



316 Hudson Parade, Clareville

**Alterations and additions to existing dwelling house
and construction of a secondary dwelling**

Statement of Environmental Effects

For Northern Beaches Council

**Prepared by Geoff Goodyer
November 2020**

Project No. 21-003

Symons Goodyer Pty Ltd
Town planning and
development consultants

Mob 0413 361 483

PO Box 673
Balgowlah NSW 2093

info@symonsgoodyer.com.au

www.symonsgoodyer.com.au

This page is intentionally blank

Contents

1.	Executive summary	1
2.	Introduction.....	2
3.	Description of proposal	3
4.	Description of site and locality	6
5.	Previous approvals	11
6.	Does the proposal constitute “alterations and additions”?.....	12
7.	Pittwater LEP 2014.....	15
7.1.	Is the proposal permissible?	15
7.2.	Aims of the LEP (clause 1.2)	15
7.3.	Objectives of the Zone.....	15
7.4.	Compliance Table	16
7.5.	Height of buildings (clause 4.3)	16
7.6.	Heritage conservation (clause 5.10)	17
7.7.	Acid sulfate soils (clause 7.1)	17
7.8.	Earthworks (clause 7.2).....	17
7.9.	Flood planning (clause 7.3).....	17
7.10.	Coastal risk planning (clause 7.5)	17
7.11.	Biodiversity (clause 7.6)	18
7.12.	Geotechnical hazards (clause 7.7)	19
7.13.	Limited development on foreshore area (clause 7.8)	21
7.14.	Essential services (clause 7.10)	21
8.	Compliance Table - Pittwater 21 DCP	22
9.	Pittwater 21 DCP	24
9.1.	Considerations before consent is granted	24
9.2.	Clause C1.1 – Landscaping	25
9.3.	Clause C1.3 – View sharing	25
9.4.	Clause C1.4 – Solar access	25
9.5.	Clause C1.5 – Visual privacy.....	26
9.6.	Clause C3.11 – Secondary dwellings and rural workers dwellings.....	26
10.	Pittwater 21 DCP – Bilgola Locality.....	28
10.1.	Clause D3.1 – Character as viewed from a public place	28
10.2.	Clause D3.2 – Scenic protection - General	28
10.3.	Clause D3.3 – Building colours and materials	28
10.4.	Clause D3.6 – Front building line	28
10.5.	Clause D3.7 – Side and rear building line	28
10.6.	Clause D3.9 – Building envelope.....	29
10.7.	Clause D3.11 – Landscaped Area – Environmentally Sensitive Land.....	29
10.8.	Clause D3.13 – Fences – Flora and Fauna Conservation Areas.....	30

11.	State Environmental Planning Policies.....	31
11.1.	SEPP No. 55 - Remediation of land and draft SEPP	31
11.2.	SEPP (Building Sustainability Index) 2004.....	31
11.3.	SEPP (Coastal Management) 2018.....	31
11.4.	SEPP (Infrastructure) 2007	34
11.5.	SEPP (Vegetation in Non-Rural Areas) 2017	34
12.	Other matters under Section 4.15 of the Environmental Planning & Assessment Act 1979	35
12.1.	The Likely Impacts of the Development	35
12.2.	The Suitability of the Site.....	35
12.3.	Submissions	35
12.4.	The Public Interest	35
13.	Summary	36
	Appendix A – Details of the Author	37
	Appendix B – Clause 4.6 variation request – building height.....	38

1. Executive summary

- 1.1. The proposal is to carry out alterations and additions to the existing dwelling house and construct a secondary dwelling at 316 Hudson Parade, Clareville.
- 1.2. This Statement of Environmental Effects includes a detailed assessment of the proposal against the provisions of Pittwater 21 DCP and finds that the objectives and desired outcomes of all controls are satisfied and achieved. A variation of 9.5% is sought to the building height control. A written request to vary the control has been prepared and is considered to be well founded.
- 1.3. Careful consideration has been given to maintaining the amenity of neighbouring and nearby residents and the design has safeguarded privacy, views and solar access for neighbours.
- 1.4. The proposed works will enhance the amenity of the dwelling house and provide additional accommodation and are considered to be suitable for approval when assessed under the relevant town planning controls.

2. Introduction

- 2.1. This Statement of Environmental Effects has been prepared by Geoff Goodyer of Symons Goodyer Pty Limited, Balgowlah. My details are included in Appendix A of this Statement of Environmental Effects.
- 2.2. I am a town planner with over 30 years' experience in local government and private practice. I am a Registered Planner accredited by the Planning Institute of Australia.
- 2.3. This Statement of Environmental Effects assesses the impacts of a proposal to carry out alterations and additions to the existing dwelling house and construct a secondary dwelling at 316 Hudson Parade, Clareville under section 4.15 of the *Environmental Planning and Assessment Act 1979*.
- 2.4. In the course of preparing this Statement of Environmental Effects I have:
- inspected the site and surrounding locality;
 - taken photographs of the site and surrounding locality; and
 - reviewed relevant environmental planning instruments and Council policies, in particular *Pittwater Local Environmental Plan 2014* and *Pittwater 21 Development Control Plan*.

3. Description of proposal

- 3.1. The proposal is to carry out alterations and additions to the existing dwelling house and construct a secondary dwelling at 316 Hudson Parade, Clareville.
- 3.2. The proposed works will upgrade the existing dwelling house and provide additional accommodation to suit the needs of the owners. Works are also proposed to enhance the usability and amenity of the private open space.
- 3.3. The following works are proposed:

Demolition

- Lower ground floor: Remove glazing and internal staircase.
- Ground floor: Remove internal walls to living room, dining room, kitchen, family room, bathroom, ensuite and internal staircase. Remove external screen to main entry and some external glazing.
- Roof: Remove existing roof.
- Attached garage: Remove eastern wall and garage door.
- Detached garage and workshop: Remove workshop, remove eastern and western wall and garage door.
- External: Remove pond and terrace on northern side of dwelling house. Remove part of retaining wall on eastern side of dwelling house.

Lower Ground floor

- New glazing.
- Upgrade bathroom and ensuite.
- New internal staircase.
- Lift.

Ground floor

- New glazing.
- Open plan Kitchen / living / dining room.
- Upgrade main entry.
- Laundry.
- Ensuite.
- W.C.
- New internal staircase.
- Lift.

First floor addition

- Master bedroom
- Walk-in-robe
- Bathroom
- Lift.

Attached garage

- Extension to provide two car spaces.

Detached garage

- Extension to provide two car spaces.
- Upper level secondary dwelling containing open plan kitchen / living room, single bedroom and bathroom.

Site works

- Covered terrace with BBQ on northern side of dwelling house.
- Pond.
- Slide entry enclosure.

3.4. The proposal is shown on the following plans:

No.	Drawing	Drawn by
DA2.00/1	Site plan	Baxter & Jacobson Architects
DA2.01/1	Site cover / waste management	Baxter & Jacobson Architects
DA2.02/1	Site analysis	Baxter & Jacobson Architects
DA10.00/1	Existing / demolition – level 1	Baxter & Jacobson Architects
DA10.01/1	Existing / demolition – lower ground	Baxter & Jacobson Architects
DA10.03/1	Proposed floor plan – level 1	Baxter & Jacobson Architects
DA10.04/1	Proposed lower ground floor	Baxter & Jacobson Architects
DA10.05/1	Proposed plan – garage/studio	Baxter & Jacobson Architects
DA10.06/1	Roof plan – house and pavilion	Baxter & Jacobson Architects
DA10.07/1	Roof plan – studio	Baxter & Jacobson Architects
DA10.08/1	Master bedroom level	Baxter & Jacobson Architects
DA20.00/2	Elevation – west	Baxter & Jacobson Architects
DA20.01/2	Elevation – south	Baxter & Jacobson Architects
DA20.02/1	Elevations – east	Baxter & Jacobson Architects
DA20.03/1	Elevations – north	Baxter & Jacobson Architects
DA30.03/2	House – section	Baxter & Jacobson Architects
DA30.11/1	Section – pavilion – AA & BB	Baxter & Jacobson Architects
DA30.20/1	Section – garage/studio CC & DD	Baxter & Jacobson Architects
DA50.00/1	Shadow diagram winter 9am	Baxter & Jacobson Architects
DA50.01/1	Shadow diagram winter 12pm	Baxter & Jacobson Architects
DA50.02/1	Shadow diagram winter 3pm	Baxter & Jacobson Architects
42725DT	Detail survey – sheet 1	LTS Surveyors
42725DT	Detail survey – sheet 2	LTS Surveyors

3.5. The proposal is supported by the following documentation:

Title	Date	By
Arboricultural Impact Appraisal	26.11.2020	Naturally Trees

Title	Date	By
BASIX Certificate No. A398970	25.11.2020	Leith Schmidt Architect
Geotechnical Investigation	27.11.2020	White Geotechnical Group
Statement of Environmental Effects	November 2020	Symons Goodyer
Waste Management Plan	25.11.2020	Mark Baxter

4. Description of site and locality

- 4.1. The subject site comprises Lot 1 DP 827733. It is known as 316 Hudson Parade, Clareville. It is located on the western side of Hudson Parade Street to the south of its intersection with Hansford Parade. The location of the site is shown in the following maps:



Map 1 - Location (Source: sixmaps)



Map 2 - Aerial photo (Source: sixmaps)

- 4.2. The site is irregular in shape. It has a frontage of 20.6m to Hudson Parade to the east and 45.97m to a public reserve to the west. The site has side boundaries of 49.68m to the north and 55.78m to the south.
- 4.3. The site area is approximately 1,902m².
- 4.4. The site slopes steeply down from its Hudson Parade frontage to its western boundary, with the existing dwelling house set on a bench on the western portion of the site. The area between the dwelling house and the street slopes steeply and has been landscaped. To the west of the dwelling house the site comprises lawns.
- 4.5. The site is currently occupied by a 2-storey dwelling house in a landscaped setting. A detached garage and workshop is located on the south-eastern portion of the site. A swimming pool is located in the norther-western portion of the site.
- 4.6. The site adjoins dwelling houses within landscaped settings to the north and south. Adjoining the site to the west is a public reserve beyond which is Pittwater. The locality is characterised by dwelling houses in landscaped settings.
- 4.7. The following photographs show the site and surrounding area.



Photograph 1: The dwelling house and swimming pool on the subject site, viewed from the north-west.



Photograph 2: The dwelling house and ornamental pond on the subject site, viewed from the north-east.



Photograph 3: The detached garage and workshop on the subject site.



Photograph 4: The neighbouring dwelling house to the south, 318 Hudson Parade.



Photograph 5: The neighbouring dwelling house to the north, 314 Hudson Parade.



Photograph 6: Existing development on the opposite (eastern) side of Hudson Parade.

5. Previous approvals

- 5.1. Council has issued the following approvals in relation to development on the site:

16.02.1981 BA468/81 issued for a crib block retaining wall.

05/08/1981 BA2475/81 issued for alteration and additions to existing dwelling house and a new swimming pool.

02.04.1984 BA924/84 issued for a garage and workshop.

10.07.1984 BA924/84 amended for a garage and workshop.

17.06.1988 BA1646/88 issued for a retaining wall.

6. Does the proposal constitute “alterations and additions”?

- 6.1. In *Coorey v Municipality of Hunters Hill* [2013] NSWLEC 1187 the Land and Environment Court established a planning principle for characterising whether a proposal constitutes additions and/or alterations to an existing structure rather than a new structure.
- 6.2. The planning principle states that the first question to be considered is “what is the purpose” of determining how the proposal should be characterised. In this case the purpose is to clarify the weight to be given to the existing elements of the building, which was constructed prior to contemporary planning controls, when assessing the performance of the proposal against contemporary planning controls. In this regard it is not reasonable to apply contemporary planning controls to elements of an existing structure, constructed under a different planning regime, when a proposal constitutes alterations and/or additions to that structure.
- 6.3. The Court has listed the following matters for consideration (although the judgement notes that other matters may be relevant depending upon the circumstances of the case):

Qualitative issues	Comment
How is the appearance of the existing building to be changed when viewed from public places?	The building will remain essentially the same, being a dwelling house in a landscaped setting. The appearance is being upgraded with a more contemporary styling.
To what extent, if any, will existing landscaping be removed and how will that affect the setting of the building when viewed from public places?	Existing landscaping is generally maintained and there is nothing proposed that will affect the setting of the building when viewed from any public place.
To what extent, if any, will the proposal impact on a heritage item, the curtilage of a heritage item or a heritage conservation area?	The site does not contain a heritage item, is not in the vicinity of any heritage items, and is not within a conservation area. The proposal has no impact on the heritage significance of any items.
What additional structures, if any, in the curtilage of the existing building will be demolished or altered if the proposal is approved?	The proposal is to demolish the existing ornamental pond and terrace to the north of the dwelling house and part of the existing garage and workshop.
What is the extent, if any, of any proposed change to the use of the building?	No change to the existing dwelling house is proposed. A secondary dwelling is proposed over the detached garage.
To what extent, if any, will the proposed development result in any change to the streetscape in which the building is located?	The building is not visible from the street.

Qualitative issues	Comment
To what extent, if any, are the existing access arrangements for the building proposed to be altered?	No change is proposed with regards to access to the site.
To what extent, if any, will the outlook from within the existing building be altered as a consequence the proposed development?	The outlook from the existing building is generally the same as existing.
Is the proposed demolition so extensive to cause that which remains to lose the characteristics of the form of the existing structure?	No, the characteristics of the form of the existing building will be retained.

Quantitative issues	Comments
To what extent is the site coverage proposed to be changed?	The site coverage is increased due to the provision of a covered terrace on the northern side of the dwelling house.
To what extent are any existing non-compliances with numerical controls either increased or diminished by the proposal?	The existing building complies with the relevant built form controls. The proposal will result in a minor (831mm) non-compliance with the building height control.
To what extent is the building envelope proposed to be changed?	The building envelope is essentially unchanged with the addition of an upper level bedroom, bathroom and walk-in-robe.
To what extent are boundary setbacks proposed to be changed?	Existing boundary setbacks are generally maintained.
To what extent will the present numerical degree of landscaping on the site be changed?	The proposal will result in a reduction of 33m ² (1.7%) of the existing soft landscaped area.
To what extent will the existing floor space ratio be altered?	There is an increase in the gross floor area of the building. There is no floor space ratio control applying to the site.
To what extent will there be changes in the roof form?	The roof form is retained
To what extent will there be alterations to car parking/garaging on the site and/or within the building?	The proposal involves alterations to the existing garages to ensure that each is capable of accommodating two cars.
To what extent is the existing landform proposed to be changed by cut and/or fill to give effect to the proposed development?	Minor excavation is proposed to accommodate access around the proposed garage extension.
What relationship does the proportion of the retained building bear to the proposed new development?	The proposal retains a greater proportion of existing material than new material. The floor on the lowest level is retained but the roof is replaced. The majority of existing external walls are retained but existing fenestration is replaced.

- 6.4. Based on the above analysis the proposal is considered to constitute alterations and additions to the existing structure. The Statement of Environmental Effects assesses the proposal accordingly.

7. Pittwater LEP 2014

7.1. Is the proposal permissible?

- 7.1.1. The land is zoned E4 Environmental Living under PLEP 2014. The proposal is permissible with development consent as a “*dwelling house*”.

7.2. Aims of the LEP (clause 1.2)

- 7.2.1. The proposal is consistent with the relevant aims of PLEP 2014 at Clause 1.2 in that it:

- ✓ Is economically, environmentally and socially sustainable.
- ✓ Is consistent with the desired future character of the neighbourhood.
- ✓ Contributes to the range of housing to provide for the needs of the community both now and in the future.
- ✓ Protects Pittwater’s natural areas.
- ✓ Has no impact on European and Aboriginal heritage.
- ✓ Is on a site that is not subject to environmental hazards.
- ✓ Enhances the health and well-being of the residents.

7.3. Objectives of the Zone

- 7.3.1. The proposal is consistent with the relevant objectives of the E4 Environmental Living zone in that it:

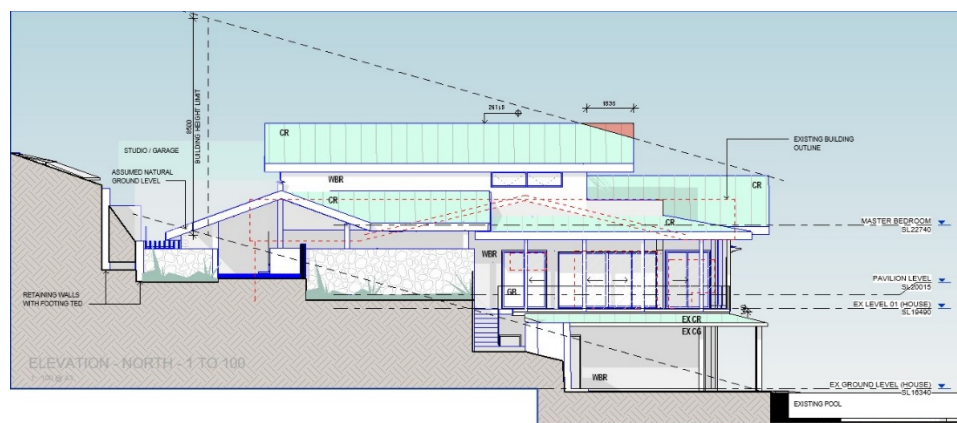
- ✓ Provides for low-impact residential development, occupying essentially the same building footprint and envelope as the existing dwelling house.
- ✓ Because the alterations and additions generally maintain the existing building footprint and envelope the development has no adverse effect on ecological, scientific or aesthetic values of the area.
- ✓ The development does not increase the existing density and scale of the development and remains integrated with the landform and landscape.
- ✓ Because the works are generally within the existing building footprint there is no impact on riparian and foreshore vegetation and wildlife corridors.

7.4. Compliance Table

LEP CONTROLS	CONTROL	PROPOSED	COMPLIANCE
Clause 4.3(2) – Height of Buildings	8.5m	9.31m	No

7.5. Height of buildings (clause 4.3)

- 7.5.1. The proposal generally complies with the 8.5m height limit that applies to the site.
- 7.5.2. However, the land slopes from east to west and, as a consequence, there is a small area of the proposed upper level roof that breaches the 8.5m building height limit. The maximum breach is 831mm or 9.5%.
- 7.5.3. The ground levels have been altered historically and so the “existing ground level” for the purposes of measuring the building height has been interpolated, consistent with the judgement of the Land and Environment Court in *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 and *Stamford Property Services Pty Ltd v City of Sydney & Anor* [2015] NSWLEC 1189. Existing ground levels were identified using spot levels shown on the detail survey prepared by Lockley Registered Surveys (Drawing No 43725DT), being the ground level to the west of the dwelling house (RL16.03) and the east of the dwelling house (RL21.18):



- 7.5.4. Attached as Appendix B is a written request to vary the building height control pursuant to clause 4.6 of PLEP 2014. The written request demonstrates that strict compliance with the control is unreasonable in the circumstances of the case because the proposal satisfies the underlying objectives of the control and that there are sufficient environmental planning grounds to justify the proposed variation. The proposal satisfies the objectives of the control and of the E4 Environmental Living zone.

7.6. Heritage conservation (clause 5.10)

7.6.1. The site does not contain a heritage item, is not in the vicinity of any heritage items and is not within a conservation area.

7.7. Acid sulfate soils (clause 7.1)

7.7.1. The site is within Class 5 Acid Sulfate Soil area. No works are proposed below AHD5.0 and the proposal is unlikely to lower the watertable below AHD1.0 on any Class 1, 2, 3 or 4 land. Consequently, no further investigation is required with regards to acid sulfate soils.

7.8. Earthworks (clause 7.2)

7.8.1. Minor earthworks are proposed to provide for the extension to the existing garage and access path to the east of the building, with a maximum depth of excavation of approximately 1.5m. The proposal satisfies the matters for consideration in clause 7.2(3) as follows:

- (a) The proposal has minimal impact on drainage patterns. Stormwater is collected on and around the building and disposed of to existing stormwater systems.
- (b) The proposal facilitates the development of the land.
- (c) Excavated soil will be clean material.
- (d) The minor excavation will have minimal impact on the existing and likely amenity of adjoining properties.
- (e) Excavated material will be re-used on site or disposed of to a licensed facility.
- (f) The area of excavation is unlikely to contain relics.
- (g) The proposal is unlikely to have adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, subject to standard soil erosion and sedimentation controls.
- (h) Standard soil erosion and sedimentation controls will be implemented to avoid, minimise or mitigate the impacts of the development,
- (i) The site is not in close proximity to any heritage item, archaeological site or heritage conservation area.

7.9. Flood planning (clause 7.3)

7.9.1. The subject site is not identified as flood prone land.

7.10. Coastal risk planning (clause 7.5)

7.10.1. The site is not affected by any coastline hazards as shown on the Coastal Risk Planning map.

7.11. Biodiversity (clause 7.6)

7.11.1. The site is within an area of sensitive biodiversity as shown on the Biodiversity map. Under clause 7.6(3) of PLE 2014, Council must consider:

- (a) *whether the development is likely to have—*
 - (i) *any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*

Comment: The works are almost generally within the existing building footprint and envelope and, as such, will have minimal if any impact on the condition, ecological value and significance of any fauna and flora on the land.

- (ii) *any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*

Comment: The proposal involves the removal of 6 trees on the site of which 4 are exempt species. The impact is assessed in the Arboricultural Impact Appraisal by Naturally Trees. The landscaped area is generous (50.7%) and provides habitat for native fauna.

- (iii) *any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*

Comment: The works are generally within the existing building footprint and envelope and, as such, are unlikely to fragment, disturb or diminish the biodiversity structure, function and composition of the land.

- (iv) *any adverse impact on the habitat elements providing connectivity on the land, and*

Comment: The works are generally within the existing building footprint and envelope and, as such, will have minimal impact on habitat elements providing connectivity on the land.

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

Comment: No mitigation measures are required or proposed because no impacts arise as a result of the development.

7.11.2. Under Clause 7.6(4) of PLEP 2014, consent must not be granted to the proposal unless Council is satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*

Comment: The works are generally within the existing building footprint and envelope and, as such, will have no significant adverse environmental impact.

- (b) *if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*

Comment: No alternatives are necessary as the proposal has no significant adverse environmental impact.

- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment: No management is required as the proposal has no significant adverse environmental impact.

7.12. Geotechnical hazards (clause 7.7)

7.12.1. The site is not within the Geotechnical Hazard H1 area as shown on the Geotechnical Hazard Map.

7.12.2. Under Clause 7.7(3) of PLE 2014, Council must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

- (a) *site layout, including access,*

Comment: No change to the site layout and access is proposed.

- (b) *the development's design and construction methods,*

Comment: No specific design methods are required as the proposal is for alterations to an existing building on the same building footprint utilising and existing structure.

- (c) *the amount of cut and fill that will be required for the development,*

Comment: No fill is proposed. Excavation to a maximum depth of 1.5m is proposed for the extension to the existing garage and adjacent access pathway.

- (d) *waste water management, stormwater and drainage across the land,*

Comment: Stormwater will continue to be collected and piped directly to the adjacent waterway.

- (e) *the geotechnical constraints of the site,*

Comment: The development, utilising the existing building structure and footprint, recognises the geotechnical constraints of the site. A

Geotechnical investigation has been carried out by White Geotechnical Group which concludes:

The proposed development is suitable for the site. No geotechnical hazards will be created by the completion of the proposed development provided it is carried out in accordance with the requirements of this report and good engineering and building practice.

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

Comment: Specific measures relevant to the construction of the proposal are discussed in the Geotechnical Investigation by White Geotechnical Group.

7.12.3. Under Clause 7.7(4) of PLE 2014, Council must not grant consent to the development unless the following matters to decide whether or not the development takes into account all geotechnical risks:

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

Comment: Stormwater will continue to be managed as currently exists.

- (b) *the consent authority is satisfied that—*

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

Comment: Measures required to mitigate potential geotechnical hazards are discussed in the Geotechnical Investigation by White Geotechnical Group.

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

Comment: Measures required to mitigate potential geotechnical hazards are discussed in the Geotechnical Investigation by White Geotechnical Group.

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

Comment: Measures required to mitigate potential geotechnical hazards are discussed in the Geotechnical Investigation by White Geotechnical Group.

7.13. Limited development on foreshore area (clause 7.8)

7.13.1. The proposed development is not located within the foreshore area.

7.14. Essential services (clause 7.10)

7.14.1. The site is connected to all essential services.

8. Compliance Table - Pittwater 21 DCP

ITEM	STANDARD	PROPOSED	COMPLIANCE	PERFORMANCE
PITTWATER 21 DCP - Part B				
Heritage controls	Consider heritage impacts	Not affected	YES	YES
Landslip hazard	Comply with the requirements of the Geotechnical Risk Management Policy for Pittwater	Minor works on existing building footprint	YES	YES
Contaminated land and potentially contaminated land	Comply with <i>SEPP 55 – Remediation of Land</i>	Land used historically for residential purposes	YES	YES
Flood prone land	Satisfy Floodplain Development Manual, 2005 and Northern Beaches Council's Guidelines for preparing a Flood Management Report.	Land is not identified as being flood prone.	YES	YES
Flora and Fauna Conservation and Wildlife Corridors	Development shall not impact threatened species, etc or result in significant loss of native canopy trees.	Minimal impact on existing vegetation (see Arboricultural Impact Appraisal report by Naturally Trees). No impact on fauna.	YES	YES
Preservation of Trees and Bushland Vegetation	Permit required to clear vegetation	Minimal impact on existing vegetation (see Arboricultural Impact Appraisal report by Naturally Trees).	YES	YES
Off-street Vehicle Parking Requirements	2 spaces per dwelling.	2 spaces per dwelling.	YES	YES
PITTWATER 21 DCP - Part C				
Landscaping	50% of front setback to be landscaped	90% of front landscaped	YES	YES
Safety and security	Adequate lighting and surveillance	Adequate lighting and surveillance	YES	YES
View sharing	Reasonable sharing of views	No impact on views	YES	YES
Solar Access	3 hours sunlight between 9am and 3pm on 21 June	More than 3 hours sunlight maintained in midwinter	YES	YES
Privacy	Private areas to be protected from direct overlooking	Privacy maintained between dwellings	YES	YES
Private open space	80 m ² , minimum dimension 3 metres at ground level. Secondary dwellings encouraged to share open space.	>80 m ² at ground level, minimum dimension >3m. Open space is shared.	YES	YES
			YES	YES

ITEM	STANDARD	PROPOSED	COMPLIANCE	PERFORMANCE
Secondary dwellings	Maximum 2 bedrooms Maximum 1 bathroom Maximum 2 dwellings per allotment Secondary dwellings above a detached garage is not supported	1 bedroom 1 bathroom 2 dwellings per allotment Secondary dwelling is located above the garage	YES YES YES NO	YES YES YES YES
Waste Management	Waste Management Plan required	Waste Management Plan provided	YES	YES
PITTWATER 21 DCP - Part D3 Bilgola Locality				
Character	Walls facing street > 8m must be articulated.	Walls facing the street are all articulated.	YES	YES
Scenic protection	Minimise visual impact on the natural environment	Visual impact minimised with landscaping, etc.	YES	YES
Building materials	External colours and materials must be of a dark and earthy tone	Alterations and additions to match existing building colours and materials	YES	YES
Boundary Setbacks				
Front	6.5m	14.3m	YES	YES
Side (north)	2.5m	13.0m	YES	YES
Side (south)	1.0m	0.81m	NO (Existing)	YES
Rear	6.5m	9.5m	YES	YES
Building envelope				
North	3.5m + 45°	Inside envelope	YES	YES
South	3.5m + 45°	Outside envelope	NO	YES
Landscaped area	Minimum 60% (926m ²), including impervious areas <1m in width (eg: pathways and the like)	50.7% (965m ²), including 6% impervious areas	NO	YES
Retaining walls	Kept to a minimum	Kept to a minimum	YES	YES

9. Pittwater 21 DCP

9.1. Considerations before consent is granted

9.1.1. Under Clause A1.7 of Pittwater 21 DCP, prior to granting development consent, the Council must be satisfied that the development is consistent with:

- (i) Pittwater LEP 2014; and
- (ii) The desired character of the Locality; and
- (iii) The development controls applicable to the development

9.1.2. Council may also consider the provisions of a neighbouring Locality to the extent to which it may affect the subject site.

9.1.3. Under Clause A4.12, the subject site is within the Newport locality.

9.1.4. The desired character of the Newport locality is as follows:

The Bilgola 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. Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.

The three distinct areas within the Bilgola locality (as identified in Bilgola Locality Map 2) will, by their unique differences, require differing and distinct degrees of control to ensure the individual characteristics and essence of each area are maintained and enhanced:

The Pittwater Foreshore Area:

Contains areas of visual significance when viewed from the public open space of Pittwater. The visual amenity, natural flora and fauna, heritage and social values of the Pittwater Foreshore should be retained and protected.

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 the development. 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.

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.

Natural scenic views from the Bicentennial Walkway will be preserved.

Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.

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 colocation of services and utilities.

- 9.1.5. The proposal is considered to be consistent with the desired character of the locality as it maintains the low-density residential character and the two-storey scale of development. The secondary dwelling provides for additional affordable and compact accommodation. The existing tree canopy is maintained and the dwelling house sits below the tree canopy. The building facades are modulated and the views of the foreshore from the waterway are enhanced.

9.2. Clause C1.1 – Landscaping

- 9.2.1. The area of the front setbacks that is landscaped exceeds 50%. All of the front setback is landscaped other than the pedestrian entry structure and pathway.

9.3. Clause C1.3 – View sharing

- 9.3.1. The proposal is for alterations and additions to the existing dwelling house generally within the existing building envelope. There is no impact on existing private views and the proposal provides reasonable view sharing in accordance with the Land and Environment Court's planning principle (*Tenacity Consulting v Warringah Council* [2004] NSWLEC 140). The dwellings on the eastern side of Hudson Parade are situated high up on the slope of the land and easily retain views of Pittwater over the site.

9.4. Clause C1.4 – Solar access

- 9.4.1. The proposal is for alterations and additions to the existing dwelling house generally within the existing building envelope which minimises impacts with regards to solar access. The shadow diagrams (Drawings 50.00, 50.01 and 50.02) demonstrate minor additional overshadowing of 318 Hudson Parade to the east, but solar access is maintained well in excess of the requirements of P21 DCP (ie: more than 3 hours sunlight between 9am and 3pm on 21 June to the main private open space and principle living area windows).

9.5. Clause C1.5 – Visual privacy

- 9.5.1. The proposal has been designed to maintain and improve existing levels of privacy between dwellings.
- 9.5.2. With regards to the dwelling to the south, 318 Hudson Parade, the proposed secondary dwelling has no windows in the northern façade and the pedestrian access stairs (a transitional area) is located adjacent to the neighbouring garage. Windows in the primary dwelling are set back more than 9m from the boundary which is sufficient to mitigate potential privacy impacts, and boundary landscaping further enhances privacy.
- 9.5.3. With regards to the dwelling to the north, 314 Hudson Parade, it is noted that the property is in common ownership with the subject site and the two dwellings are designed to be occupied co-operatively. Notwithstanding this, privacy is maintained in the event of future separate occupancy with windows set back more than 9m from the boundary and a screen wall provided on the northern side of the proposed external terrace on the northern side of the dwelling house.

9.6. Clause C3.11 – Secondary dwellings and rural workers dwellings

- 9.6.1. Clause C3.11 of the P21 DCP limits secondary development to ensure that there are no more than 2 dwellings on the site. The proposal complies with this requirement.
- 9.6.2. The proposal seeks to carry out alterations and additions to the existing garage and workshop structure to ensure that the garage is wide enough for 2 cars and to change the workshop use to a secondary dwelling. It is noted that at the time that the workshop was approved in 1984 that a secondary dwelling was not a permissible use under the planning controls that applied at the time (Warringah Local Environmental Plan 1985).
- 9.6.3. The desired future character for the Bilgola locality encourages development for secondary dwellings. The change of use of the building over the garage to a secondary dwelling is appropriate in this context.
- 9.6.4. Clause C3.11 of the P21 DCP provides that secondary dwellings separate from the primary dwelling are to be single storey and are not to be sited over a detached garage. However, the circumstances of this case, with the existing workshop located over the detached garage and involving alterations and additions to that building, are considered to be sufficient to enable a variation to those provisions, so long as the proposal achieves the Outcomes of the control:

Outcome	Comment
Limitation of the visual bulk and scale of development.	The proposal essentially retains the visual bulk of the existing approved garage and workshop.

Outcome	Comment
Provision of design flexibility for second storey development.	
Restriction of the footprint of development site.	The proposal essentially retains the footprint of the existing garage and workshop, enlarged slightly to enable compliant accommodation of 2 cars.
Retention of natural vegetation and facilitation planting of additional landscaping.	The proposal has minimal impact on existing vegetation.
Provision of rental accommodation.	The proposed secondary dwelling may be made available for rental accommodation in the future.

10. Pittwater 21 DCP – Bilgola Locality

10.1. Clause D3.1 – Character as viewed from a public place

- 10.1.1. This clause requires that all buildings achieve the desired future character for the locality and that the visual impact of the built form be secondary to landscaping and vegetation. Buildings should not dominate the streetscape and parking structures are to be minimised.
- 10.1.2. The dwelling house is not visible from Hudson Parade as it is sited well below the street and screened by vegetation. There is no impact on the streetscape.
- 10.1.3. For the above reasons it is considered that the proposal satisfies this element of P21 DCP.

10.2. Clause D3.2 – Scenic protection - General

- 10.2.1. This clause provides that development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.
- 10.2.2. The building is well articulated and set back from the western boundary. Existing canopy trees are retained and the view to the site from the waterway is enhanced.
- 10.2.3. The proposal complies with Clause D10.3 – Scenic protection – General.

10.3. Clause D3.3 – Building colours and materials

- 10.3.1. This clause requires building materials which enhance the visual quality and identity of the streetscape and harmonise with the natural environment.
- 10.3.2. The finished surface materials have been chosen to complement the existing dwelling house, with walls comprising white weatherboard and white painted brick, timber windows and doors and a copper roof.

10.4. Clause D3.6 – Front building line

- 10.4.1. The control requires a 6.5m front building setback to Hudson Parade. The building is set back approximately 14.3m from Hudson Parade and complies comfortably with this control.

10.5. Clause D3.7 – Side and rear building line

- 10.5.1. Clause D10.8 of the P21 DCP requires a side boundary setback of 1.0m from one side boundary and 2.5m from the other. The primary dwelling complies comfortably with this control, maintaining side setbacks of proposal maintains side boundary setbacks of 13.4m (north) and 7.3m (south) and complies with the control.

10.5.2. The garage and secondary dwelling are sited in the location of the existing approved garage and workshop and the existing southern side boundary setback is maintained. This setback does not comply with the controls in the P21 DCP, with a minimum setback of 810mm. However, as this is an existing situation the proposal does not result in any impacts and, in these particular circumstances, is considered to satisfactorily address the objectives of the control. Other parts of the southern wall of the garage and secondary dwelling are proposed to have a setback of 915mm – 935mm and comply with the side setback requirement.

10.5.3. Note that the DCP refers to the Bilgola “Visual Protection Area” as shown on Bilgola Locality Map 3. The author of this Statement of Environmental Effects was unable to locate this map in any published source.

10.6. Clause D3.9 – Building envelope

10.6.1. Clause D3.9 of the P21 DCP requires that buildings be sited within an envelope established at a height of 3.5m on the side boundaries extending into the site at 45°. The primary dwelling complies comfortably with this control.

10.6.2. The secondary dwelling does not comply with the control. It generally maintains the building envelope of the existing approved garage and workshop. The breach of the building envelope control does not create significant environmental impacts when compared to the existing situation and solar access is maintained to the neighbouring property in excess of the requirements of the P21 DCP. In these particular circumstances the proposal is considered to satisfactorily address to objectives of with the control.

10.7. Clause D3.11 – Landscaped Area – Environmentally Sensitive Land

10.7.1. This clause requires a minimum landscaped area of 60% of the site area. The proposal provides 50.7% of the site as landscaped area and, consequently, does not meet the numerical requirements of the control. The existing development on site does not comply with the control and the proposal results in a reduction of 33m² (1.7%) of existing soft landscaping. Details are shown on Drawing DA2.01.

10.7.2. Notwithstanding this non-compliance, the proposal achieves the Outcomes for the control:

Outcome	Comment
Achieve the desired future character of the Locality.	As discussed above, the proposal is consistent with the desired future character for the D3 Bilgola locality.
The bulk and scale of the built form is minimised.	The proposal has been architecturally designed and the building has a reasonable bulk and scale.

Outcome	Comment
A reasonable level of amenity and solar access is provided and maintained.	The proposal maintains high levels of amenity and solar access on site and for neighbouring sites.
Vegetation is retained and enhanced to visually reduce the built form.	Almost all vegetation on site is retained. Landscaping reduces the impact of the built form.
Conservation of natural vegetation and biodiversity.	Almost all vegetation on site is retained.
Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.	The site provides large areas for water infiltration. Soil erosion is controlled.
To preserve and enhance the rural and bushland character of the area.	The bushland character is maintained.
Soft surface is maximised to provide for infiltration of water to the water table, minimise runoff and assist with stormwater management.	The site provides large areas for water infiltration. Stormwater will continue to be collected and disposed of to the adjacent waterway.

10.8. Clause D3.13 – Fences – Flora and Fauna Conservation Areas

10.8.1. No fences are proposed as part of this development application.

11. State Environmental Planning Policies

11.1. SEPP No. 55 - Remediation of land and draft SEPP

11.1.1. Clause 7 of *State Environmental Planning Policy No. 55 – Remediation of Land* (“SEPP 55”) requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

11.1.2. The site has been used for residential purposes for approximately 50 years prior to which it was probably vacant. It is considered unlikely that the site has experienced any contamination, and no further assessment is considered necessary.

11.2. SEPP (Building Sustainability Index) 2004

11.2.1. The proposal is for “BASIX affected development” for the purposes of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* (“SEPP (BASIX)”).

11.2.2. Under clauses 8 and 9 of SEPP BASIX, other planning instruments and DCP’s do not apply to BASIX commitments.

11.2.3. A BASIX Certificate has been provided demonstrating that the proposal satisfies the State Government’s energy and water conservation policies.

11.3. SEPP (Coastal Management) 2018

11.3.1. The site is located within the Coastal Environment and the Coastal Use Areas as identified in SEPP (Coastal Management) 2018.

11.3.2. Under clause 13(1) Council must consider 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,*

Comment: The proposal will have no impacts in this regard as it generally within the existing building footprint.

- (b) *coastal environmental values and natural coastal processes,*

Comment: The proposal will have no impacts in this regard as it is generally within the existing building footprint.

- (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,*

Comment: The proposal is connected to all relevant infrastructure including sewerage services and will have no impact on the water quality of the marine estate.

- (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*

Comment: The site is not located in proximity to any undeveloped headlands or rock platforms and the proposal will have no impact on marine vegetation, native vegetation and fauna and their habitats.

- (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,*

Comment: The proposal will have minimal impact on any public open space. All access to public open space is maintained.

- (f) *Aboriginal cultural heritage, practices and places,*

Comment: No impact.

- (g) *the use of the surf zone.*

Comment: No impact.

11.3.3. Under clause 13(2) Council must be satisfied of the following matters before granting consent to the development:

- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*

Comment: The proposal will have no impacts in this regard as it is located generally on the existing building footprint.

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

Comment: No adverse impacts arise as a result of the development.

- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact*

Comment: No adverse impacts arise as a result of the development.

11.3.4. Under clause 14(1)(a) Council must consider 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,*

Comment: The proposal maintains public access to the foreshore and beach.

- (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*

Comment: The proposal has minimal impacts with regards to overshadowing, wind funnelling and view from public places to foreshores.

- (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*

Comment: The alterations and additions are generally within the existing building envelope and have minimal impact on the visual amenity and scenic qualities of the coast.

- (iv) *Aboriginal cultural heritage, practices and places,*

Comment: The proposal will have no impact on aboriginal heritage, practices and places.

- (v) *cultural and built environment heritage*

Comment: The proposal has no impact on heritage items in the vicinity of the site.

11.3.5. Under clause 14(1)(b) Council must be satisfied of the following matters before granting consent to the development:

- (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*

Comment: No adverse impacts arise as a result of the development.

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

Comment: No adverse impacts arise as a result of the development.

- (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact*

Comment: No adverse impacts arise as a result of the development.

11.3.6. Under clause 14(c) Council must take into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development. In this regard, the proposal is architecturally designed and will have minimal impact on the coastal and built environment.

- 11.3.7. Under clause 15 Council must be satisfied that the proposal will not result in an increased risk of coastal hazards on the site or other land. The proposed development, being generally on the existing building footprint, will not increase the risk of coastal hazards.
- 11.3.8. Under clause 16 Council must consider any relevant provisions of a coastal management program applying to the land. There are no coastal management programs applying to this land.
- 11.3.9. In summary, the proposal satisfies all requirements of SEPP (Coastal Management) 2008.

11.4. SEPP (Infrastructure) 2007

- 11.4.1. Clause 45 of SEPP Infrastructure requires the Consent Authority to notify the electricity supply authority of any development application (or an application for modification of consent) for any development proposal:
- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
 - immediately adjacent to an electricity substation,
 - within 5m of an overhead power line
 - that includes installation of a swimming pool any part of which is within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line
- 11.4.2. It is anticipated that Council will refer this development proposal to the electricity supply authority in accordance with its usual practice.

11.5. SEPP (Vegetation in Non-Rural Areas) 2017

- 11.5.1. Under clause 10 of SEPP (Vegetation in Non-Rural Areas) 2017, Council may issue a permit to clear vegetation in any non-rural area of the State. The impacts of the proposal on existing trees on site are assessed in the Arboricultural Impact Appraisal report by Naturally Trees.

12. Other matters under Section 4.15 of the Environmental Planning & Assessment Act 1979

12.1. The Likely Impacts of the Development

12.1.1. These have been addressed above.

12.2. The Suitability of the Site

12.2.1. The site is located within the E4 Environmental Living zone and has been identified as being suitable for the type of development that is proposed. It has access to all the necessary services and infrastructure.

12.2.2. The site does not have a history of use that would result in land contamination (per SEPP 55).

12.2.3. The site is not subject to environmental hazards that would constrain development such as flooding or bush fire.

12.2.4. In summary the site is considered to be suitable for the type of development proposed.

12.3. Submissions

12.3.1. None at this time. The proposal will be advertised and notified in accordance with the requirements of the P21 DCP.

12.4. The Public Interest

12.4.1. The public interest is served by developing the land in an efficient and economic way that maintains the character of the area and the amenity of the neighbourhood. The Council's planning controls encourage such development in this locality.

13. Summary

- 13.1. The merits of this application have been identified in this assessment under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, Pittwater LEP 2014 and Pittwater 21 DCP.
- 13.2. The proposed development is for alterations and additions to an existing dwelling house that are generally within the existing building footprint and envelope. The works will improve the amenity of the dwelling house in a way that maintains the amenity of neighbouring and nearby residents.
- 13.3. The proposed secondary dwelling will provide additional affordable accommodation in the area.
- 13.4. The proposal represents an economic and efficient use of the land, in accordance with the objectives of the *Environmental Planning and Assessment Act 1979*. It will extend the usable life of the building in a way that is consistent with the principles of environmentally sustainable development.
- 13.5. Overall, the aims and objectives of Council's development controls are achieved and there is no planning reason why this application should not be approved.

Appendix A – Details of the Author

ACADEMIC QUALIFICATIONS

Bachelor of Town Planning (Honours), University of New South Wales (1988).
Master of Professional Accounting (Distinction), University of Southern Queensland (1999).

PROFESSIONAL EXPERIENCE

1997 to present SYMONS GOODYER PTY LTD

Principal town planning consultant responsible for providing expert town planning advice to a diverse range of clients.

Expert witness in the Land and Environment Court.

Statutory and strategic projects within numerous Council areas, including Ashfield, Bankstown, Canterbury, Hornsby, Ku-ring-gai, Lane Cove, Leichhardt, Liverpool, Manly, Mosman, North Sydney, Pittwater, Randwick, Rockdale, Sutherland, Warringah, Waverley, and Woollahra.

1988 to 1997 WARRINGAH COUNCIL

Manager, Planning and Urban Design Branch (1994-7). Responsible for drafting of operative provisions of the Warringah Local Environmental Plan 2000.

Senior Strategic Planner (1993-1994)

Development Assessment Officer (1988-1993)

1986 to 1988 MARRICKVILLE MUNICIPAL COUNCIL

Town Planner

1986 EDWARDS MADIGAN TORZILLO BRIGGS INTERNATIONAL PTY LTD

Town Planner

1984 RYDE MUNICIPAL COUNCIL

Student Town Planner

PUBLICATIONS

Goodyer, G (1988)

Retail and office activities in industrial areas in the Sydney region. University of New South Wales.

Goodyer, G (1989)

Hi-tech industry. Planning Law and Practice, UNSW, 1989.

Goodyer, G (1995)

Modern Planning Instruments. Health and Building Surveyors' Association (NSW) Conference, 1995.

Appendix B – Clause 4.6 variation request – building height

See attached written request.