly shadow diagrams on the day of the winter solstice in both plan and vertical elevations. The updated studies demonstrate no major impact to living areas and Private Open Space with sun penetration exceeding the minimum 2 hour requirements. Shadow studies include the solar panels to the roof of 219A Beach Road and demonstrate there are no shadow impacts to the panels.	<ul style="list-style-type: none"> <li>Shadow Plans – 071 – Issue DA02</li> <li>Shadow Plans – 072 – Issue DA02</li> <li>Shadow Elevations – 074 – Issue DA02</li> </ul>
<b>2. Visual Impact, Character and Scale</b> – a streetscape technical elevation including a photomontage has been provided and demonstrates that the proposed development is consistent with the character and scale of the neighbourhood, and the adjacent duplex developments, and other residences along Beach Road.	<ul style="list-style-type: none"> <li>Streetscape Elevations – 205 – Issue DA02</li> </ul>
<b>3. Vehicle Manoeuvring</b> – Civil drawings have been provided demonstrating that vehicles enter/exit the site in a forward direction (vehicle manoeuvring swept paths).	<ul style="list-style-type: none"> <li>Vehicle Manoeuvring 1of3 – 681-06 – Revision D</li> <li>Vehicle Manoeuvring 2of3 – 681-07 – Revision D</li> </ul>



	<ul style="list-style-type: none"> <li>Vehicle Manoeuvring 3of3 – 681-08 – Revision D</li> </ul>
4. <b>Sewer Main Easement</b> - Proposed Carport structure complies with the required clearances to building within a sewer main easement.	<ul style="list-style-type: none"> <li>Sections 3– 303 – Issue DA02</li> </ul>
5. <b>Front Setback</b> – A site context plan has been prepared and demonstrates that the proposed front setback is consistent with average setbacks in the street. The carport is integrated into the building design, and located within the front set-back – it has minimalist carport screens (perforated and open) as a non-prominent building element that has a greater setback to the front boundary than the solid garage wall at 217 Beach Road and other similar structures in the street.	<ul style="list-style-type: none"> <li>Site Context Plan – 012 – Issue DA02</li> </ul>
6. <b>Landscaping</b> -	<ul style="list-style-type: none"> <li>Arbor Express: Arboriculture Assessment &amp; Report</li> <li>Garden Thumb: Horticulture Revegetation Summary Notes</li> </ul>
7. <b>Coastal Engineering / Structural Engineering</b>	<ul style="list-style-type: none"> <li>WRL Report</li> <li>Structural Engineering Report</li> </ul>

## **ANNEXURE B**

Cliff stabilisation works at 217A Beach Road, Denhams Beach : UNSW Water Research Laboratory  
– James Carley 28/04/2025

Cliff stabilisation works at 217A Beach Road, Denhams Beach – Wave Forces: UNSW Water  
Research Laboratory – James Carley 1/05/2025

Structural Engineer – Retaining / Sea Wall (Review/ Waves forces and Design): Gerin Hingee  
12/06/2025

## ANNEXURE C

Attachment A of the Council Report identifies 16 “Reasons for Refusal”. Section 5 of the Council Report identifies 14 key issues in 2 categories. The Table 1 and 2 below identify and respond to specific issues raised in Attachment A and Section 5 of the Council Report.

TABLE 1: RESPONSE TO ATTACHMENT A		
	Attachment A Issue	Response
1.	Objectives of the EP&A Act	
2.	Satisfaction of the requirements of s27 of the Coastal Management Act	See WRL Report
3.	Requirements of s56(2) of the Marine Estate Management Act 2014	There are no potential environmental impacts within marine parks, marine biological diversity and marine habitats.
4.	Application does not address unauthorised works	See BICs <i>BIC 42402 (Vegetation, erosion protection, stairways, pathways, right of access)</i> <i>BIC 38555 (Retaining Walls)</i>
5.	Lack of consideration of whether consideration of whether the proposed development is likely to significantly affect threatened species or ecological communities, or their habitats	Flora and fauna report for 217A Beach Road, Denhams Beach (Waratah Ecology) 12/06/2025 <i>No BC / EPBC Act listed flora or fauna species were considered to have a ‘moderate’ likelihood of occurring within the site and therefore be directly impacted by the proposed residential development. Suitable habitat for threatened species is present within the wider locality, however, it was deemed that none is currently present on the subject site.</i> <i>No threatened flora or fauna species listed under either the BC or EPBC Act were identified on the site during the field survey.</i>
6.	Failure to demonstrate the site is suitable for development in relation to contaminated land	Geotechnical Report demonstrating that site is suitable for development is provided – Document JF/C14369 prepared by ACT Geotechnical Engineers (Now FORTIFY Geotech) on the 22 <sup>nd</sup> of December 2023
7.	Vegetation and tree removal undertaken without consent	The Landscape plan, surveys, and arborists reports identifies the 10 trees

		<p>in location, and the 2 trees that were removed and reconciles this against trees approved for removal by Council.</p> <p>All vegetation removal was approved by Council prior to commencement.</p>
8.	The proposal fails to satisfy the relevant aims of the Eurobodalla Local Environmental Plan 2012.	Amended Statement of Environmental Effects (PM. Anderson, June 2024)
9.	The proposal fails to satisfy the zone objectives of the R2 Low Density Residential zone of Eurobodalla Local Environmental Plan 2012	The zone objectives are addressed in the Amended Statement of Environmental Effects (PM. Anderson, June 2024)
10.	The proposal fails to demonstrate the proposed building height variation is compatible with the LEP	The minute section of the deck roof which exceeded the height limit has been removed
11.	The proposal fails to demonstrate the proposal is compatible with the objectives and provisions of Eurobodalla Local Environmental Plan 2012 including: - Clause 2.3 Permissibility and zone objectives - Clause 4.3 Height of buildings - Clause 4.6 Variation to a development Standard - Clause 6.4 Earthworks - Clause 6.9 Stormwater management	<p>Amended Statement of Environmental Effects (PM. Anderson, June 2024)</p> <p>Amended Plans – removing height of building</p>
12.	<p>The proposal fails to satisfy the intent or performance criteria for development within the Residential Zones Development Control Plan for sections:</p> <p>2.1 Siting –</p> <p>2.2 Setbacks –</p> <p>2.3 Garages, Carports &amp; Sheds –</p> <p>2.5 Landscaping –</p> <p>2.6 Parking and Access –</p> <p>2.8 Views –</p> <p>4.1 Bulk and Scale –</p> <p>4.2 Street Frontage and Façade Treatment –</p> <p>4.3 Style and Visual Amenity –</p> <p>5.1 Visual Privacy –</p> <p>5.2 Solar Access –</p> <p>6.2 Tree Preservation –</p> <p>6.3 Biodiversity –</p> <p>7.2 Earthworks –</p> <p>7.3 Stormwater Management –</p> <p>7.5 Waste</p>	<p>The amended design and further information provided as part of this submission addresses the performance criteria for the following sections:</p> <p>2.1 Siting – Visual Impact study</p> <p>2.2 Setbacks – Site Context Plan</p> <p>2.3 Garages &amp; Sheds - Site Context Plan</p> <p>2.5 Landscaping – Landscape Plan, Flora and Fauna Report, Arborist Report.</p> <p>2.6 Parking and Access – Vehicle Manoeuvring Drawings.</p> <p>Note: There is no intention to create/or develop separate occupations requiring additional parking.</p> <p>2.8 Views – There was a response to the DA raised in relation to view loss by 508 Beach Rd, this neighbour has subsequently sold the property. A degree of view impact is a necessary impact accrued by building on any residential block in adjacent to a water-view. The design of the development has been to minimise the view loss where possible, by providing</p>

		<p>a minimalist quiet building face which does not dominate the adjacent landscapes.</p> <p>4.1 Bulk and Scale – Streetscape Elevation and Building Height Envelope</p> <p>4.2 Street Frontage and Façade Treatment - Streetscape Elevation and Building Height Envelope and 3D perspectives.</p> <p>4.3 Style and Visual Amenity – Streetscape Elevation and Building Height Envelope and Site Context Plan.</p> <p>5.1 Visual Privacy - Streetscape Elevation and Building Height Envelope and 3D perspectives.</p> <p>5.2 Solar Access – Shadow Plans and Elevations</p> <p>6.2 Tree Preservation – Arborist Report and updated site survey. 10 trees were on-site, only 2 trees have been removed with council permission. No trees have been removed without authorisation - 8 trees are currently remaining on site (as shown in Council pictures Figure 21: A site photo from 3/12/24 showing as-built works), and as surveyed.</p> <p>6.3 Biodiversity – Flora and Fauna Report</p> <p>7.2 Earthworks – Engineering advice.</p> <p>7.3 Stormwater Management – Civil Engineering drawings</p>
13.	The application has failed to demonstrate the proposal has adequately considered geotechnical constraints and the coastal environment i	<p>Geotechnical Investigation and recommendations provided.</p> <p>Structural adequacy report obtained.</p>
14.	The proposal has failed to demonstrate it will not have an adverse impact on the on adjoining properties	<p>Issues possibly affecting 219A Beach Rd, such as height, shadowing, and stormwater have been addressed.</p>
15.	The proposal has failed to demonstrate it will not pose a potential risk to public safety	<p>There is no risk to public safety. The only identified risk of the Proposal was the unsafe beach access pathways: has been removed through the engineering control, of refurbishing the existing stairways to AS 1657 , and</p>

		<p>installing compliant fall-stop devices (Handrails and balustrades).</p> <p>The safety of the retaining wall system has been confirmed via Dr Carley's analysis of the modelled coastal engineering requirements and the structural engineer's assessment of matched design and construction.</p> <p>It is noted that other recently constructed adjacent retaining wall system have not been engineered (structurally or by a coastal specialist) or assessed for the adequacy of their design to engineering standards.</p>
16.	The proposal is not in the public interest as it is not suitable for the site, resulting in unacceptable built form, natural, social, economic environmental impacts including impacts on the coastal environment.	<p>217A is situated between adjacent duplex properties which are 3-story residences in similar (larger) scope. Both 219 and 217 Beach Road, have installed erosion protection works, retaining walls and beach access stairways.</p>

**TABLE 2: RESPONSE TO SECTION 5 CONCERNS**

Section 5 Issue	Response
1: Coastal Protection Works and Environmental Protection Works (Unauthorised works)	
<i>insufficient information has been provided to allow for assessment of the environmental protection works and coastal protection works</i>	See attached WRL Report:
<i>the scale of the proposed works within the cliff and beach area is inconsistent with the existing character of the coastal area and coastal environment</i>	The existing character of the adjacent properties on the exact same coastal area and environment are consistent with this proposal. (see below)
5.2: Built form / Coastal environment	
<i>The proposed building form presents an unsympathetic response to the streetscape and is of an excessive bulk and scale</i>	<p>The Streetscape Elevation, Building Height Envelope, 3D perspectives, and site context plan demonstrate that the proposal is consistent with height, bulk, and scale of the existing and desired character of the locality.</p> <p>The built form in this area of Beach Road contains predominantly two storey structures fronting Beach Road stepping down to three storey elevations at the cliff /ocean eastern boundary consistent with this proposal.</p>

<p><i>The building proposes non compliant building height and non compliant building setbacks</i></p>	<p>The non-compliant building height is no longer applicable: The Building Height has been reduced to comply with the maximum 8.5m height limit.</p> <p>The Building Setback is consistent with the average front setback of adjacent properties and is not less than the smallest existing setback in the street.</p>
<p><i>The work as-built consist of significant earthworks and retaining wall structures of a bulk and scale that is incompatible with the existing coastal environment and beach character.</i></p>	<p>The retaining walls of 217A, are in a consistent position/aligned in a similar set-back location and height as the retaining walls of 219A Beach Road, by deliberate intention. The works were aligned to match existing works already completed on adjacent properties, albeit ours were completed to rigorous engineering design, construction and assessment. The material chosen (Vertiblock etc) were designed to provide a durable low-maintenance safe long-term solution (as used by the NSW Government for similar purpose).</p> <p>The colour chosen was custom matched to the colour of the surrounding rock-scaped beach, and the exposed surrounding natural cliff bluffs, ensuring from sea-side view, there would be no visual impact once vegetation was re-established.</p> <div data-bbox="767 949 1324 1084">  </div>
<p><i>The solar impacts and overshadowing on the property to the south should be considered</i></p>	<p>The revised Shadow diagram plans and elevations demonstrate that consideration to solar impacts and overshadowing has been taken into account in the amended design, and provides solar access in excess of the requirements.</p>
<p><i>The large vertical screens and balconies to the car parking area which are between 1-2 storeys in height should be reconsidered to provide for a development that addresses the streetscape with adequate setbacks.</i></p>	<p>The setback of the perforated screens to the proposed carports are setback to a greater distance than solid walls that present to the street on adjacent developments. The front facade has been carefully designed to create a minimalist aesthetic that fits within the existing context.</p>
<p><i>The...retaining walls, filled earthen platform areas and associated steps, walkways and structures...are not consistent with the setbacks associated with neighbouring developments along this section of coastline</i></p>	<p>The retaining walls are setback from the beachfront boundary approximately 5m. This is significantly above the perimeter of the Mean High Tide Water Mark.</p> <p>The retaining walls, steps and walkway (and the previously proposed structure) are exactly consistent with associated neighbouring developments:</p> <p><i>“The only access is via the water or through eight private properties which front the beach and have stair access down the cliff. Seven of these eight private properties have some form of coastal protection works at the base of the cliff (predominantly gabions, Figure 4-3) and five of these properties have a boatshed type</i></p>

	structure fronting the beach (Figure 4-3). WRL2025012 LR20250428ab JTC”
<i>The...retaining walls, filled earthen platform areas and associated steps, walkways and structures...have not been justified by specialist reports in relation to impacts from coastal process or geotechnical requirements in relation to coastal hazards..</i>	<p><i>“The works are more than 5 m landward of the seaward private property boundary. There is no public access to the beach via land, with access only through eight private properties or via water through the small keyhole gap in the surrounding rocky reefs.</i></p> <p><i>The works will not unreasonably limit or be likely to unreasonably limit public access to or the use of the beach or headland.</i></p> <p><i>The works are unlikely to cause any increased erosion of the beach or adjacent land.”</i> WRL2025012 LR20250428ab JTC</p>