

**STATEMENT OF ENVIRONMENTAL EFFECTS FOR THE
CONSTRUCTION OF A NEW DWELLING AND STUDIO**

LOCATED AT

5 PORTIONS LOVETT BAY, LOVETT BAY

FOR

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1.0 Introduction

This Statement of Environmental Effects accompanies plans prepared by Richard Leplastrier and Karen Lambert, Project No. 2304, Drawing No. LB1, LB2, LB3, LB4 1, LB4 2, LB5 dated 13 September 2023, to detail the proposed construction of a new dwelling and studio at **5 Portions Lovett Bay, Lovett Bay**.

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 (EP&A Act)*
- *The Environmental Planning and Assessment Regulation 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *Pittwater Local Environmental Plan 2014 (PLEP 2014)*
- *Pittwater 21 Development Control Plan (P21 DCP)*

2.0 Property Description

The subject allotment is described as 5 Portions Lovett Bay, Lovett Bay, being Lot 5 within Deposited Plan 590990. The property is zoned C3 Environmental Management under the provisions of PLEP 2014.

The site is identified as being within 'Class 5' on the Acid Sulfate Soils Map of PLEP 2014. Further, the site is identified within the Pittwater Biodiversity Mapped Area Zone and 'Geotechnical Hazard H1' on the Geotechnical Hazard Map of PLEP 2014. These issues will be discussed further within this submission.

The site is not identified as being within a Heritage Conservation Area, but it does contain Archaeological Heritage Items including the Stone retaining wall (Item No. A2270049) and Road remnants (Item No. A2270050). This matter will be discussed in further detail throughout the body of this Statement.

The site is identified as Bushfire Prone Land. Accordingly, a Bushfire Risk Management Report has been prepared by Bushfire Planning & Design dated 5 December 2023 and accompanies this submission.

The access handle/row to the site is affected by the Foreshore Building Line; however, the proposed new works are located uphill and clear of the foreshore area.

No other hazards have been identified.

3.0 Site Description

The property is a battle-axe shaped allotment with an access handle frontage to Lovett Bay. The site is located on the northern side of Lovett Bay.

The property has an access handle/ROW which has a length of between 43.205m and 45.11m to the Mean High Water Mark.

The remainder of the site is irregular in shape with a width of in excess of 25m and with a significant length which rises to the rear boundary.

The site area inclusive of the access handle is 5456m².

The land to the north of the site is zoned as C1 National Parks and Nature Reserves and is undeveloped.

The site experiences a steep fall from the northern, rear boundary towards the centre of the site where the proposed dwelling is to be located within a generally level area, before falling from the southern boundary to the mean high water mark at the southern end of the access handle.

The site is largely vacant, other than for a concrete slab adjacent to the western boundary. Stone retaining walls and remnants of a pre-existing dwelling (chimney, paving, water tank) are within the site. The previous dwelling within the site was razed by a bushfire event in 1994.

Access to the site is limited to pedestrian access only, with access to Lovett Bay obtained by boat via the Pittwater Waterway.

The details of the site are included within the survey plan prepared by Stutchbury Jacques Pty Ltd, Reference No. 11207/21 dated 22 September 2023 which accompanies the DA submission.



Fig 1: Location of subject site
(Source: Six Maps)



Fig 2: View of the pedestrian access to the subject site which are located within the access handle, looking north



Fig 3: View of the adjoining dwelling at 3 Portions Lovett Bay, looking north-east from the waterfront



Fig 4: View of the access stairs to the subject site, looking uphill from a position adjacent to the dwelling at 3 Portions Lovett Bay



Fig 5: View of subject site looking west towards the adjacent dwelling within 4 Portions Lovett Bay



Fig 6: View looking north-west from the site towards the adjoining dwelling and detached shed within the adjoining site at 4 Portions Lovett Bay



Fig 7: View looking north from mid-way across the subject site



Fig 8: View of the subject site, looking east



Fig 9: View looking south-east from the of subject site



Fig 10: View of the eastern portion of the subject site (proposed studio located on the eastern side of the stand of trees), looking east



Fig 11: View looking south-east towards the downhill properties facing Lovett Bay



Fig 12: View looking south towards the downhill properties facing Lovett Bay



Fig 13: View looking south-west towards the downhill properties facing Lovett Bay

4.0 The Surrounding Environment

The general vicinity of the site is characterised by low density residential development within the natural bushland setting of Lovett Bay.

The site and surrounding properties are orientated towards Pittwater to maximise views and solar access.

The subject site is a battleaxe shaped allotment with a shared right of carriageway/access handle to the waterfront and is currently undeveloped.



Fig 14: Aerial view of locality
(Source: Six Maps)

5.0 Proposed Development

As detailed within the accompanying architectural plans, the proposal seeks consent for the construction of a new one and two-storey dwelling and a detached studio within the site, which is currently vacant.

A previous dwelling on the site was razed by bushfire during the 1994 bushfire event and the site has remained vacant.

The proposed dwelling has a linear form, comprising a two storey central living core with attached single storey wings containing four bedrooms and bathrooms.

A detached three storey studio with a terrace/bridge link is located at the eastern end of the site, with an external spiral stair access to each level.

The studio is to be used as an ancillary space in conjunction with the dwelling, with no separate cooking facilities and will provide ancillary passive space for studio, home office and recreation.

The proposed dwelling is to be constructed in a level, vacant platform centrally located within the site, above the stepped and sloping embankment heading down towards the neighbouring properties facing Lovett Bay.

The proposed new dwelling provides excellent internal and external amenity and outlook.

The construction of the proposed dwelling will not require the removal of any significant or protected vegetation, given that the dwelling is located within an existing cleared portion of the site.

The proposal is an efficient and orderly development on the land that is of high-quality architectural design, in keeping with the context of the established low density bushland nature of the area surrounding locality.

The proposed works comprise the following:

Ground Floor

- Ground floor with four bedrooms (main with ensuite) bathrooms, open plan living/dining kitchen covered front terrace, stone rear terrace, internal stair access to proposed first floor.
- Clothes washing facilities provided adjacent to the western ground floor bathroom

First Floor

- First floor level to provide for family room, library/study, store, and sunroom.

Studio

- Construction of a detached three studio with bathroom (no separate cooking facilities) with spiral stair access
- Access to the studio will be via a terrace/deck with stair access from the dwelling

External Works

- New minor landscaping (citrus grove below the dwelling)

The proposed architecturally designed new dwelling and studio will be complemented by further minor landscaping, moderated by the requirement for bushfire asset protection zones to limit the effect of bushfire on the dwelling.

The private recreational areas will improve the functionality of the outdoor space and amenity for the occupants.

The application is supported by a Bushfire Report by Bushfire Planning and Design, Reference Number 4482 dated 29 September 2023, which identifies the site has a BAL-FZ rating. The assessment provides a series of recommendations to ensure that the dwelling can be constructed and maintained to appropriately manage the risk of bushfire.

The conclusion to the Assessment notes:

“Based on the above report and with the implementation of the recommendation contained within this report the consent authority should determine that this development can comply with the requirements of AS 3959-2018 and ‘Planning for Bushfire Protection’ guidelines.

The recommendations contained within this report are to be implemented in their entirety. Changing one aspect may have an adverse effect on the rest of the recommendations”

A Geotechnical Investigation and Landslide Risk Assessment has been prepared by Broadcrest Consulting Pty Ltd, Reference No. 3258-GEO, 01-A, dated 28 September 2023 and reviewed by Ascent Geotechnical Engineers to accompany the application, which includes a series of recommendations to ensure that the works are undertaken appropriately with respect to the geotechnical hazard that affects the site.

An On-Site Wastewater Report has been prepared by Broadcrest Consulting Pty Ltd, Reference No. 3258-WW-A-01, dated 29 September 2023 which suggests that an aerated Wastewater Treatment System with secondary disinfection treatment, with effluent directed to a 32m² Pressure Dosed Absorption Bed, which is recommended to be provided within the area immediately below the dwelling, and above the southern boundary of the site.

Appendix A to the Report provides a site plan indicating the location of the proposed absorption bed.

The proposal results in the following development indices:

Site Area:	5456m ²
Maximum Building Height:	8.5m
Proposed Building Height:	7.4m (Dwelling) 8.35m (Studio)
Maximum Landscaped Area:	230m ² or 23% x site area (on merit – 1254.88m ²)
Proposed Landscaped Area:	6% or 327.36m ²

6.0 Zoning and Development Controls

6.1 State Environmental Planning Policy (Resilience and Hazards) 2021

Coastal Hazard

The subject site is identified as being within the coastal use area on the Coastal Use Area Map and within the coastal environment area on the Coastal Environment Area Map and therefore the provisions of Chapter 2 of SEPP (Resilience and Hazards) are applicable to the proposed development.

The stated Aim of this Chapter as outlined in 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 objects set out in Clause 3 of the Coastal Management Act 2016 are:

- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and*
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and*
- (c) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and*
- (d) to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and*
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*
- (f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and*
- (g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and*
- (h) to promote integrated and co-ordinated coastal planning, management and reporting, and*
- (i) to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and*
- (j) to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and*
- (k) to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and*
- (l) to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and*

- (m) to support the objects of the Marine Estate Management Act 2016.

It is submitted that the proposal, as considered in this Statement of Environmental Effects, is consistent with the objects of the SEPP (Resilience and Hazards), as set out in Clause 3 of the Coastal Management Act 2016. The relevant provisions of this Chapter are addressed as follows:

Division 3

2.10 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*
- (2) *Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that—*
 - (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*
- (3) *This section does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

Comment: Council can be reasonably satisfied that the proposed development has been sensitively designed and sited to avoid adverse impacts on the matters identified in Part (1) above. The proposed development has been designed to minimise impact upon existing vegetation, with supporting technical reports that ensure that the development has been designed and will be constructed to be safe from hazards.

Division 4

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.*

Comment: The bulk and scale of the built form is commensurate with the established built environment throughout Lovett Bay and other offshore localities. The proposed works do not require significant or unreasonable disturbance to the site and are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

The subject site is located within the foreshore area however the proposed new works are located clear of the foreshore area and will not result in any loss of public access.

The works will be carried out in accordance with the recommendations of the consulting Geotechnical and Structural Engineers, and stormwater runoff from the site will be suitably managed.

The proposed new works provide a generous area of soft landscaping, and the new works will not result in unreasonable impacts to existing vegetation.

The proposal will reasonably maintain existing views to and from the foreshore area. The proposal will not result in any overshadowing of the foreshore area.

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 application is supported by a Geotechnical Report to address the landslip hazard that affects the site. The proposed new works are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

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 modified development remains consistent with the relevant provisions of SEPP (Resilience and Hazards).

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 subject site is zoned C3 Environmental Management under the provision of PLEP 2014, and the proposed new dwelling and studio is permissible with consent within the zone.

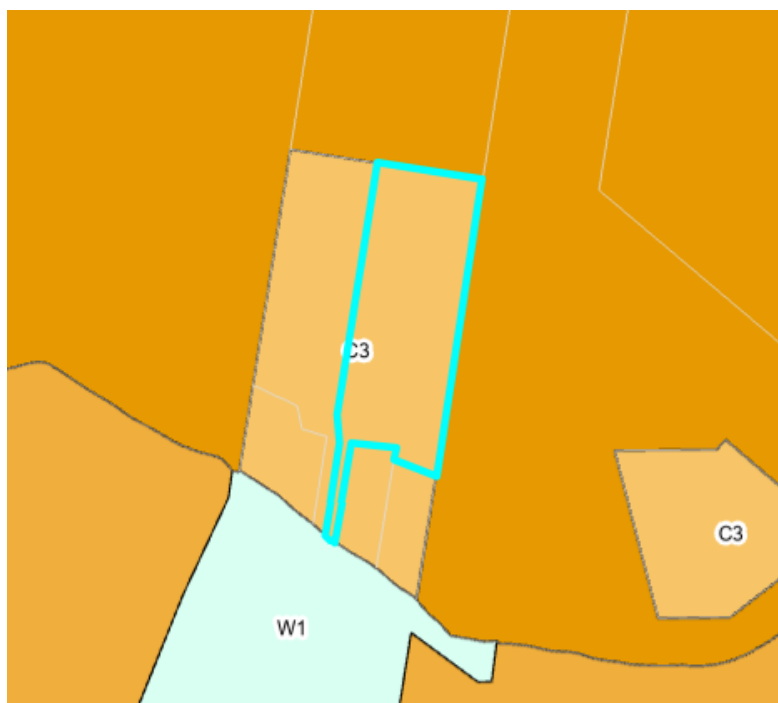


Fig 15: Extract of Zoning Map of PLEP 2014

The development of and use of the land for residential purposes within the C3 Environmental Management Zone is consistent with the zone objectives, which are noted as:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that 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 and not visually prominent.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

- *To ensure the continued viability of ecological communities and threatened species.*

It is considered that the proposed new works will be consistent with the desired future character of the surrounding locality for the following reasons:

- The proposal will be consistent with and complement the existing detached style housing within the locality. Development in this area is influenced by the natural landscape of the locality, falling towards the waterfront to Pittwater.
- The proposed development respects the scale and form of other new development in the vicinity and therefore complements the locality.
- The proposal provides for the construction of a new dwelling and studio, which will not have any unreasonable impacts to the neighbouring properties or to the wider area of Lovett Bay.
- The setbacks are compatible with the existing surrounding development.
- The proposal does not have any impact on long distance views as the property is located uphill of the neighbouring residences facing Lovett Bay, with no development above or to the rear of the new dwelling. The adjoining dwelling to the west at 4 Portions Lovett Bay will continue to retain views past the new dwelling to the south-east

Clause 4.3 relates to building height. The maximum building height in this portion of Lovett Bay is 8.5m.

The proposed two storey dwelling is limited to a height of approximately 7.4m above existing levels, with the studio, whilst three levels in height will be up to 8.35m in height, complying with the provisions of clause 4.3 of PLEP 2014.

Clause 5.10 – Heritage Conservation

The site is not identified as being within a Heritage Conservation Area, but it does contain Archaeological Heritage Items including Stone retaining wall (Item No. A2270049) and Road remnants (Item No. A2270050).



Fig 15: Extract of Pittwater LEP 2014 Heritage Map

The remnant features within the site will not be disturbed and views of the stone features will be maintained.

The heritage items are understood to be:

- Heritage Item 2270049 (Stone Retaining Wall). This is down at the waterfront and is visible as about 5 mostly submerged rocks in a line about 1.5m behind the waterfront seawall.
- Heritage Item 2270050 (Road Remnants): The road remnants are not readily visible but it is assumed to be the fire trail that runs above the property. The proposed dwelling is located below the fire trail area at an RL of approximately RL 17-18m, with the fire trail uphill of the dwelling location by at least another 15-20m in vertical height and around 45-50 m measured horizontally.

Clause 7.1 relates to acid sulfate soils. The site has been identified as Class 5 on the Acid Sulfate Soils Map of PLEP 2014. The proposal will not see any significant excavation of the site and as such, it is not anticipated that any acid sulfate soils will be disturbed.

Clause 7.2 relates to earthworks. The proposal has been designed to achieve the objectives of this clause with regard to ensuring earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses or features of the surrounding land.

The proposal does not involve significant site disturbance other than the construction of footings and therefore it is not anticipated there will be substantial earthworks required to construct the dwelling.

All site works will be carried out in accordance with the recommendations of the consulting geotechnical and structural engineers, and therefore satisfy the provisions of this clause.

Clause 7.6 relates to 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 proposal does not require the removal of any significant vegetation to accommodate the new works. An existing Jacaranda and Illawarra Flame Tree which are both exempt tree species will be retained in the method of construction within the vicinity of the trees will consider their retention as shading elements to the building.

No further Arboricultural Impact Assessment has been provided as trees are exempt species and could be removed by the owner as required and also for bushfire planning purposes.

Clause 7.7 relates to geotechnical hazards. The site is identified within 'Geotechnical Hazard H1' on the Geotechnical Hazard Map of PLEP 2014. Accordingly, a Geotechnical Report has been prepared by Broadcrest Consulting Pty Ltd, Reference No. 3258-GEO, 01-A, dated 28 September 2023 and independently reviewed by Ascent Geo, Reference No. AG 23708, dated 29 September 2023. to accompany the application.

Accordingly, subject to compliance with the recommendations contained within this report, the proposal

is considered to satisfy the provisions of this clause.

Clause 7.10 relates to essential services. Council can be satisfied that the proposed development will have access to all services required on a site in an offshore community. Water tanks will provide water supply for residential and bushfire purposes. Electricity is available the area, with additional opportunities for solar power be utilised.

The application is supported by a Wastewater Management Report by Broadcrest Consulting Pty Ltd, Reference No. 3258-WW-A-01, dated 29 September 2023 to confirm that sewerage can be appropriately managed at the site, with a Stormwater Management Plan by Richard Leplastrier, Sheet No. LB4 2, dated 13 September 2023 that demonstrates appropriate stormwater drainage.

There are no other clauses of the PLEP 2014 that are considered to be relevant to the proposed development.

6.4 Pittwater 21 Development Control Plan

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

6.4.1 Shaping Development – Desired Character

The desired outcomes for the Lower Western Foreshores and Scotland Island Locality, in which this site falls, are as follows:

A4.8 Lower Western Foreshores and Scotland Island Locality

The Lower Western Foreshores and Scotland Island 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. Development will be limited primarily due to the locality's remoteness and lack of vehicular access, but also due to the steepness of slope, proximity to the waterway, species and habitat diversity, and visual prominence. Community and recreational facilities will serve the community. Church Point will remain an important link to the offshore communities.

Future development is to be limited by the proximity of Ku-ring-gai Chase National Park, until it can be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport. A proliferation of domestic animals should also be restricted on the Western Foreshores to ensure the survival of native animals that reside in the National Park but frequent the area from time to time.

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, and to enhance wildlife corridors.

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

Pedestrians will continue as the dominant desired land traffic within the locality. Private land based vehicles are to be discouraged on Scotland Island and not permitted on the Western Foreshores. Pedestrian access within the locality will be maintained and upgraded, especially public access along the Pittwater foreshore.

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 studios, which is consistent with the scale and style of the newer development in the vicinity.

The proposal will see the retention of the more significant trees within the site and the design incorporates additional plantings throughout the site to maintain an appropriate area of soft landscaping.

The proposal has been designed to reflect the prevailing 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.

The proposed dwelling house and studio is designed to be safe from hazards.

6.4.2 Section B General Controls

The General Controls applicable to the proposed new dwelling are summarised as:

B3.1 Landslip Hazard

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 proposal is accompanied by a Geotechnical Report prepared by Broadcast Consulting Pty Ltd, Reference No. 3258-GEO, 01-A, dated 28 September 2023 and independently reviewed by Ascent Geo, Reference No. AG 23708, dated 29 September 2023.

Accordingly, subject to compliance with the recommendations contained within this report, the proposal is considered to satisfy the provisions of this clause.

3.2 Bushfire Hazard

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. (Ec)

The subject site has been identified as being bushfire prone land - Vegetation Category 1.

The application is supported by a Bushfire Report by Bushfire Planning and Design, Reference Number 4482 dated 29 September 2023, which identifies the site has a BAL-FZ rating. The assessment provides a series of recommendations to ensure that the dwelling can be constructed and maintained to appropriately manage the risk of bushfire.

The conclusion to the Assessment notes:

“Based on the above report and with the implementation of the recommendation contained within

this report the consent authority should determine that this development can comply with the requirements of AS 3959-2018 and 'Planning for Bushfire Protection' guidelines.

The recommendations contained within this report are to be implemented in their entirety. Changing one aspect may have an adverse effect on the rest of the recommendations"

B3.6 Contaminated Land and Potentially Contaminated Land

The controls seek to achieve the outcomes:

Protection of public health. (S)

Protection of the natural environment. (En)

Successful remediation of contaminated land. (En, S)

The proposal will see the site continue to maintain its residential use, with no evidence of previous contamination of the land.

B4.7 Pittwater Spotted Gum Forest – Endangered Ecological Community

The controls seek to achieve the outcomes:

Conservation of intact Pittwater Spotted Gum Forest EEC. (En)

Regeneration and/or restoration of fragmented and / or degraded Pittwater Spotted Gum Forest EEC. (En)

Reinstatement of Pittwater Spotted Gum Forest to link remnants. (En)

Long-term viability of locally native flora and fauna and their habitats through conservation, enhancement and/or creation of habitats and wildlife corridors. (En)

The proposal does not require the removal of any significant vegetation to accommodate the new works. In order to retain and protect the existing vegetation with the only significant vegetation within the proximity of the work being two exempt species, a Jacaranda and Illawarra Flame Tree. Based on the intention to retain the trees and their exempt status, no further Arboricultural Impact Assessment has been provided.

The more significant planting within the vicinity of the site will remain unaffected by the proposed works, which are within a previously cleared portion of the land.

The proposal is not considered to unreasonably impact on the Pittwater Spotted Gum Forest Ecological Community and meets the objectives 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.*

The proposal includes a stormwater concept plan prepared by Richard Leplastrier Architect.

Roof water from the dwelling will be collected and directed to 2 x 26,000 litre rainwater tanks located to the north of the dwelling. A separate 10,000 litre rainwater tank will be provided for the collection of roof water from the studio, with the tank located to the east of the studio.

Being an offshore site without reticulated water, all stormwater is carefully collected and stored for drinking water and household requirements.

The site does not drain through any public stormwater system and therefore on-site detention is not required in this instance.

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)

The proposal is accompanied by a Geotechnical Report prepared Broadcrest Consulting Pty Ltd, Reference No. 3258-GEO, 01-A, dated 28 September 2023 and independently reviewed by Ascent Geo, Reference No. AG 23708, dated 29 September 2023.

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

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. The works will not require any significant site disturbance and sedimentation & erosion control measures have been provided within Sheet LB4 – 2 of 2.

A Waste Management Plan has been prepared and is included with the DA submission.

6.4.3 Section C Development Type Controls

The Development Controls applicable to the proposed development and are summarised as:

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. (En, Ec)*
- Landscaping results in low watering requirement. (En)*

New plantings are to be provided throughout the site as detailed on the submitted Site Plan with Landscape Concept prepared by Richard Leplastrier, dated 13 September 2023.

The proposal will retain a suitable area of soft landscaping on site, and the site will maintain its contribution to the landscaped character of the locality. Given the bushfire considerations, significant additional plantings around the dwelling is to be avoided and only modest new plantings provided within the vicinity of the dwelling.

Substantial planting around the dwelling is being avoided, with only modest species including fruit trees etc to be provided.

As such, the proposed development is considered to achieve consistency with the provisions of this clause.

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 retain the opportunity to view the site's entry point with casual surveillance of the immediate area available.

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 proposal provides for the construction of a new one and two storey dwelling and detached three level studio, with the site and its structures maintaining a generous setback to the waterfront.

The primary outlook for the neighbouring dwelling to the west it is in a south easterly direction and cross views past the new dwelling and structures will be largely maintained.

Properties to the south of the proposal are downhill and therefore not affected by the new works. There are no properties above the site that could be affected by the work. With the National Park adjoining to the north.

Contextually, the new dwelling is considered to respect the outlook and amenity of the neighbouring properties and view sharing between properties is achieved.

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 these outcomes are to ensure that areas of private open space and windows associated with living areas of both the subject dwelling and adjoining dwelling receive a minimum of 3 hours of solar access in mid-winter.

The application is supported by Shadow Diagrams prepared by Peter Stutchbury Architecture to confirm that 3 hours of sunlight will be achieved with respect to areas of private open space and windows associated with living areas of both the subject dwelling and adjoining dwelling in midwinter.

Given the extent of the hillside above the site, no solar access is enjoyed by the property or the lower neighbours at 9 AM in midwinter.

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 these 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.

As noted in the figures provided, the location of the proposed dwelling studio is set well above the neighbouring properties, further down the slope and facing Lovett Bay.

The new dwelling is set between 29 m clear of the residence on 3 Portions & 18 m from the residence on 6 Portions Lovett Bay, with the proposed citrus grow to provide for further intervening planting.

The at-grade areas of open space do not incorporate fencing or screening; however this is consistent with the provisions of P21 DCP that seek to limit fences throughout the Lower Western Foreshores and Scotland Island Locality, and the informal character of the locality. The proposed development is entirely commensurate with adjoining and nearby development with respect to visual privacy.

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)

Given the residential nature of the works, there will not be any significant impact on the surrounding locality in terms of acoustic privacy. The works will maintain the current ample separation to living areas of adjoining properties, thereby maintaining existing levels 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 these 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 substantial areas of private open space which enjoy good solar access, consistent with the requirements of this control.

C 1.12 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 these outcomes are to ensure that adequate area remains for the storage of waste and recyclable materials. There is sufficient area surrounding the dwelling for on-site storage of waste and recyclables.

Removal of domestic waste from the site will continue to be through the Council provided waste service with collection at the waterfront.

6.4.4 Section D Design Criteria

The **D8 Lower Western Foreshores and Scotland Island 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 existing 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.

A summary of the DCP controls for the **D8 Lower Western Foreshores and Scotland Island Locality** is provided below:

D8.1 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 scale 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'. Within residential areas, buildings give the appearance of being two-storey maximum. (S)

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

To enhance the bushland vista of Pittwater as the predominant feature of the landscape with built form, including parking structures being a secondary component.

To ensure that development adjacent to public domain elements such as waterways, streets, parks, bushland reserves and other public open spaces, compliments the landscape character, public use and enjoyment of that land. (En, S)

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 modest new one and two storey dwelling and detached three level studio, of minimal bulk and scale.

Views will be retained for the neighbouring dwellings which are located to the north-east and south-west of the proposal.

The proposed new dwelling is setback from the waterway and will be screened and softened by existing and proposed landscaping. The proposed new dwelling is well articulated to provide visual interest and reduce bulk when viewed from Pittwater and adjoining properties.

D8.2 Scenic Protection - General

The controls seek to achieve the outcomes:

*Achieve the desired future character of the Locality.
Bushland landscape is the predominant feature of Pittwater with the built form being the secondary component of the visual catchment. (En, S)*

The proposal does not seek to remove any significant vegetation within the site. The works will see the retention of the existing significant trees and the development will provide for perimeter screen planting.

Given the significant bushfire issues on the site, substantial planting is to be avoided and the building will remain within an open character, which is consistent with the surrounding developer.

The development is complementary in scale and form to the surrounding area and as suggested by Council's controls, will maintain and enhance the tree canopy and include suitable screen planting to soften the built form.

D8.3 Building Colours, Materials and Construction

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)*

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. The proposed development comprises dark and earthy tones, as demonstrated in the Material Finishes Schedule accompanying this application.

D8.5 Front Building Line

The controls seek to achieve the outcomes:

*Achieve the desired future character of the Locality.
Equitable preservation of views and vistas to and/or from public/private places. (S)
Vegetation is retained and enhanced to visually reduce the built form. (En)
To preserve and enhance the rural and bushland character of the locality. (En, S)
To encourage attractive 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. The proposed dwelling is setback in excess of 50m from the front boundary of the right-of-way as it presents to Lovett Bay.

D8.6 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.

The proposed new dwelling is located 4m from the western boundary and the studio similarly setback from 4m to the eastern boundary.

The studio will stand 8.5 m from the southern boundary to Portions 6 Lovett Bay. The terraces and walkways around the dwelling will stand partially within the setbacks however given the nature of the sites and the common overlooking which currently exists, the setbacks are considered to be adequate to successfully maintain neighbour amenity, given the context of this site.

D8.8 Building envelope

The controls seek to achieve the outcomes:

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

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 proposed works largely maintain the building envelope and are within the character and style

of development in this portion of the Lower Western Foreshores locality.

D8.9 Landscaped Area

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)

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

Vegetation is retained and enhanced within the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation including tree canopy. (En)

Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)

To ensure the distribution of height and mass preserves, and enhances neighbourhood amenity and has regard to site characteristics and environmental constraints.

To conserve significant natural features of the site and contribute to effective management of biodiversity.

The area of site disturbance is minimised. (En)

Soft surface is maximised. (En, S)

The relevant controls to achieve this outcome are to limit the maximum area not provided as landscaped to be less than 230m² or as the site area exceed 1000m², on merit the non-landscape portion of the site can be up to 6% of the total site area.

For this site with an area of 5456 m², the non-landscape portion up to 23% could be 1254.88 m².

The site will present a built footprint only 6% of the total site area or 327.3 m² which in this locality, will maintain a significant portion of the land as soft landscaping and is intended to address Council's controls.

The proposed variation is supportable on merit as land exceeds 1000 m², as the non-compliance does not detract from consistency with the outcomes of the control, as follows:

- The proposed development is limited to one to two storey in height for the dwelling, with the studio with a very small footprint being up to 3 levels with an external stair access, which will present a high-quality architectural element within the locality, similarly being of an appropriate bulk and scale.
- The proposed development does not result in any adverse impacts upon the amenity of adjoining properties with respect to solar access, privacy or views.
- In conjunction with the construction of the new dwelling, the landscaped area will result in an enhancement to the quality and quantity of landscaping on the site.
- All significant vegetation is to be retained.
- Stormwater is appropriately managed.
- The unique character of Portions and Lovett Bay is appropriately maintained.
- Soft surfaces are maximised across the site.

D8.10 Fences

The controls seek to achieve the outcomes:

- To achieve the desired future character of the Locality. (S)*
- To discourage the use of fencing. (En, S)*
- To provide fencing only where necessary and to ensure that such fencing is sympathetic to the bushland setting of the locality. (En, S)*
- To ensure fences compliment and conserve the visual character of the street and neighbourhood.*
- To contribute positively to the public domain.*
- 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 sight distances and a clear view of the street including to and from driveways for motorists and pedestrians. (Ec, S)*
- To ensure heritage significance is protected and enhanced.*
- To ensure an open view to and from the waterway is maintained. (S)*

N/A - No fences are proposed as part of this application.

D8.11 Construction, Retaining walls, terracing and undercroft areas

The controls seek to achieve the outcomes:

- To achieve the desired future character of the Locality.*
- To protect and minimise disturbance to natural landforms.*
- To encourage building design to respond sensitively to natural topography.*

The proposal will not see the construction of any significant new retaining walls, with the design intended to work with the site conditions.

D8.13 Stormwater overflow

The controls seek to achieve the outcomes:

- Limit the adverse impacts of concentrate flow of stormwater caused by development within the fragile Scotland Island and Western Foreshore Environment. (En)*

The proposal is accompanied by a Stormwater Management Plan prepared by Richard Leplastrier, dated 13 September 2023.

There is no formal public drainage system available to the site. Stormwater from the roof areas will be carefully collected and stored within 2 x 26,000 litre rainwater tanks and 1 x 10,000 litre rainwater tank for drinking water and reuse within the site. Any overflow will be disbursed within the property without causing nuisance to the downstream

D8.15 Site disturbance

The controls seek to achieve the outcomes:

- The natural topography of the land, and surface and subsurface drainage patterns are*

retained. (En)

Site disturbance is minimised. (En)

Development does not result in visual scarring of the landscape. (En)

This control limits site disturbance to a maximum of 25% of the site area. The proposed development is maintained within the cleared put footprint of the previous dwelling and will not necessitate any significant site disturbance or removal of any existing natural vegetation.

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 PLEP 2014. 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 objectives.

The proposal has also considered all relevant SEPPs, and Council can be satisfied that the proposal is consistent with these policies.

7.2 Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

There are no draft instruments applying to the land.

7.3 Any development control plan

The development has been designed to meet the outcomes of P21 DCP.

In accordance with the provisions of section 4.15(3A) of the EP&A Act, 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 landscaped area control to be a reasonable alternative solution, in circumstances where the proposal is otherwise consistent with the objectives of this control.

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

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 in regard to 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 has been located and designed to appropriately minimise impacts on the amenity of adjoining properties, resulting in a development that is compatible with and will complement the character of the area.

7.7 The suitability of the site for the development

The subject land is zoned C3 Environmental Management under the provisions of PLEP 2014 and is considered suitable for 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 support the design of a new one and two story dwelling and a detached three level studio within cleared portions of the existing site. The works are compatible with the low density scale of development in Lovett Bay and will utilise complementary materials and finishes to blend with the natural location.

The siting and form of the dwelling has been chosen to minimise the bulk and scale of the works and ensure that the privacy and amenity of the neighbouring properties is respected and maintained.

The proposed new dwelling and studio are well designed to integrate with the site, its topography and the features and opportunities of the Lovett Bay locality. The proposed dwelling and studio will provide excellent internal and external amenity and outlook.

The proposal is an efficient and orderly development on the land that is of high-quality architectural design, in keeping with the context of the established low density, natural bushland location.

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 by Council is requested.

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