



northern  
beaches  
council

## MEMORANDUM

**DATE:** 6/09/2023

**TO:** Northern Beaches Local Planning Panel (NBLPP)

**CC:** Peter Robinson, Executive Manager Development Assessment

**FROM:** Tom Prosser

**SUBJECT:** Item No. 4.1 – DA2022/2234 – 19 Morella Road, Whale Beach

**TRIM REFERENCE:** 2023/57401

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The purpose of this memorandum is to provide additional assessment of new information regarding the issues raised in the submission made by Maddocks Lawyers. This is regarding the assertion that there are tanks under the tiled terrace. The tiled terrace is created from a backfilled retaining wall.

From the site visit and a historical search of Council's records, there has been no evidence found to suggest there are any tanks located below the tiled area to the rear of the dwelling.

If the panel were to be of the contrary view, it is also the opinion of Council's Assessment Officer that despite the presence of any tanks, there are existing survey levels provided on the tiled area that can be used as existing ground levels for the calculation of Building Height under the Pittwater LEP in accordance with the Land and Environment Court caselaw *Merman Investments Pty Ltd v Woollahra*.

### Recommendations

The panel accept the recommendation in the assessment report along with the additional recommendations in the Memo dated 5/09/2023.