

STATEMENT OF ENVIRONMENTAL EFFECTS

**FOR THE PROPOSED CONSTRUCTION OF A NEW DWELLING
AND DETACHED DOUBLE GARAGE WITH SECONDARY DWELLING ABOVE**

LOCATED AT

12B JOHN STREET, AVALON (PROPOSED LOT 1)

FOR

TIM DONOVAN



**Prepared
December 2023**

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1.0 Introduction

This Statement of Environmental Effects accompanies plans prepared on behalf of Tim Donovan by THW Architects, Job No. 142A, Sheet No. 00 - 03, 10 - 14, 20 - 21 & 100 - 106, dated 1 December 2023 to detail the proposed construction of a new dwelling and detached double garage with secondary dwelling over at **12B John Street, Avalon Beach**.

This Statement describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. As a result of this assessment it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

In preparation of this document, consideration has been given to the following:

- *The Environmental Planning and Assessment Act, 1979 as amended*
- *The Environmental Planning and Assessment Regulation 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *Pittwater Local Environmental Plan 2014*
- *Pittwater 21 Development Control Plan*

Development Application No. DA2021/0420 for Torrens title subdivision of the one lot into two was approved on 12 April 2022.

The approved subdivision of the parent lot provided for the creation of two separate allotments known as Proposed Lots 1 & 2.

The proposed development will seek to construct a new dwelling with attached garage within each of the two approved lots, to be known as 12A (Lot 2) & 12B (Lot 1) John Street.

The works necessary to provide for the issue of the Subdivision Certificate and the subsequent registration of the new allotments has not been completed as yet.

It is anticipated that any consideration of the new dwellings and associated structures and any subsequent consent will necessitate a Determination being issued in a deferred commencement format, with commencement of the consent subject to the registration of the new allotments.

Development Application No. DA2019/1333 for construction of a new dwelling and detached double garage with secondary dwelling was submitted to Council and later withdrawn. T

The subject application seeks consent for a similar development, with modifications to minimise the potential impacts of the development on surrounding properties.

2.0 Property Description

The subject allotment is currently described as 12A John Street, Avalon Beach, being Lot 2 within Deposited Plan 1237357 and is zoned C2 Environmental Conservation and C4 Environmental Living under the Pittwater Local Environmental Plan 2014.

As discussed, the existing allotment will be eventually subdivided into two new lots to facilitate the future development for two separate dwellings.

This application seeks consent to provide for a new single dwelling & detached garage with a secondary dwelling over within Proposed Lot 1.

The site is identified as being within an Acid Sulfate Soils Area (Class 3 and Class 5).

The site is identified as Flood Prone Land, Flood Risk (Low, Medium and High) and Land within Risk to Life (H3, H5 and H6). A Flood Inundation & Risk Assessment Report dated November 2023 has been prepared by Barrenjoey Consulting Engineers Pty Ltd and is discussed further within this submission.

The site is also noted as being affected by Estuarine Hazard and this is also discussed further within this submission.

There are no other identified hazards affecting the land.

3.0 Site Description

The property is an irregular-shaped, battle-axe allotment located on the north-eastern side of John Street.

The property falls gradually from the roadway to the rear, north-eastern boundary.

The land is currently developed with existing landscaping. An existing driveway within the access handle provides vehicular access to the site.

The details of the existing site levels are indicated within the Survey Plan prepared by Bee & Lethbridge Pty Ltd, Reference No. 21070, dated 8 June 2018.



**Fig 1: Location of Subject Site
(Source: Google Maps)**



Fig 2: View of existing entry drive to the subject site, looking north-east from John Street

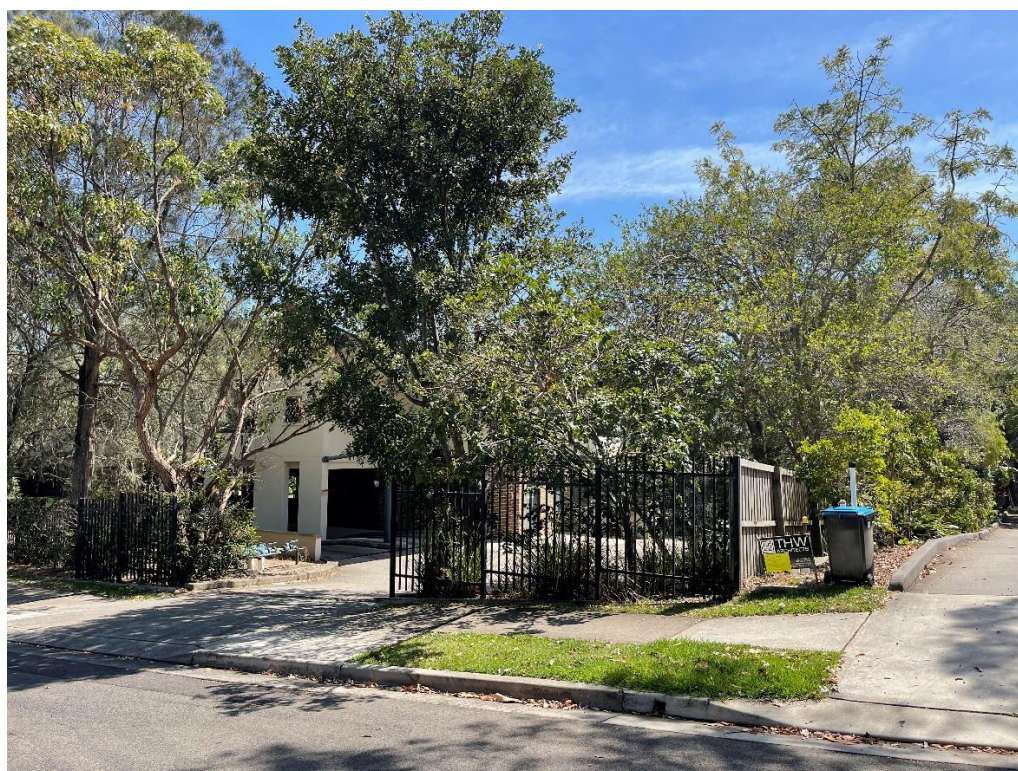


Fig 3: View of existing entry drive to the subject site, looking north-east towards the adjacent Avalon House Nursing Home



Fig 4: View looking north-east along existing entry drive to the subject site



Fig 5: View looking south-east along common rear boundary with No 12 John Street



Fig 6: View looking south toward the end of the existing entry drive to the subject site



Fig 7: View looking south-west towards northern boundary of the site and the adjoining Avalon House Nursing Home



Fig 8: View looking south-west towards the adjoining property at No 8C John Street

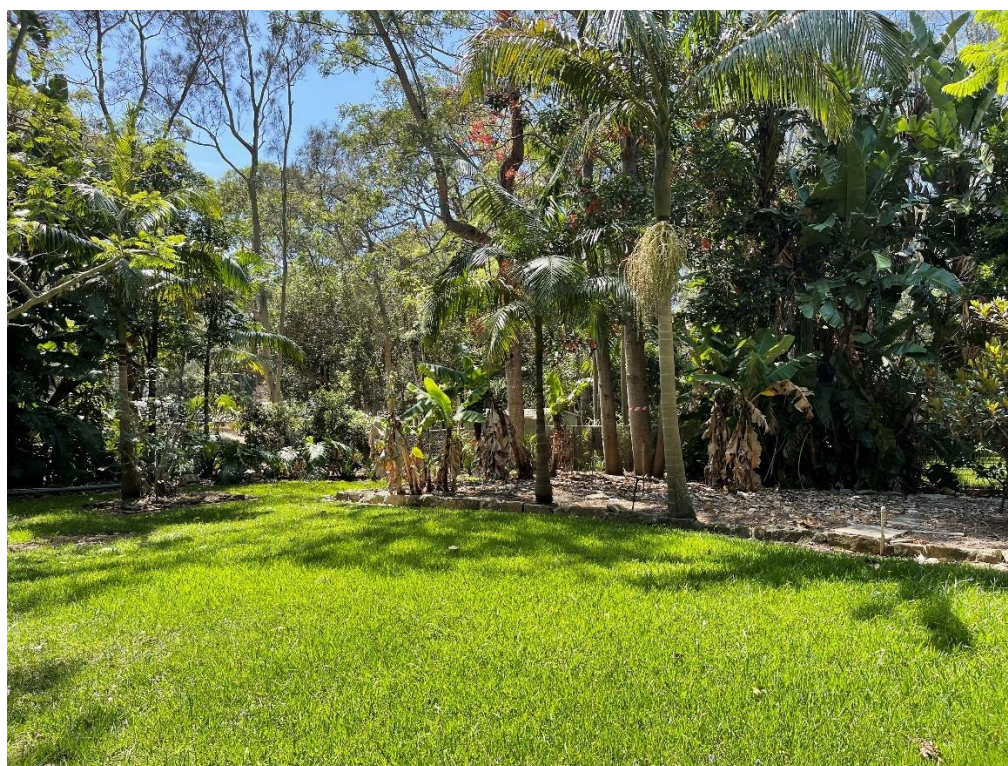


Fig 9: View looking north towards north-western boundary of the site

4.0 The Surrounding Environment

The general vicinity of the site is characterised by one and two storey residential developments within landscaped settings.

Surrounding the sites are single residences, with a variety of styles and scales of development. Battle-axe allotments are not uncommon in the locality.

The adjoining property to the north-west comprises Avalon Nursing Home.

The subject proposal is supported by a Stormwater Management & Assets Plan prepared by Barrenjoey Consulting Engineers Pty Ltd which will provide for roofwater and collected surface waters from the future dwellings to be directed to dispersion trenches traversing the rear boundary of the site.

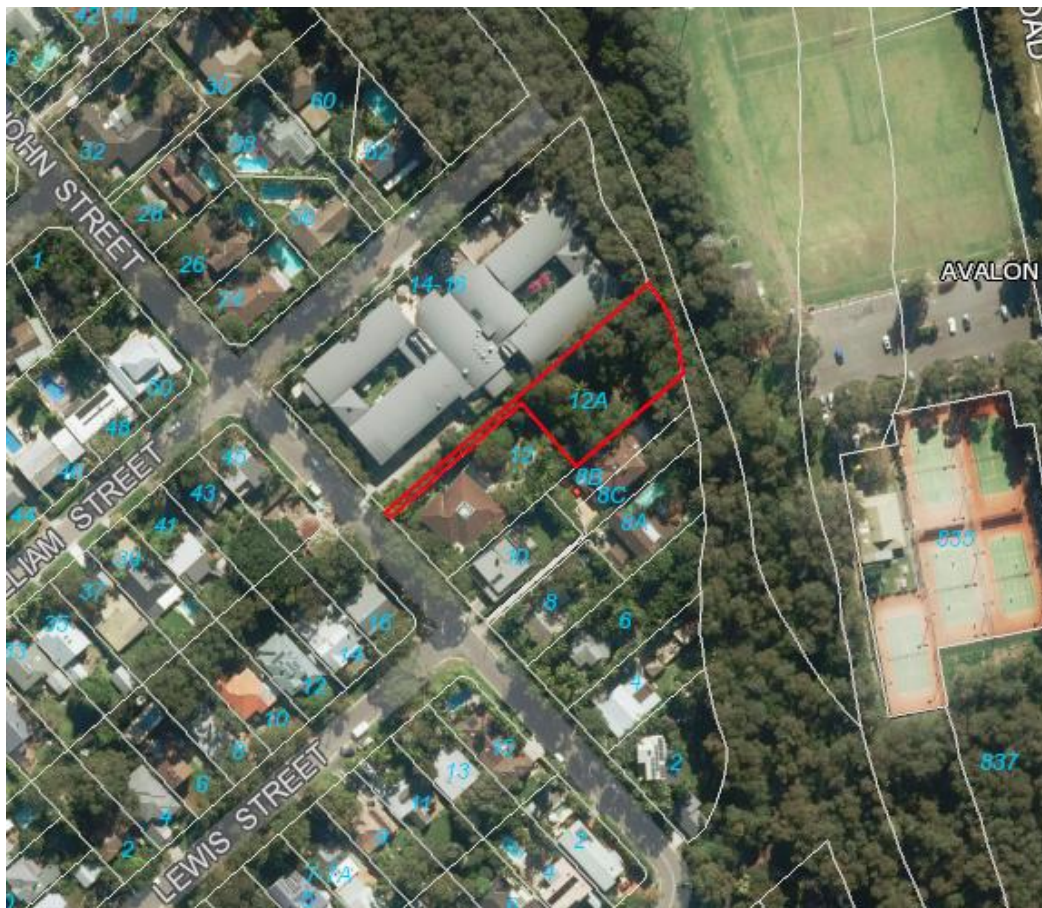


Fig 10: Aerial Photograph
(Source: Google Maps)

5.0 Proposed Development

As detailed within the accompanying plans, it is proposed to construct a new dwelling and detached double garage with secondary dwelling above on Proposed Lot 1 (12B John Street) within the approved Torrens Title subdivision.

The proposal involves the following works:

Dwelling

Ground Floor

- Proposed ground floor level to provide for entry, two bedrooms, bathroom, separate WC, open plan lounge/dining area with fireplace, kitchen with laundry and rear deck

First Floor

- Proposed first floor level to provide for two bedrooms including master with walk-in robe, ensuites and a balcony

Garage/Secondary Dwelling

Ground Floor

- Detached double garage storage area and external stairs to upper level

First Floor

- Proposed first floor level to provide for secondary dwelling comprising a bedroom, bathroom, open plan living and kitchen, balcony
- Secondary dwelling to have a floor area of 43.8m².

External Works

- Concrete driveway

The external finishes of the new works will comprise a mix of rendered FC boards, weatherboards, with metal roof sheeting.

The proposal provides a modest one and two storey scale, with modulated elements which assist with minimising the visual bulk of the development.

The existing driveway, layback and crossing within the right of way will be retained, with a new driveway provided within the subject lot to provide access to the proposed garage.

New landscape plantings will be provided throughout the site as detailed within the submitted Landscape Plan prepared by A Total Concept Landscape Architect & Swimming Pool Designers, dated 7 November 2023.

The development indices for the development are summarised as:

Proposed Total Lot Size: 700m² (exclusive of access handle)

Required Soft Landscaping: 60% or 420m²

Proposed Soft Landscaping: 61.3% or 428.9m² (excluding 6% variation)

6.0 Zoning and Development Controls

6.1 State Environmental Planning Policy (Resilience and Hazards) 2021

Remediation of Land

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

Overall, the proposed development is consistent with the relevant provisions of SEPP (Resilience and Hazards).

Coastal Zone

The subject site is identified as being within the coastal zone and therefore Chapter 2 of SEPP (Resilience and Hazards) is applicable to the proposed development.

The stated Aim of the Chapter under Clause 2.1 is to:

The aim of this Chapter is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by—

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

The matters for consideration under Chapter 2 of SEPP (Resilience and Hazards) are addressed as follows:

Division 3 Coastal environment area

2.1 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.*
- (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 subclause (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.*
- (3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

Comment:

The proposal provides for the construction of a new dwelling and detached garage with secondary dwelling over. The proposed works will be carried out in accordance with the recommendations of the consulting Structural Engineer, which will ensure that appropriate structural integrity for the site will be maintained.

The collected stormwater will be directed to the proposed new stormwater dispersion system. The proposed stormwater management system will be designed to comply with Council's Water Management Policy.

Sediment and erosion control measures will be carried out as part of any future development on site to minimise the impact of the works on the coastal locality.

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 referred to in paragraph (a), or*

- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) 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.*
- (2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

Comment

The proposal is separated from any foreshore and will not result in the removal of any existing public access along a foreshore area. The new dwelling observes a 20m riparian corridor/setback taken from the highest bank of Careel Creek in order to minimise any direct impact to the creek line.

The site does not contain any heritage items, nor is it within a conservation area. The site has been previously cleared, and it is not anticipated that any items of Aboriginal heritage will be encountered.

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 proposal provides for the construction of a new dwelling and detached garage with secondary dwelling over. The proposed new works are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

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: No coastal management programs have been identified.

2.14 Other development controls not affected

Subject to clause 7, for the avoidance of doubt, nothing in this Part:

- (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or*
- (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.*

Comment: Noted

2.15 Hierarchy of development controls if overlapping

If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency:

- (a) the coastal wetlands and littoral rainforests area,*
- (b) the coastal vulnerability area,*
- (c) the coastal environment area,*
- (d) the coastal use area.*

Comment

Noted

6.2 State Environmental Planning Policy (Sustainable Buildings) 2022

The proposal meets water, thermal and energy standards required by BASIX. A BASIX certificate has been submitted with the development application.

6.3 Pittwater Local Environmental Plan 2014

The site is zoned C2 Environmental Conservation & C4 Environmental Living under the provisions of the PLEP 2014.

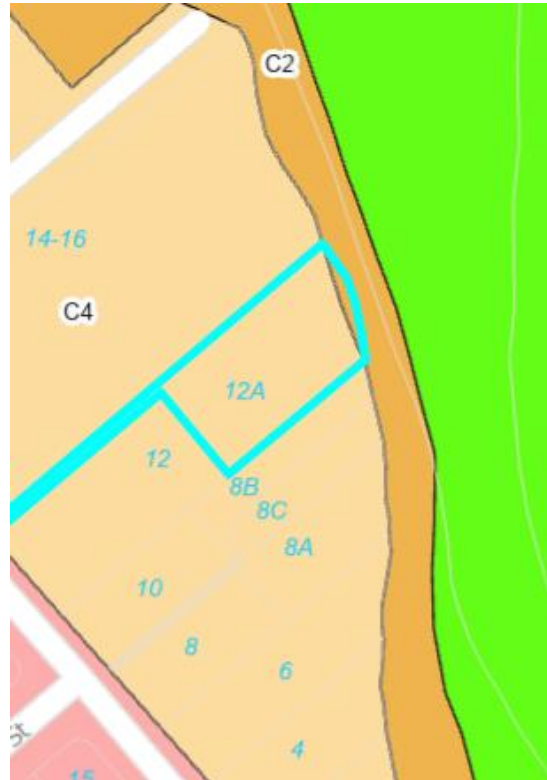


Fig 11: Zoning extract – Pittwater LEP 2014 – Northern Beaches Council Planning Maps

The development of and continued use of the land for residential purposes comprising a dwelling and detached secondary dwelling is consistent with the C4 Environmental Living Zone objectives, which are noted as:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Furthermore, the development of and continued use of the land for residential purposes is consistent with the C2 Environmental Conservation Zone objectives, which are noted as:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

It is suggested that the proposed development of the land in the manner proposed will be consistent with the LEP provisions.

Clause 4.3 – Height of Buildings

The maximum building height in this portion of Avalon is 8.5m. The maximum height of the proposed new works is approximately 7.1m which therefore readily complies with the height requirement stipulated by the LEP.

Clause 5.4 – Controls relating to miscellaneous permissible uses

The provisions of this clause that relate to the subject application are as follows:

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- 1. 60 square metres,*
- 2. 25% of the total floor area of the principal dwelling.*

The proposed secondary dwelling has a floor area of 43.8m² and therefore complies with this control.

Clause 7.1 relates to acid sulfate soils. The site is in the Class 3 and 5 Acid Sulfate Soils area. No significant excavation is required to accommodate the proposed works, and therefore it is not anticipated that any acid sulfate soils will be encountered.

Clause 7.2 relates to earthworks. The proposal will not require any significant excavation of the site.

The works will be carried out in accordance with the recommendations of the consulting Structural Engineer, and will therefore satisfy the provisions of this clause.

Clause 7.3 – Flood Planning

The site is noted as being identified as Flood Prone Land, Flood Risk (Low, Medium and High) and Land within Risk to Life (H3, H5 and H6). A Flood Inundation & Risk Assessment Report has been prepared by Barrenjoey Consulting Engineers Pty Ltd, Job No. 181005, dated November 2023.

Subject to compliance with the recommendations contained within the report, the proposal will satisfy the provisions of this clause.

Clause 7.6 – Biodiversity protection

The land is noted within Council's Biodiversity mapped area.

- (1) The objective of this clause is to maintain terrestrial, riparian and aquatic biodiversity by:*
- (a) protecting native fauna and flora, and*
 - (b) protecting the ecological processes necessary for their continued existence, and*
 - (c) encouraging the conservation and recovery of native fauna and flora and their habitats.*

The development will maintain a number of trees on the site, along with generous areas of soft landscaping.

The proposal is accompanied by a Biodiversity Development Assessment Report prepared by Kingfisher Urban Ecology and Wetlands, dated December 2023.

Subject to compliance with the recommendations contained within this report, the proposal will satisfy the provisions of this clause.

There are no other provisions of the Pittwater LEP 2014 that are relevant to the proposed works.

6.4 Pittwater 21 Development Control Plan

Council's Pittwater 21 DCP Section B (General Controls), Section C (Development Type Controls) and Section D4 Avalon Beach Locality Statement provides a range of outcomes and controls which form the primary criteria control for development within the subject locality.

6.4.1 Section A - Shaping Development – Desired Character

The desired outcomes for the Avalon Beach Locality, in which this site falls, are as follows:

A4.1 Avalon Beach Locality

The most important desired future character is that Avalon Beach will continue to provide an informal relaxed casual seaside environment. The locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancies will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity, fewer hazards and other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, commercial, community and recreational facilities will serve the community.

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport. Vehicular and pedestrian access into and through the locality is good. Pedestrian links, joining the major areas of open space (Angophora Reserve, Stapleton Park and Hitchcock Park) and along the foreshores, should be enhanced and upgraded. Similarly, cycle routes need to be provided through the locality. Carparking should be provided on site and where possible integrally designed into the building.

Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with development. The objective is that there will be houses amongst the trees and not trees amongst the houses.

Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.

Most houses are set back from the street with low or no fencing and vegetation is used extensively to delineate boundary lines. Special front building line setbacks have been implemented along Avalon Parade to maintain the unique character of this street. This, coupled with the extensive street planting of canopy trees, gives the locality a leafy character that should be maintained and enhanced.

The design, scale and treatment of future development within the Avalon Beach Village will reflect the 'seaside-village' character of older buildings within the centre, and reflect principles of good urban design. External materials and finishes shall be natural with smooth shiny surfaces avoided. Landscaping will be incorporated into building design. Outdoor cafe seating will be encouraged.

A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors. The natural landscape of Careel Bay, including seagrasses and mangroves, will be conserved. Heritage items and conservation areas indicative of early settlement in the locality will be conserved, including the early subdivision pattern of Ruskin Rowe.

Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.

It is considered that the proposal is consistent with the desired character of the locality by providing for the construction of a new dwelling and secondary dwelling, which is consistent with the scale and style of the newer development in the vicinity.

The proposal will maintain an appropriate area of soft landscaping. New landscape plantings will be provided throughout the site as detailed within the submitted Landscape Plan prepared by A Total Concept Landscape Architect & Swimming Pool Designers, dated 7 November 2023.

The proposal has been designed to reflect the existing setbacks provided to all boundaries existing in the immediate area.

The building materials and colours will harmonise with the natural environment and will not detract from the existing locality.

6.2.2 Section B General Controls

The General Controls applicable to the proposed development are summarised as:

B3.7 – Estuarine Hazard - Low Density Residential

The controls seek to achieve the outcomes:

Protection of people. (S)

Protection of the natural environment. (En)

Protection of private and public infrastructure and assets. (S)

The site is noted as being affected by Estuarine Hazard. Council's Pre-Lodgement Advice provided an estuarine planning level (EPL) of RL 2.22m AHD. The proposed dwelling has a ground level of RL 3.05m and therefore complies with the provisions of this clause.

B3.11 Flood Prone Land

The controls seek to achieve the outcomes:

Protection of people. (S)

Protection of the natural environment. (En)

Protection of private and public infrastructure and assets. (S)

The site is identified as Flood Prone Land, Flood Risk (Low, Medium and High) and Land within Risk to Life (H3, H5 and H6). A Flood Inundation & Risk Assessment Report has been prepared by Barrenjoey Consulting Engineers Pty Ltd. Subject to compliance with the recommendations contained within the report, the proposal will satisfy the provisions of this clause.

B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)

The controls seek to achieve the outcomes:

Protection of people. (S)

Protection of the natural environment. (En)

Protection of private and public infrastructure and assets. (S)

The site is identified as Flood Prone Land, Flood Risk (Low, Medium and High) and Land within Risk to Life (H3, H5 and H6). A Flood Inundation & Risk Assessment Report has been prepared by Barrenjoey Consulting Engineers Pty Ltd. The proposed dwelling will be carried out in accordance with the recommendations of the Flood Engineer and will observe Council's relevant flood controls.

B4.12 Mangrove Conservation

The controls seek to achieve the outcomes:

To conserve and enhance mangroves in the Pittwater Local Government Area. (En)

The proposal is wholly contained within the site, with stormwater suitably managed, and will therefore minimise any potential adverse impacts for nearby mangroves.

B4.16 Seagrass Conservation

The controls seek to achieve the outcomes:

The conservation of seagrass beds in Pittwater. (En)

The replacement of lost/damaged seagrass beds. (En)

The proposal is wholly contained within the site, with stormwater suitably managed, and will therefore minimise any potential adverse impacts for nearby seagrass.

B4.19 Estuarine Habitat

The controls seek to achieve the outcomes:

To protect and enhance the mangroves, saltmarsh, seagrasses, intertidal sand/mud flats and other foreshore habitats that comprise the estuarine habitat of Pittwater. (En)
Development in the catchment of estuarine habitat is to result in estuarine habitat being retained or enhanced with respect to that development. (En)

The physical, chemical and biological processes of estuarine habitats in Pittwater are improved, maintained or restored. (En)

The social and cultural values of estuarine habitats are conserved and enhanced. (S)
Biodiversity, ecological processes and other estuarine habitat values are conserved. (En)

The proposal is wholly contained within the site, with stormwater suitably managed, and will therefore minimise any potential adverse impacts on any nearby estuarine habitat.

Accordingly, a Riparian Plan and Coastal Impacts Assessment has been prepared by Ecological Consultants Australia and addresses the provisions of this clause.

B5.15 Stormwater

The controls seek to achieve the outcomes:

Improve the quality of water discharged to our natural areas to protect and improve the ecological and recreational condition of our beaches, waterways, riparian areas and bushland;

Minimise the risk to public health and safety;

Reduce the risk to life and property from any flooding and groundwater damage;

Integrate Water Sensitive Urban Design measures in new developments to address stormwater and floodplain management issues, maximise liveability and reduce the impacts of climate change.

Mimic natural stormwater flows by minimising impervious areas, reusing rainwater and stormwater and providing treatment measures that replicate the natural water cycle

Reduce the consumption of potable water by encouraging water efficiency, the reuse of water and use of alternative water sources

Protect Council's stormwater drainage assets during development works and to ensure Council's drainage rights are not compromised by development activities.

Stormwater Management Plan prepared by Barrenjoey Consulting Engineers Pty Ltd which will provide for roofwater and collected surface waters from the proposed dwelling and secondary dwelling be directed to dispersion trenches traversing the rear boundary of the site.

B6.1 Access driveways and works on the Public Road Reserve – Low Density Residential

The controls seek to achieve the outcomes:

Safe and convenient access. (S)

Adverse visual impact of driveways is reduced. (En)

Pedestrian safety. (S)

An effective road drainage system. (En, S)

Maximise the retention of trees and native vegetation in the road reserve. (En, S)

The proposal seeks to provide a new double garage accessed via the right of carriageway from John Street.

The current driveway crossing arrangements will continue to provide suitable access to the property in accordance with these controls.

B6.2 Internal Driveways – Low Density Residential

The controls seek to achieve the outcomes:

Safe and convenient access. (S)

Reduce visual impact of driveways. (S)

Pedestrian safety. (S)

An effective road drainage system. (En, S)

Maximise the retention of trees and native vegetation.

Reduce contaminate run-off from driveways.

The proposed new driveway which extends from the right of way will provide suitable access to the proposed garage.

B6.3 Off-street Vehicle Parking Requirements

The controls seek to achieve the outcomes:

Safe and convenient parking (En, S)

The controls require a minimum of 2 parking spaces for a dwelling with 2 bedrooms or more. The site will provide two off street parking spaces within the new garage, which will satisfy the control.

B8.1 Construction & Demolition – Excavation and Landfill

The controls seek to achieve the outcomes:

Site disturbance is minimised. (En)

Excavation and construction not to have an adverse impact. (En)

Excavation operations not to cause damage on the development or adjoining property. (S)

There will not be any significant excavation of the site or disturbance to the exterior ground levels and meets the objectives of this provision. The proposed works will be carried out in accordance with the recommendations of the consulting Structural Engineer, which will ensure that appropriate structural integrity for the site will be maintained.

B8.3 Construction & Demolition – Waste Minimisation

The controls seek to achieve the outcomes:

Reduction management of demolition, excavation and construction works is to be minimised by reuse on-site, recycling, or disposal at an appropriate waste facility. (En)

As required, appropriate waste management controls will be implemented throughout construction.

6.4.3 Section C Development Type Controls

C1.1 Landscaping

The controls seek to achieve the outcome:

- A built form softened and complemented by landscaping. (En)*
- Landscaping reflects the scale and form of development. (En)*
- Retention of canopy trees by encouraging the use of pier and beam footings. (En)*
- Development results in retention of existing native vegetation. (En)*
- Landscaping results in the long-term retention of Pittwater's locally native tree canopy. (En)*
- Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species (En)*
- Landscaping enhances habitat and amenity value. (En, S)*
- Landscaping results in reduced risk of landslip. (End, Ec)*
- Landscaping results in low watering requirement. (En)*

The proposal will retain a generous area of soft landscaping on site. New landscape plantings will be provided throughout the site as detailed within the submitted Landscape Plan prepared by A Total Concept Landscape Architect & Swimming Pool Designers, dated 7 November 2023.

The site will therefore maintain its contribution to the landscaped character of the locality.

C1.2 Safety and Security

The controls seek to achieve the outcomes:

- On-going safety and security of the Pittwater community. (S)*
- Opportunities for vandalism are minimised. (S, Ec)*
- Inform applicants of Council's requirements for crime and safety management for new development. (S)*
- Improve community awareness in relation to Crime Prevention through Environmental Design (CPTED), its principle strategies and legislative requirements (S)*
- Identify crime and safety priority areas in Pittwater LGA (S, Ec)*
- Improve community safety and reduce the fear of crime in the Pittwater LGA (S)*
- Develop and sustain partnerships with key stakeholders in the local area who are involved in community safety. (S)*

The proposal will provide the opportunity to view the driveway and street area with casual surveillance of the immediate area available from the dwelling and secondary dwelling.

C1.3 View Sharing

The controls seek to achieve the outcomes:

A reasonable sharing of views amongst dwellings. (S)
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. (S)
Canopy trees take priority over views. (En, S)

The subject and adjoining properties do not receive any significant views. The proposed new dwelling is modest in bulk and scale and neighbouring properties will therefore retain their existing outlook.

C1.4 Solar Access

The controls seek to achieve the outcomes:

Residential development is sited and designed to maximise solar access during mid-winter. (En)
A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En)
Reduce usage and/dependence for artificial lighting. (En)

The required controls to achieve the outcomes are to ensure that private open spaces of the subject and adjoining dwellings maintain a minimum of 3 hours of solar access in mid-winter.

The proposal is accompanied by shadow diagrams which demonstrate that the adjoining dwelling to the south-east will receive access least three hours of solar access between 9.00am – 12.00pm, and therefore complies with this control.

C1.5 Visual Privacy

The controls seek to achieve the outcomes:

Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)
A sense of territory and safety is provided for residents. (S)

The required controls to achieve the outcomes are to ensure that the private open space, recreation areas and living rooms within 9m of a development are suitably protected to limit the effects of direct overlooking.

Due to the considered location of habitable room windows and siting of the primary internal living areas at ground level, the proposal is not considered to result in any problematic overlooking to the neighbouring properties.

The proposed first floor balcony overlooks the rear yard of the site and is shallow in depth, which minimise opportunities for overlooking.

C1.6 Acoustic Privacy

The controls seek to achieve the outcomes:

Noise is substantially contained within each dwelling and noise from any communal or recreation areas are limited. (S)

Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or recreation areas (S)

The required controls to achieve the outcomes are to ensure that noise sensitive living areas and bedrooms are located away from major noise sources.

Given the residential nature of the works, there will not be any significant impact on the surrounding locality in terms of acoustic privacy.

C1.7 Private Open Space

The controls seek to achieve the outcomes:

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

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

Private open space receives sufficient solar access and privacy (En, S).

The required controls to achieve the outcomes are to ensure that dwellings are provided suitable private open space with an area and at a grade which will facilitate outdoor private recreation.

The proposal provides for a suitable area of private open space within the rear yard, with excellent access to the northern sun.

C1.11 Secondary Dwellings and Rural Worker's Dwellings

The controls seek to achieve the outcomes:

Limitation of the visual bulk and scale of development. (En, S)

Provision of design flexibility for second storey development.

Restriction of the footprint of development site. (En)

Retention of natural vegetation and facilitation planting of additional landscaping. (En)

Provision of rental accommodation. (S)

The proposal addresses the provisions of this clause in the following manner:

- The proposal will result in a total of 2 dwellings on the site
- The proposed secondary dwelling contains one bedroom and one bathroom
- The proposed secondary dwelling is attached to the garage, and readily complies with the statutory height limit

The proposal in its current form allows for the retention of a generous area of private open space and soft landscaping.

The development is modest in bulk and scale, and given the battle-axe configuration of the site, will not be prominently viewed within the John Street streetscape.

Council's DCP suggests that secondary dwellings that are located over garages are not favoured, with Council's concerns understood to be related to the potential for elevated secondary dwellings to impact on the privacy and amenity of neighbouring properties.

In this instance, the secondary dwelling is well removed from the adjacent dwelling at No 12 John Street (in excess of 28m).

The proposed secondary dwelling over the detached garage is also well removed from the adjacent dwelling at No 12 John Street (in excess of 28m), with minimal windows proposed to the southern elevation. As the privacy, solar access and general amenity of the surrounding dwellings is not adversely affected, the form of the two storey detached structure with a secondary dwelling at the first floor level is considered to be reasonable in this instance.

New plantings will be provided throughout the site which soften and screen the built form of the development.

The proposal is in keeping with the desired outcomes of this clause and is worthy of support on merit.

C1.12 Waste and Recycling Facilities

The controls seek to achieve the outcomes:

Waste facilities are accessible and convenient, and integrate with the development. (En)
Waste facilities are located such that they do not adversely impact upon amenity of the land adjoining development or natural environment. (En, S)

The required controls to achieve the outcomes are to ensure that adequate area remains for the storage of waste and recyclable materials. There is sufficient area surrounding the garage for on-site storage of waste and recyclables, with the waste removed by Council contractors via the household garbage service.

6.4.4 Section D Locality Specific Development Controls

The **D1 Avalon Beach Locality Statement** contains a number of outcomes for development. The proposal has been assessed in regard to the Locality Statement and is summarised in the following table.

In support of the proposal, it is considered that this proposal is well designed, comprehensive and consistent with the community's vision for development in Pittwater in that it is:

- Proposing a form of development which is compatible with the existing residential character of the area by maintaining an appropriate development scale which is compatible with the vicinity.
- The proposal maintains appropriate views and amenity to adjoining properties.
- The proposal will not result in additional run-off to adjoining properties or public spaces.
- The development will not place additional demands on local infrastructure or on the sewage disposal system for the site.

A summary of the DCP controls for the **D1 Avalon Beach Locality** is provided below:

D1.1 Character as Viewed from A Public Place

The control seeks to achieve the outcomes:

To achieve the desired future character of the Locality.

To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment. (En, S, Ec)

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

The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation. (En, S, Ec)

High quality buildings designed and built for the natural context and any natural hazards. (En, S)

Buildings do not dominate the streetscape and are at 'human scale'.

To preserve and enhance district and local views which reinforce and protect the Pittwater's natural context.

The required controls to achieve the outcomes are to ensure that the building maintains a compatibility with the locality through appropriate design relief including roof forms textures, materials, the arrangement of windows, modulation of wall and roof planes, spatial separation, landscaping etc.

The proposal will provide for the construction of a new dwelling and detached secondary dwelling which will present a modest height and scale which is in keeping with the character and extent of development along John Street.

The proposed new dwelling is well articulated to provide visual interest and reduce bulk when viewed from neighbouring properties and the public domain. In addition, the existing and

proposed new landscaping will ensure that the proposed works will be interspersed with the natural landscape setting.

D1.5 Building Colours and Materials

The controls seek to achieve the outcomes:

Achieve the desired future character of the Locality.

The development enhances the visual quality and identity of the streetscape. (S)

To provide attractive building facades which establish identity and contribute to the streetscape.

To ensure building colours and materials compliments and enhances the visual character and its location with the natural landscapes of Pittwater.

The colours and materials of the development harmonise with the natural environment. (En, S)

The visual prominence of the development is minimised. (S)

Damage to existing native vegetation and habitat is minimised. (En)

An informal beachside appearance of the Avalon Beach Village. (S, Ec)

The required controls to achieve the outcomes are to ensure that the external colours and materials shall be dark and earthy tones as indicated within the DCP.

It is considered that the development is appropriate as the proposal will utilise earthy colours and finishes which are compatible with the DCP and surrounding properties.

D1.8 Front Building Line

The controls seek to achieve the outcomes:

Achieve the desired future character of the Locality. (S)

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

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

Vehicle maneuvering in a forward direction is facilitated. (S)

To encourage attractive street frontages and improve pedestrian amenity.

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

The control to achieve this outcome is to provide a setback of 6.5m, or the established building line to the street frontage.

The subject site is a battle-axe allotment and therefore exceeds a 6.5m setback from John Street.

D1.9 Side and rear building line

The controls seek to achieve the outcomes:

To achieve the desired future character of the Locality. (S)
The bulk and scale of the built form is minimised. (En, S)
Equitable preservation of views and vistas to and/or from public/private places. (S)
To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.
To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)
Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)
Flexibility in the siting of buildings and access. (En, S)
Vegetation is retained and enhanced to visually reduce the built form. (En)
To ensure a landscaped buffer between commercial and residential zones is established. (En, S)

The relevant controls to achieve this outcome are to maintain a minimum side boundary setback of 2.5m for at least one side and a minimum of 1.0m setback for the other side. A rear setback of 6.5m applies.

The proposed new works will stand a minimum of 3.4m from the north-western side boundary, and 1.05m from the south-western boundary, and therefore comply with the side setback requirements.

The proposal will readily comply with the rear setback control.

D1.11 Building Envelope

The controls seek to achieve the outcomes:

To achieve the desired future character of the Locality.
To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.
To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.
The bulk and scale of the built form is minimised. (En, S)
Equitable preservation of views and vistas to and/or from public/private places. (S)
To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)
Vegetation is retained and enhanced to visually reduce the built form. (En)

The required controls to achieve the outcomes are to maintain the development within a building envelope which provides for a height of 3.5m with an angle projected at 45°.

As noted within the submitted Analysis Sections (Drawing No. A 101-A), the new works will present a minor variation to Council's control for the south-eastern elevation of the proposed

dwelling and secondary dwelling. Compliance with the boundary envelope control is constrained by the narrow width of the subject allotment.

The proposed dwelling provides a contemporary development which is in keeping with the desired future character of the locality.

The proposed variation is minor, and the development will not result in any unreasonable privacy, amenity or solar access impacts for neighbouring properties. Accordingly, the proposal is considered to achieve the desired outcomes of this clause and is therefore considered worthy of support on merit.

D1.14 Landscaped Area – Environmentally Sensitive Land

The controls seek to achieve the outcomes:

Achieve the desired future character of the Locality. (S)
The bulk and scale of the built form is minimised. (En, S)
A reasonable level of amenity and solar access is provided and maintained. (En, S)
Vegetation is retained and enhanced to visually reduce the built form. (En)
Conservation of natural vegetation and biodiversity. (En)
Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)
To preserve and enhance the rural and bushland character of the area. (En, S)
Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management. (En, S)

The required controls to achieve the outcomes are to limit residential development in order to maintain a minimum landscaped area of 60% of the site area.

The proposal currently provides for a soft landscaped area of 61.3% or 428.9m² and therefore presents a minor variation to this control. With Council's 6% allowance for functional open space, the proposal will meet Council's landscaped area requirements.

The proposal is consistent with the desired outcomes of this clause for the following reasons:

- The proposed dwelling is modest in bulk and scale
- The proposal maintains suitable solar access, privacy and amenity for neighbouring properties
- The proposal provides for new plantings throughout the site, which maintain consistency with the bushland character of the locality
- Stormwater runoff from the site will be suitably managed

D1.16 Fences – Flora and Fauna Conservation Areas

The controls seek to achieve the outcomes:

- To achieve the desired future character of the Locality. (S)*
- An open streetscape that allows casual surveillance of the street. (S)*
- Fences, where provided, are suitably screened from view from a public place. (S)*
- Safe and unhindered travel for native animals. (En)*
- To ensure fences compliment and conserve the visual character of the street and neighbourhood*
- To define the boundaries and edges between public and private land and between areas of different function.*
- To contribute positively to the public domain.*
- To enhance safe sight distances and clear view of the street (including to and from driveways) for motorists and pedestrians. (S)*
- To ensure heritage significance is protected and enhanced. (S)*
- To ensure an open view to and from the waterway is maintained. (S)*
- To ensure native vegetation is retained (En).*
- To ensure any fencing provides for the safe and unhindered travel of native animals. (En)*

No new fencing proposed as part of the subject application.

D1.20 Scenic Protection Category One Areas

The controls seek to achieve the outcomes:

- To achieve the desired future character of the Locality.*
- Achieve the desired future character of the Locality. (En, S)*
- To preserve and enhance the visual significance of district and local views of Pittwater's natural topographical features such as, ridges, upper slopes and the waterfront.(En, S).*
- Maintenance and enhancement of the tree canopy.(En, S)*
- Colours and materials recede into a well vegetated natural environment.(En, S)*
- To maintain and enhance the natural environment of Pittwater as the predominant feature of the landscape with built form being a secondary component (En, S)*
- To preserve and enhance district and local views which reinforce and protect the Pittwater's bushland landscape and urban form to enhance legibility.*
- To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*
- To ensure sites are designed in scale with Pittwater's bushland setting and encourages visual integration and connectivity to natural environment.*
- Development shall minimise visual impacts on the natural environment when viewed from any waterway, road or public reserve.*

The proposed dwelling is modest in bulk and scale. The external colours and finishes comprise earthy tones.

New landscape plantings will be provided throughout the site as detailed within the submitted Landscape Plan prepared by A Total Concept Landscape Architect & Swimming Pool Designers,

dated 7 November 2023. The proposed landscaping will assist with screening the built form of the development.

The proposal will maintain consistency with the bushland character of the locality, and will not be visually dominant within the area.

7.0 Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979

7.1 The provisions of any environmental planning instrument

The proposal is subject to the provisions of the Pittwater Local Environmental Plan 2014 and the relevant supporting Council policies. It is considered that the provisions of this environmental planning instrument have been satisfactorily addressed within this report and that the proposal achieves compliance with its provisions.

There are no other environmental planning instruments applying to the site.

7.2 Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

There are no draft LEP controls relevant to the proposal at this stage.

7.3 Any development control plan

The development has been designed to comply with the requirements of Council's Pittwater 21 Development Control Plan 2014.

The application has been prepared having regard to the requirements of Section B, Section C and Section D of the Pittwater 21 DCP.

It is considered that the proposed design respects the aims and objectives of the DCP however we note that the Environmental Planning and Assessment Amendment Act 2012 No 93 (Amendment Act) which received assent on 21 November 2012 commenced on 1 March 2013.

Key amongst the amendments are requirements to interpret DCPs flexibly and to allow reasonable alternative solutions to achieve the objectives of DCP standards.

The new section 3.42 provides that the 'principal purpose' of DCPs is to 'provide guidance' on:-

- giving effect to the aims of any applicable environmental planning instrument
- facilitating permissible development
- achieving the objectives of the relevant land zones.

The key amendment is the insertion of section 4.15(3A) which:

- prevents the consent authority requiring more onerous standards than a DCP provides,
- requires the consent authority to be 'flexible' and allow 'reasonable alternative solutions' in applying DCP provisions with which a development application does not comply,
- limits the consent authority's consideration of the DCP to the development application (preventing consideration of previous or future applications of the DCP).

We request that Council applies considered flexibility where the application seeks variations to numerical development controls in the DCP as justified in this report. In particular, we consider that the variation to the building envelope control a reasonable alternative solution to compliance where

the site conditions result in a challenge to designing for new development which fully respects the criteria.

It is considered that the proposed design respects the desired character objectives of the DCP in that it reinforces the existing residential character of the area and is compatible with the existing uses in the vicinity.

7.4 Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

No matters of relevance are raised about the proposed development.

7.5 The regulations (to the extent that they prescribe matters for the purposes of this paragraph),

No matters of relevance are raised in regard to the proposed development.

7.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

It is considered that the proposal, which seeks consent for the construction of a new dwelling and detached garage with secondary dwelling over, will not unreasonably impact upon the amenity of adjoining properties or upon the character of the surrounding area. It is considered that the resultant development is compatible with and will complement the existing residential character of the area by virtue of the resultant size of the allotments being consistent with the size and shape of the allotments in the vicinity.

The proposal is considered to be well designed having regard to the relevant provisions of the Council's PLEP 2014 and Council's Codes and Policies, in particular the Pittwater 21 DCP and the Avalon Beach Locality Statement.

7.7 The suitability of the site for the development

The subject land is currently zoned C2 Environmental Conservation and C4 Environment Living under the Pittwater Local Environmental Plan 2014 and is considered suitable for the proposed development.

The subject site does not exhibit any significant constraint to the construction of the proposed development.

7.8 Submissions made in accordance with this Act or the regulations

This is a matter for Council in the consideration of this proposal.

7.9 The public interest

The proposal will not impact upon the environment, the character of the locality or upon the amenity of adjoining properties and is therefore considered to be within the public interest.

8.0 Conclusion

The principal objective of this development is to provide for the construction of a new dwelling and detached garage with secondary dwelling over.

It is considered that the proposed works satisfy the stated objectives of Council's Development Controls and reinforce the residential character of the area.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

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