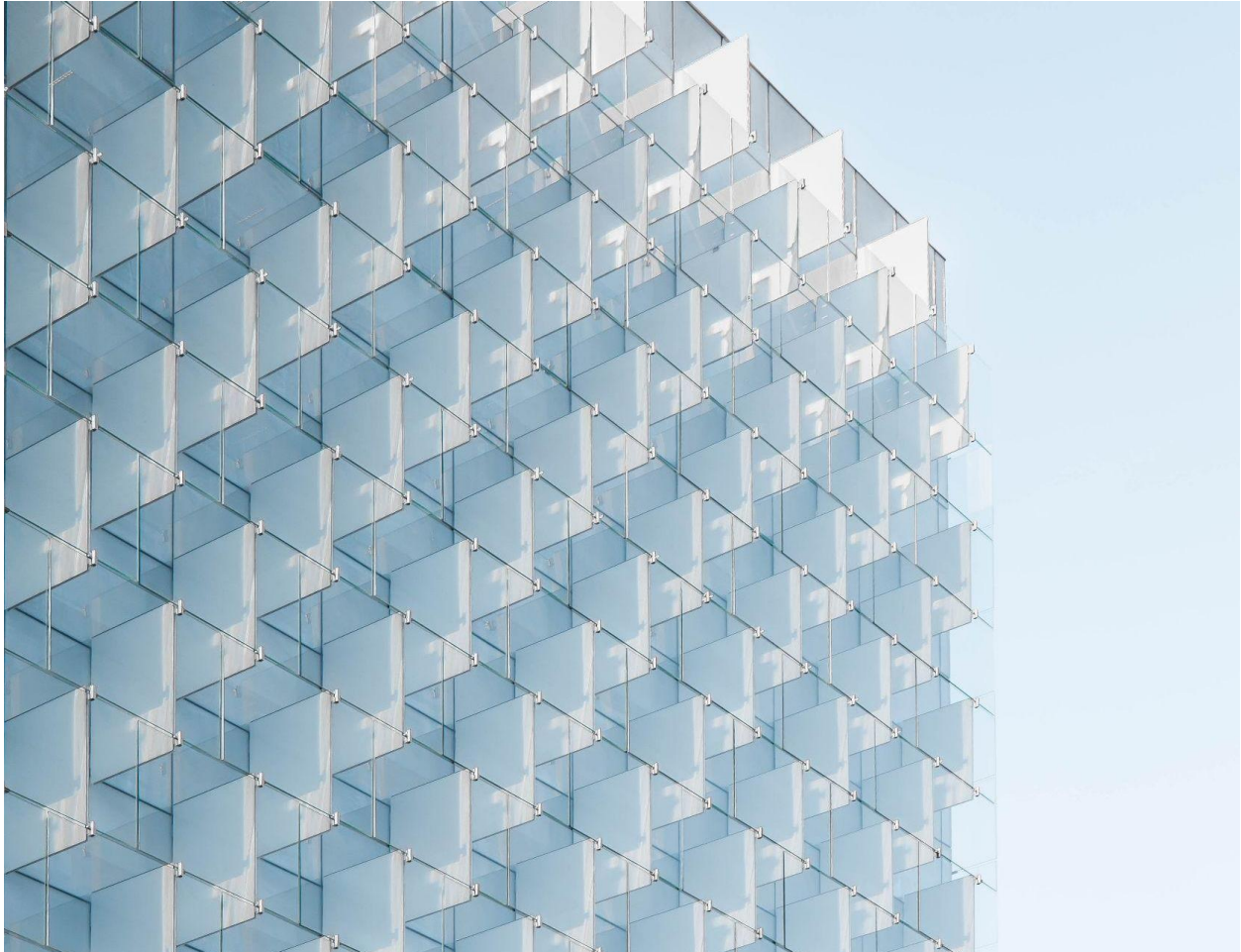


# WILLOWTREE PLANNING



8 March 2022

Ref: WTJ21-487  
Contact: Cameron Gray



## STATEMENT OF ENVIRONMENTAL EFFECTS:

Proposed Demolition of Existing Structures and Construction of a Three-Storey Dwelling House

1744 Pittwater Road, Bayview  
Lot B DP 390788

—  
Prepared by Willowtree Planning Pty Ltd  
on behalf of the Property Owners

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## Statement of Environmental Effects

Proposed Demolition of Existing Structures and Construction of a Three-Storey Dwelling House  
1744 Pittwater Road, Bayview (Lot B DP 390788)



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## Statement of Environmental Effects

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## APPENDICES

Appendix	Document	Prepared by
1	Arboricultural Impact Assessment & Tree Protection Plan	Tree Survey
2	Architectural Plans	Giles Tribe
3	BASIX Certificate	Integro Consulting
4	Cost Summary Report	Hugh B Gage Pty Ltd
5	Geotechnical Investigation	White Geotechnical Group
6	Landscape Plans	Spirit Level
7	Pittwater 21 Development Control Plan Assessment Table	Willowtree Planning
8	Stormwater Management Plan	JN Responsive Engineering
9	Survey Plan	CMS Surveyors
10	Waste Management Plan	C. Bragg

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## PART A PRELIMINARY

### 1.1 INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared by Willowtree Planning on behalf of the property owners, and is submitted to Northern Beaches Council (Council) to support a Development Application (DA).

This DA seeks development for demolition of the existing structures and construction of a new three-storey dwelling house at 1744 Pittwater Road, Bayview (Subject Site). The Site is legally described as Lot B DP 390788.

The proposed dwelling house has been designed and sited to meet the future needs of the owners whilst respecting the amenity of the neighbouring properties and retaining the character of the surrounding locality when viewed from both the streetscape and the water to the rear.

This SEE has been prepared pursuant to Section 4.12 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Clause 50 and Part 1 of Schedule 1 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation). Assessment against the relevant matters for consideration under Section 4.15(1) of the EP&A Act has also been carried out.

Based on the assessment undertaken, it is recommended that favourable consideration to the approval of the Development Application be given.

### 1.2 PRE-LODGEEMENT CONSULTATION

A Pre-Lodgement Meeting was held with Northern Beaches Council on 14 December 2021 with Lashta Haidari and Ellis Peedom. **Table 1** below outlines the notes provided on 24 December 2021 and commentary against each matter.

TABLE 1. PRE-LODGEEMENT NOTES	
Council Comments	Applicant Response
<b>Limited Development on Foreshore Area</b>	
The proposal includes a boat shed and jetty wholly within the foreshore area. The question was raised in relation to later alterations and additions regarding fenestration and the addition of other amenities. Conceptually, a boat shed can be supported by Council so long as its form and function remains basic and solely to serve as a boat storage facility. Any features that will support habitation within the structure will not be supported.	The proposed boat shed is to be used for the purposes a boat storage facility and Clause 7.8 of Pittwater Local Environmental Plan 2014 (PLEP2014) has been appropriately addressed in <b>Table 6</b> .
The proposed swimming pool, which is only partially within the foreshore area, raises no concerns at present and can be supported.	It is noted that a jetty does not form part of this DA.



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Visual Privacy	
<p>The significant amount of windows on this development proposal, specifically on the east and rear elevations, are of concern in relation to privacy. The east elevation (as opposed to the west) poses a concern as it sits directly adjacent 1742 Pittwater Road and may provide the opportunity for direct overlooking. As the rear façade could be argued to be a curtain wall based on the percentage of windows it is made up of, it will be important for the applicant to demonstrate how impacts in relation to visual privacy are mitigated, so too with the elevated terrace - even to the extent for neighbours across the water. Privacy mitigation tactics will be thoroughly interrogated as part of this proposal.</p>	<p>All side facing windows have been appropriately positioned and sized so as to not result in direct overlooking to windows on the adjacent properties. In addition, privacy screens have been provided along the ground floor terrace so as to minimise visual privacy impact to the adjacent properties. It is noted that the western elevation of 1742 Pittwater Road contains minimal windows which have low sill heights and are generally concealed by the existing side fencing.</p> <p>Given the generous rear setback and the separation distance to the neighbours across the water, it is considered that the proposed development will not result in any visual privacy impacts to the rear, nor would it be considered reasonable to require any further privacy treatments.</p>
Character as Viewed from a Public Place	
<p>The character of the proposed dwelling may be supported if certain design elements, specifically textures and materials, are adapted to the local context. The dominant feature of a pitched roof is considered in keeping with the surrounding streetscape. Of concern, however, is the proposal for three storeys which contradicts the outcomes of the control, specifically:</p> <p><i>Buildings do not dominate the streetscape and are at 'human scale'. Within residential areas, buildings give the appearance of being two-storey maximum.</i></p> <p>As the proposal currently breaches the building envelope control (see notes below), whether the amenity of this additional storey outweighs how it is viewed from the waterfront will come into question. At present, the bulk and scale of the proposal is larger in proportion to neighbouring developments. Despite the existing house protruding even further in height and scale as viewed from the waterfront, it is the view of council that wholly new developments, in comparison to alterations and additions, are to be fully compliant with the control. The control does not offer variations to accommodate this circumstance, thus the support for the additional storey will be reliant on whether the bulk and scale of the building is reduced and potentially softened by other design aspects such as landscaping.</p>	<p>Minor amendments have been to the proposed development since the Pre-Development Application which have reduced the overall bulk and scale. As noted in the Building Height Plane drawing provided in <b>Appendix 2</b>, only minor variations to the building envelope control are proposed and is largely comprised of the roof eaves only.</p> <p>It is noted that the Pre-Lodgement Meeting comments issued identify the Site as being located within the 'Bayview Heights' locality pursuant to PDCP21. The Site is however located within the 'Church Point and Bayview' Locality for which no controls limit the appearance of the dwelling to two-storeys only.</p> <p>Nonetheless, the proposed development will appear as three-storeys when viewed from the rear only. The dwelling will continue to be commensurate in form and scale with the neighbouring development when viewed from a rear as the slope of the land to the rear allows for the provision of a lower ground floor level. Substantial landscaping is proposed in the rear yard which will minimise the visual impacts of this area.</p>



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	<p>Furthermore, the building form facing Pittwater is stepped, and the elevation treatment is layered, including expression of a stone base with light weight pergola over, with the upper storey setback so that it does not present as a flat three storey façade.</p> <p>The proposed development will not result in any visual bulk impacts when viewed from the neighbouring properties or to the rear and will not result in any unreasonable visual or solar access impacts.</p>
<b>Front Building Line</b>	
<p>The proposed front building line which is in line with 1742 Pittwater Road to the south-east is supported by council and considered in keeping with the existing urban environment. Potential impacts to future development at 1746A including that of amenity and views will need to be addressed in the applicants Statement of Environmental Effects.</p>	<p>A view loss assessment has been undertaken in <b>Section 4.4</b> of this SEE.</p>
<b>Building Envelope</b>	
<p>As the building envelope breach permits a third storey which is non-compliant with controls discussed above, the reasoning behind it will come into question with respect to this being a new build. Whilst the breach is minor, the development as a whole exceeds the bulk and scale of its surrounding urban environment. It is important that the following outcome is addressed as part of the variation -</p> <p><i>The bulk and scale of the built form is minimised. Equitable preservation of views and vistas to and/or from public/private places.</i></p> <p>A 3D model was presented in the meeting which showed a vast amount of the roof form exceeding the building envelope, however the following variation should be noted -</p> <p><i>Eaves or shading devices that provide shade in summer and maximise sunlight in winter, shall be permitted to extend outside the building envelope.</i></p>	<p>Minor amendments have been to the proposed development since the Pre-Development Application which have reduced the overall bulk and scale. As noted in the Building Height Plane drawing provided in <b>Appendix 2</b>, only minor variations to the building envelope control are proposed and is largely comprised of the roof eaves only.</p> <p>A view loss assessment has been undertaken in <b>Section 4.4</b> of this SEE.</p>
<b>Coastal Management Act 2016 and State Environmental Planning Policy (Coastal Management) 2018</b>	
<p>The proposed development is located within the coastal zone of NSW and is subject to the provisions of the Coastal Management Act 2016 (CM Act) and State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP).</p>	<p>Assessment of the proposed development against the Coastal Management Act 2016 (CM Act) and State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) have been undertaken in <b>Section 4.7</b> and <b>4.8</b> of this SEE.</p>





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Under the CM SEPP the subject site has been included on the Coastal Environment Area and Coastal Use Area Maps. The objectives and requirements of both the CM Act and the CM SEPP must be addressed within the Statement of Environmental Effects (SEE) as they relate to development within the coastal zone. Clause 15 of the CM SEPP will also apply to the proposed development.	
<b>Crown Land Management Act 2016</b>	
<p>The Department of Planning, Industry and Environment – Crown Lands has requirements under the Crown Land Management Act for proposed development on foreshore Crown lands and waterways.</p> <p>Construction of a new or alteration of an existing domestic waterfront structure located on foreshore Crown land and waterway needs consent from the department (as the landowner) before an applicant can lodge a development application with council. When council grants development consent, a new licence to legally occupy foreshore Crown land and waterway must be issued by the department before any construction begins.</p> <p>Proposed works to construct a launching ramp on foreshore Crown land from the existing seawall to the new boat shed are likely to require landowners consent and a new licence from DPIE – Crown Lands.</p>	No launching ramp on the foreshore Crown Land is proposed. All development is contained within the Subject Site.
<b>Pittwater Local Environment Plan 2014</b>	
The subject site is affected by the foreshore building line. Clause 7.8 Limited Development on Foreshore Area in Pittwater LEP 2014 applies to the proposed development and must be addressed in the SEE.	Clause 7.8 of Pittwater Local Environmental Plan 2014 (PLEP2014) has been appropriately addressed in <b>Table 6</b> .
<b>Pittwater 21 Development Control Plan</b>	
<b>Estuarine Risk Management</b>	
<p>The subject site has been identified as being affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. The Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater DCP) and the B3.7 Estuarine Hazard Controls in the Pittwater 21 DCP will apply to the proposed development at the site.</p> <p>In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), a base estuarine planning level (EPL) of RL 2.72m AHD has been adopted by Council for the subject site.</p> <p>The ground floor level of the proposed dwelling is shown as RL 8.30m AHD and the boat shed floor level</p>	Noted.





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is shown as RL 3.00m AHD, which are both higher than the EPL adopted by Council. The proposed development, as shown on the submitted plans, is therefore considered to satisfy the relevant requirements of the B3.7 Estuarine Hazard Controls.	
<b>Other Relevant Controls</b>	
Other Section B General Controls and D15 Waterways Locality Controls will also be relevant and may apply to the proposed development, including but not limited to: <ul style="list-style-type: none"><li>▪ B5.13 Development on Waterfront Land</li><li>▪ D15.12 Development Seaward of Mean High Water Mark</li><li>▪ D15.15 Waterfront Development</li></ul>	Where relevant, these controls have been addressed in <b>Appendix 7</b> .
<b>Development Engineering</b>	
<p>Councils Development Engineer Uma Shanmugalingam has advised the following:</p> <p>These comments are only preliminary in nature and a detailed assessment can only be provided upon lodgement:-</p> <ul style="list-style-type: none"><li>▪ The method of stormwater disposal is to be in accordance with Council's Water Management for Development Policy. The policy is available in Council's web page. <a href="https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/policies-register/water-management/water-management-development-policy/water-management-development-policy-aug2020.pdf">https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/policies-register/water-management/water-management-development-policy/water-management-development-policy-aug2020.pdf</a></li><li>▪ The site is located within the H1 hazard area, a geotechnical engineers report is required to be submitted in accordance with Geotechnical Risk Management Policy for Pittwater – 2009 with the DA.</li><li>▪ The driveway crossing will be assessed once the application is lodged to determine if the existing crossing can remain.</li></ul>	<p>A Stormwater Management Plan has been provided in <b>Appendix 8</b> which demonstrates compliance.</p> <p>A Geotechnical Investigation has been provided in <b>Appendix 5</b>.</p> <p>The driveway design has been provided in the Architectural Plans <b>Appendix 2</b>.</p>



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## PART B SITE ANALYSIS

### 2.1 SITE LOCATION AND CHARACTERISTICS

The Subject Site is identified as 1744 Pittwater Road, Bayview, and is legally described as Lot B DP 390788. The Site is located within the suburb of Bayview and forms part of the wider Northern Beaches Local Government Area (LGA).

The rectangular shaped lot exhibits an area of 1,559m<sup>2</sup> with a primary frontage to Pittwater Road. The Site is zoned C4 Environmental Living and is subject to the applicable provisions of PLEP 2014.

The Site is currently occupied by a three-storey residential dwelling. The Site is adjoined by a three-storey dwelling house to the east at 1746 Pittwater Road and a two-storey dwelling house at 1742 Pittwater Road. The surrounding locality generally comprises low-density residential dwellings. The Site currently experiences water views across Pittwater.

The location of the Site and surrounding development are depicted in **Figures 1 and 2**.



**Figure 1. Existing Site and Surrounding Area** (Source: Nearmap, 2022)



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**Figure 1. Cadastral Map of Existing Site and Surrounding Area** (Source: SIX Maps, 2022)

## 2.2 SITE CONTEXT

The Site is located within the suburb of Bayview, 35km north east of Sydney Central Business District and forms part of the Northern Beaches LGA.

The surrounding locality generally comprises low-density residential dwellings ranging in scale from single to three-storey houses. Pittwater is located immediately to the north east of the Site. St Luke's Grammar Bayview is located opposite the Site towards the south.

Access to the Site is via Pittwater Road which contains a number of bus stops, serviced by the 156-bus route which provides connectivity to Mona Vale.



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### 2.3 DEVELOPMENT HISTORY

**Table 2** below is a summary of the DA's relating to the Site and surrounding land that have been determined.

TABLE 2. DEVELOPMENT HISTORY	
Application ID	Description
T0309/16 Approved	The development consent was approved for the following:  <i>Tree Application - Tree/Bushland Works Tree Removal and Pruning</i>
DA2020/0005 Withdrawn	The development consent was approved for the following:  <i>Subdivision - Subdivision consent for a 1 into 2 lots Torrens title subdivision in a battle axe configuration</i>
DA2020/1549 Approved	The development consent was approved for the following:  <i>Subdivision - Subdivision of land, including construction of an access driveway</i>



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**PART C PROPOSED DEVELOPMENT**

**3.1 OVERVIEW**

This DA seeks development consent for the demolition of the existing structures and construction of a new three-storey dwelling house including an attached garage within the front setback with living spaces above and a swimming pool and boat shed in the rear yard.

The following objectives have been identified as forming the basis of the proposed development.

- Ensure minimal environmental impact;
- Ensure development is compatible with surrounding development and the local context; and
- Support residential land uses consistent with the zone objectives.

**3.2 DEVELOPMENT PARTICULARS**

The proposal development includes those works as identified in **Table 3** below.

TABLE 3. DEVELOPMENT PARTICULARS	
Component	Proposed
Site Area	1,559m <sup>2</sup>
Building Type	Dwelling House
Building Height	8.5m
Number of Storeys	Three (3)
Landscaped Area	856.5m <sup>2</sup>
Car Parking	Three (3) spaces
Earthworks	2.7m
Tree Removal	Two (2) trees
Cost of Works	\$2,435,686

A complete set of Architectural Plans have been included in **Appendix 2**.



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## PART D LEGISLATIVE AND POLICY FRAMEWORK

### 4.1 STATUTORY PLANNING FRAMEWORK OVERVIEW

This Part of the SEE addresses and responds to the legislative and policy requirements relevant to the proposed development in accordance with the EP&A Act. The statutory planning framework relevant to the proposed development includes:

- *Environmental Planning and Assessment Act 1979;*
- *Environmental Planning and Assessment Regulation 2000;*
- *Water Management Act 2000;*
- *Biodiversity Conservation Act;*
- *State Environmental Planning Policy (Resilience and Hazards) 2021;*
- *Coastal Management Act 2016;*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021;*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;* and
- *Pittwater Local Environmental Plan 2014.*

### 4.2 NON-STATUTORY PLANNING FRAMEWORK OVERVIEW

- *Pittwater 21 Development Control Plan;*

### 4.3 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The EP&A Act is the principle planning and development legislation in New South Wales. Pursuant to Part 4, the proposal is considered local development.

Section 4.15(1) of the EP&A Act specifies the matters which a consent authority must consider when determining a DA. The relevant matters for consideration under Section 4.15(1) of the EP&A Act are provided in **Table 4** below.

TABLE 4. SECTION 4.15(1)(A) CONSIDERATIONS	
Section	Response
Section 4.15(1)(a)(i) any environmental planning instrument, and	The principle EPI for the proposed development on the Subject Site is PLEP2014.
Section 4.15(1)(a)(ii) 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 Planning 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 proposed EPIs that have been subject to public consultation which are relevant to the Site or proposal.
Section 4.15(1)(a)(iii) any development control plan, and	The relevant sections of the <i>Pittwater 21 Development Control</i> (PDCP21) have been considered in <b>Section 4.12</b> and <b>Appendix 7</b> .





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Section 4.15(1)(a)(iia) 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, and	There are no Voluntary Planning Agreements (VPA) applicable to the Site.
Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	The proposed development comprises local development.
Section 4.15(1)(b)-(c)	The potential environmental impacts and suitability of the Site for the proposed development are discussed in <b>Part E</b> of this SEE.

Pursuant to Part 4, Section 4.5(d) of the EP&A Act, the consent authority for the proposal is the Council of the area in which the development is to be carried out. Therefore, Northern Beaches Council is the Consent authority for the proposal.

Section 4.46 of the EP&A Act defines 'integrated development' as matters which require consent from Council and one or more authorities under related legislation. In these circumstances, prior to granting consent, Council must obtain from each relevant approval body their General Terms of Approval (GTA) in relation to the development.

Pursuant to Section 4.46 of the EP&A Act the proposed development does not constitute integrated development.

### 4.4 ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

The proposal has been prepared in accordance with the provisions of the EP&A Regulation. Clause 50 and Part 1 of Schedule 1 of the EP&A Regulation stipulates how a DA must be "made". This DA satisfies the relevant criteria of the Regulation as follows:

*(1) A development application:*

*(a) be in the form that is approved by the Planning Secretary and made available on the NSW planning portal, and*

This DA includes all relevant information approved by the Planning Secretary and in accordance with the NSW Planning Portal guidelines.

*(b) contain all of the information that is specified in the approved form or required by the Act and this Regulation, and*

This DA shall be accompanied with all the relevant consultant reports as required under the EP&A Act and EP&A Regulation.

*(c) be accompanied by the information and documents that are specified in Part 1 of Schedule 1 or required by the Act and this Regulation, and*





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This DA includes all relevant information including details of the development, address and formal particulars, estimated cost of development, owner's consent, supporting documents including Architectural Plans and Statement of Environmental Effects.

*(d) be lodged on the NSW planning portal.*

This DA shall be lodged via the NSW Planning Portal.

Further, the proposal does not trigger 'Designated Development' pursuant Schedule 3 of the EP&A Regulation.

### **Land and Environment Court Planning Principle - Views**

In Land and Environment Court proceedings *Tenacity Consulting v Warringah Council [2004] NSWLEC at 25-29*, Senior Commissioner Roseth established a planning principle for the assessment of views. The 'Views – general principles' Planning Principle development as a result of that judgement is used hereunder to assess the merits of the development, specifically paragraphs 26-29 which is reproduced below:

*26 The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

#### **Comment:**

Views are currently afforded for a number of surrounding sites across Pittwater towards Salt Pan Cove. This view is not considered to be iconic. At present, the following sites experience views relevant to the subject development: Reference should be made to the existing and proposed views visually represented in the Architectural Plans provided in **Appendix 2**.

#### **1742 Pittwater Road:**

Currently experiences unobstructed water views which interface between land and water across Pittwater.

#### **1746 Pittwater Road:**

Currently experiences unobstructed water views which interface between land and water across Pittwater.

#### **1746A Pittwater Road:**

Currently experiences unobstructed water views which interface between land and water across Pittwater. Some partially obstructed water views are currently experienced across the Subject Site.

#### **1983 Pittwater Road:**

Currently experiences unobstructed water views which interface between land and water across Pittwater. Some partially obstructed water views are currently experienced across the Subject Site.



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*27 The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

### Comment:

#### 1742 Pittwater Road:

The unobstructed water views are largely experienced across the rear boundary of the site from the rear of the dwelling house. Some views are also experienced across the Subject Site from the northern side boundary of 1742 Pittwater Road.

#### 1746 Pittwater Road:

The unobstructed water views are largely experienced across the rear boundary of the site from the rear of the dwelling house. Some views are also experienced across the Subject Site from the southern side boundary of 1746 Pittwater Road.

#### 1746A Pittwater Road:

The unobstructed water views are largely experienced across the rear boundary of the site from the rear deck of the dwelling house (**Figure 3** below).



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**Figure 3. Views Experienced from the Rear Deck at 1746A Pittwater Road Across the Rear Boundary**  
(Source: Giles Tribe Architect, 2022)

Partially obstructed water views are currently experienced across the Subject Site from the southern boundary of 1746A Pittwater Road from both the rear deck (**Figure 4**) and south facing kitchen window (**Figure 5**).





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**Figure 4. Views Experienced from the Rear Deck at 1746A Pittwater Road Across the Subject Site**  
(Source: Giles Tribe Architect, 2022)



**Figure 5. Views Experienced from the South Facing Kitchen Window at 1746A Pittwater Road Across the Subject Site**  
(Source: Giles Tribe Architect, 2022)





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### 1983 Pittwater Road:

The views are currently experienced across the rear and northern side boundaries from the rear deck. Partially obstructed water views are currently experienced from the rear deck across the Subject Site from the northern side boundary (**Figure 6**).



**Figure 6. Views Experienced from the Footpath Adjacent to the Rear Deck at 1983 Pittwater Road Across the Subject Site** (Source: C. Bragg, 2022)

*28 The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

### **Comment:**

#### 1742 Pittwater Road:

Given the orientation of the site and generous rear setback provided as part of the development, it is considered that the existing views will not be impacted.

#### 1746 Pittwater Road:

Given the orientation of the site and generous rear setback provided as part of the development, it is considered that the existing views will not be impacted.



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### 1746A Pittwater Road:

Given the orientation of the site, the existing views across the rear setback will not be impacted. Some minor view loss will be experienced across the southern side boundary as a result of the proposed development, specifically as a result of the extension forward of the front building line of the existing dwelling house. It is noted that some improvement to the views will be experienced as a result of the reduction in the ridge height.

### 1983 Pittwater Road:

Negligible view loss will be experienced across the northern side boundary as a result of the proposed development, specifically as a result of the extension forward of the front building line of the existing dwelling house.

*29 The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skillful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

## **Comment:**

### 1746A Pittwater Road:

The view proposed to be impacted is experienced across the side boundary and across the Subject Site. As such, the expectation to retain this view is considered unrealistic. Nonetheless, only minor view loss will be experienced as a result of the siting of 1742 Pittwater Road. Given the height of the kitchen window and rear deck and slope of the land towards the east, it is considered that the existing land and water interface will continue to be viewed.

The proposed development includes a minor non-compliance to the building envelope controls; however, this variation is generally limited to the roof eaves only. As such, this non-compliance is not considered to contribute to the view loss experienced. As expressed above and visually represented in **Appendix 2**, the vast majority of the view will continue to be experienced, including the land and water interface, and the view to the rear will be unobstructed, it is considered that the view loss is acceptable having regard to the requirements of the 'Views – general principles' Planning Principle established in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 at 25-29.

### 1983 Pittwater Road:

The view proposed to be impacted is currently experienced across the side boundary and across the Subject Site. As such, the expectation to retain this view is considered unrealistic. In addition, it is noted that this view is experienced between the existing dwelling and 1742 Pittwater Road, which in the context of the views experienced from the rear deck, is considered nominal.



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Given the siting of the existing dwelling and house and positioning of the proposed development, negligible view loss will be experienced as the land and water interface will continue to be experienced in this location. No view loss will be experienced to the south east of 1742 Pittwater Road, where the majority of the views from this deck are currently experienced.

The proposed development includes a minor non-compliance to the building envelope controls; however, this variation is generally limited to the roof eaves only. Given the orientation of the proposed dwelling, this non-compliance is not considered to contribute to the view loss experienced.

As expressed above and visually represented in **Appendix 2**, the vast majority of the view will continue to be experienced, including the land and water interface, and the view to the rear will be unobstructed, it is considered that the view loss is acceptable having regard to the requirements of the 'Views – general principles' Planning Principle established in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 at 25-29.

## Concluding Remarks

The proposal has been assessed against the four (4) planning principals established by the NSW Land and Environment Court in relation to views. The proposal will not have any adverse impacts upon the adjoining properties or the streetscape.

The proposal is generally consistent with the provisions and controls under PLEP2014 and PDCP21.

As such, the development is considered acceptable having regard to the relevant provisions of the EP&A Act and EP&A Regulation.

## 4.5 WATER MANAGEMENT ACT 2000

The objective of the *Water Management Act 2000* (WM Act) is the sustainable and integrated management of the state's water for the benefit of both present and future generations.

The proposed development at this Site is within 40m of an existing watercourse. As such, an activity approval will be required pursuant to Clause 91 of the Water Management Act 2000.

## 4.6 BIODIVERSITY CONSERVATION ACT 2016

The *Biodiversity Conservation Act 2016* (BC Act) sets out, among other things, to establish a scientific method for assessing the likely impacts on biodiversity values of proposed development and land use change.

The Site has not been identified as containing any biodiversity values on the Biodiversity Values Map and Threshold Tool. The site has however, been identified as "Biodiversity" on the PLEP2014 Biodiversity Map. Further assessment of the impact on biodiversity in accordance with PLEP2104 is undertaken in **Section 4.11** of this report.





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### 4.6 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

*State Environmental Planning Policy (Resilience and Hazards) 2021* (Resilience and Hazards SEPP) repealed *State Environmental Planning Policy No 55 – Remediation of Land* and *State Environmental Planning Policy (Coastal Management) 2018* on 1 March 2021.

Clause 4.6) of Resilience and Hazards SEPP requires that a consent authority must not grant development consent on land unless:

- a) *it has considered whether the land is contaminated, and*
- b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Council records indicate that the Site has only been used for residential purposes and no such uses which may have resulted in contamination of the Site. As such, no further investigation is required having regard to contamination regarding Resilience and Hazards SEPP.

Pursuant to Clause 2.10 of the Resilience and Hazards SEPP, the Site is identified as being with a coastal environment area. Given the siting of the proposed development, which is setback generously from the rear setback and coastal area, it is considered that the development will not cause an adverse impact on any of the following:

- The integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment;
- Coastal environmental values and natural coastal processes;
- The water quality of the marine estate;
- Marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- Existing public open space and safe access to and along the beach for members of the public, including persons with a disability;
- Aboriginal cultural heritage practises and places; and
- The use of the surf zone.

As such, the development is considered to satisfy Clause 2.10 of the Resilience and Hazards SEPP in that it has been designed, sited and will be managed to avoid any adverse impacts referred to above.

In addition, the Site is identified as being within a coastal use area pursuant to Clause 2.11 of the Resilience and Hazards SEPP. Given the siting of the proposed development, which is setback generously from the rear setback and coastal area, it is considered that the development will not cause an adverse impact on any of the following:

- Existing, safe access to and along the beach for members of the public, including persons with a disability;
- Overshadowing, wind funnelling and the loss of views from public places;



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- The visual amenity and scenic qualities of the coast, including coastal headlands;
- Aboriginal cultural heritage, practises and places; and
- Cultural and built environmental heritage.

As such, the development is considered to satisfy Clause 2.11 of the Resilience and Hazards SEPP in that it has been designed, sited and will be managed to minimise any adverse impacts referred to above.

Having regard to Clause 2.12 of the Resilience and Hazards SEPP, it is considered that the proposed development would not result in any increased risk of coastal hazards given the nature of the use, being a single dwelling house, and setback of the proposed development from the coastal area.

### 4.7 COASTAL MANAGEMENT ACT

The *Coastal Management Act 2016* (CM Act) sets out, among other things, to manage the coast environmental of NSW in a manner consistent with the principles of ecologically sustainable development for the social, cultural and economic well-being of the people of the State.

The Site has been identified as being located within the coastal zone of NSW and is subject to the provisions of the CM Act. The development is considered to satisfy the objectives of the CM Act in that it has been designed, sited and will be managed to avoid any adverse impacts to the scenic, social and cultural values of the Site.

### 4.8 ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

*State Environmental Planning Policy (Biodiversity and Conservation) 2021* (Biodiversity and Conservation SEPP) repealed *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* on 1 March 2021. The Biodiversity and Conservation SEPP aims to protect the biodiversity values of trees and other vegetation in non-rural areas, and to preserve the amenity of non-rural areas through the preservation of trees and other vegetation. The SEPP applies to non-rural areas. The Site is zoned C4 Environmental Living and therefore the provisions of the SEPP are applicable to this application.

Two (2) trees are proposed for removal for which an Arboricultural Impact Assessment & Tree Protection Plan has been submitted (**Appendix 1**) supporting removal of the trees and recommending tree protection measures for the remaining trees on Site. The recommendations of this report will be implemented as part of the future development.

### 4.9 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2000

The aim of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2000* is to provide a consistent framework for sustainable residential development through the implementation of a range of online design measures and performance criteria.

This SEPP requires a submission of a BASIX Certificate to accompany an application for development consent for any "BASIX affected building". A BASIX affected building means "any building that contains one or more dwellings but does not include a hotel or motel".

The DA is accompanied by a BASIX Certificate No.1275753S\_03 provided at **Appendix 3**, which commits to environmental sustainability measures relating to thermal comfort, water savings and energy efficiency.



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### 4.10 PITTWATER LOCAL ENVIRONMENTAL PLAN 2014

The PLEP2014 is the EPI that applies to the Site. The relevant provisions of PLEP2014 as they relate to the subject Site are considered below:

#### 4.10.1 Zoning and Permissibility

The Site is located within the C4 Environmental Living zone under the provisions of the PLEP2014. **Table 5** outlines the developments consistency and compliance with the relevant development standards and controls under PLEP2014.

TABLE 5. PITTWATER LOCAL ENVIRONMENTAL PLAN 2014	
Requirement	Application to Proposed Development
Clause 2.3 – Zone objectives and Land Use Table	<i>(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.</i>
<b>C4 Environmental Living</b>	
C4 Environmental Living zone – Objectives of the zone	<ul style="list-style-type: none"><li>▪ <i>To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.</i></li><li>▪ <i>To ensure that residential development does not have an adverse effect on those values.</i></li><li>▪ <i>To provide for residential development of a low density and scale integrated with the landform and landscape.</i></li><li>▪ <i>To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.</i></li></ul> <p>The proposed dwelling house would satisfy the objectives of the C4 zone as it would:</p> <ul style="list-style-type: none"><li>▪ Provide for low-impact residential development in an area with special ecological, scientific or aesthetic values;</li><li>▪ Provide for residential development of a low density and scale integrated with the landform and landscape; and</li><li>▪ Encourage development that retains and enhances riparian and foreshore vegetation.</li></ul>
Permitted without consent	<i>Home businesses; Home occupations</i>
Permitted with consent	<i>Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; <b>Dwelling houses</b>; Environmental protection works; Group homes; Health consulting rooms; Home-based child care; Home industries; Jetties; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Respite day care centres; Roads; Secondary dwellings; Tank-based aquaculture; Water recreation structures</i>



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	<p><i>The proposal would be identified as a dwelling house which is permitted with consent. Pursuant to PLEP 2014 and Standard Instrument definitions, the formal definition pertaining to a dwelling house is stated as:</i></p> <p><b>dwelling house</b> means a building containing only one dwelling.</p>
Prohibited	<p><i>Industries; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3</i></p>

Accordingly, the proposed use of the Site as a dwelling house is permitted within the C4 zone. Moreover, given the consistency with the C4 zone objectives, the proposed dwelling house is a suitable land use on the Site. Reference should be made to **Part E** of this SEE for further details pertaining to the discussion on suitability in the C4 zone.



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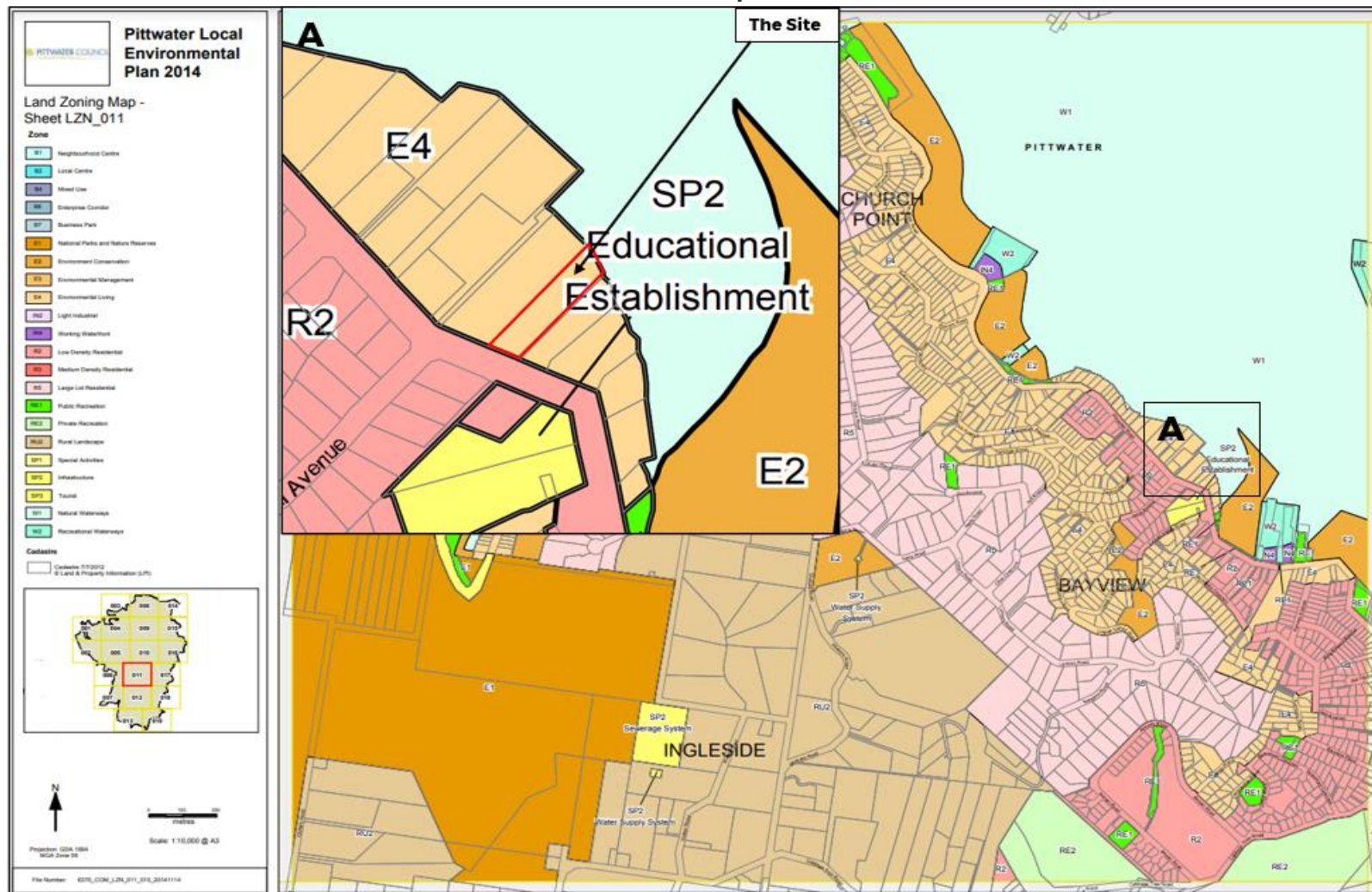


Figure 7. PLEP2014 Land Zoning Map (Source: Legislation NSW, 2022)

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**Table 6** outlines the developments consistency and compliance with the relevant development standards and controls under PLEP2014.

TABLE 6. DEVELOPMENT STANDARDS	
Clause	Comment
Clause 4.1 - Minimum Subdivision Lot Size	The minimum lot size prescribed within the PLEP 2014 is 700m <sup>2</sup> . The proposed development does not involve the subdivision of land.
Clause 4.3 - Height of Buildings	<p>The Site is subject to a maximum building height of 8.5m under PLEP2014.</p> <p>The proposed development comprises an overall height of 8.5m.</p>
Clause 4.4 - Floor Space Ratio	The Site is not subject to a maximum Floor Space Ratio (FSR) pursuant to the PLEP2014.
Clause 5.10 - Heritage Conservation	The Site is not identified as a heritage item or located within a Heritage Conservation Area (HCA) pursuant to the PLEP2014.
Clause 7.1 - Acid Sulfate Soils	The Site is identified as containing Class 2 and 5 acid sulfate soils pursuant to the PLEP2014. Given the nature of the proposal, it is considered that the proposed development will not disturb, expose or drain acid sulfate soils and cause environmental damage.
Clause 7.2 - Earthworks	Given the nature of the proposal, it is considered that the proposed development will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the Subject Site or surrounding land.
Clause 7.6 - Biodiversity	<p>The Subject Site is identified as being located on the Biodiversity Map.</p> <p>The development has been designed, sited and will be managed to avoid any adverse environmental impact, pursuant to Clause 7.6 of PLEP2014.</p>
Clause 7.7 - Geotechnical Hazards	<p>The Site is identified as containing Geotechnical Hazard H1 under PLEP2014.</p> <p>A Geotechnical Investigation has been provided in <b>Appendix 5</b> which determines that the Site is suitable for the proposed development and that no geotechnical hazards will be created by completion of the proposed development provided that it is carried out in accordance with the recommendations of the investigation. The recommendations will be implemented as part of the future development.</p>
Clause 7.8 - Limited Development on Foreshore Area	The rear of the Site is identified as being within the Foreshore Building Line under PLEP 2014. No development is proposed within the





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	<p>Foreshore Area with the exception of the boat shed which is permitted pursuant to Clause 7.8(2)(b) of PLEP 2014.</p> <p>The boat shed has been designed and sited so as to:</p> <ul style="list-style-type: none"><li>▪ Contribute to achieving the objectives for the C4 zone,</li><li>▪ Be compatible in appearance with development within the surrounding area,</li><li>▪ To not cause any environmental harm;</li><li>▪ To not cause congestion or generate conflict between people using open space areas or the waterway,</li><li>▪ To not impact public access along the foreshore and to the waterway;</li><li>▪ Maintain the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the Site;</li><li>▪ Consider sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change, have been considered.</li></ul> <p>As such, the proposed boat shed is considered acceptable having regard to Clause 7.8 of PLEP2014.</p>
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### 4.11 DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

No Draft Environmental Planning Instruments apply to the Site.

### 4.12 NON-STATUTORY PLANNING FRAMEWORK OVERVIEW

#### 4.12.1 PITTWATER 21 DEVELOPMENT CONTROL

The PDCP21 supplements PLEP2014 and provides a comprehensive framework for development in the former Pittwater LGA. An assessment of the proposal against the relevant provisions of PDCP21 has been undertaken in **Appendix 7**.





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## PART E LIKELY IMPACTS OF THE DEVELOPMENT

This section identifies and assesses the impacts of the development with specific reference to the heads of consideration under Section 4.15(1) of the EP&A Act.

### 5.1 CONTEXT AND SETTING

The proposed development would promote the efficient use of the land intended for residential purposes which satisfies the provisions, overarching aims and objectives set out within the PLEP2014.

The proposed development is compatible with the prevailing character of the area as it will contribute to the variety of housing types within a low-density residential environment. Importantly, the proposed development is in accordance with the development standards specified by the PLEP2014. In particular, the proposal demonstrates compliance with the majority of development controls specified under the PDCP21.

The proposal will not exhibit any undue environmental impacts and will not adversely impact the amenity of neighbouring properties. Therefore, the proposed development is considered compatible with the Site context.

### 5.2 BUILT FORM

The proposed dwelling has been architecturally designed and incorporates high quality materials and finishes, positively contributing to the visual character of the area.

Façade articulation has been achieved through multiple windows in all elevations at all levels, varied side setbacks with elements of the building mass 'stepped in', and a variety of high-quality materials and finishes.

The proposal complies with the maximum height development standard for the Site prescribed by the PLEP2014. Additionally, the proposal complies with the majority of built form controls prescribed by the PDCP21.

### 5.3 TRAFFIC & PARKING

Adequate parking has been provided on the Site to cater for the needs of the residents of the dwelling house. Given the nature of the use, it is considered that the development will not result in any unreasonable traffic or parking impacts on the surrounding streetscape.

### 5.4 STORMWATER AND SEDIMENT CONTROL

A Stormwater Drainage Plan has been prepared by JN Responsive Engineering and provided at **Appendix 8**.

As illustrated in the **Appendix 8**, the proposed development incorporates sediment control fences to prevent migration of sediment from the Site into any waterways, drainage systems, public roads, road reserves or adjoining private lands.



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### 5.5 SOLAR ACCESS

As demonstrated on the Shadow Diagrams provided in the Architectural Plans (**Appendix 2**), the proposed development will not result in any unreasonable overshadowing impacts on the surrounding properties or public space.

### 5.6 PRIVACY

All windows and balconies have been appropriately sized, orientated and positioned so as to not result in any unreasonable overlooking impacts to the neighboring properties.

### 5.7 FLORA AND FAUNA

Two (2) trees are proposed for removal for which an Arboricultural Impact Assessment & Tree Protection Plan has been submitted (**Appendix 1**) supporting removal of the trees and recommending tree protection measures for the remaining trees on Site. The recommendations of this report will be implemented as part of the future development.

### 5.8 CONSTRUCTION

All works on the Site will be carried out in accordance with conditional requirements of any consent issued. Appropriate measures will be undertaken to mitigate potential impacts from the development including dust, noise, odours, traffic impact and erosion.

### 5.9 SAFETY AND SECURITY

The principles of Crime Prevention Through Environmental Design (CPTED) have been considered in the design of the proposed development.

The CPTED guidelines were prepared by the NSW Police in conjunction with the Department of Planning. CPTED provides a clear approach to crime prevention and focuses on the 'planning, design and structure of cities and neighbourhoods. The main aim of the policy is to:

- Limit opportunities for crime;
- Manage space to create a safe environment through common ownership and the encouraging the general public to become active guardians; and,
- Increase the perceived risk involved in committing crime.

The guidelines provide four (4) key principles to limit crime, including:

- Natural Surveillance;
- Access Control;
- Territorial Reinforcement; and,
- Space Management.



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### **Principle 1 - Surveillance:**

The attractiveness of crime targets can be reduced by providing opportunities for effective surveillance, both natural and technical.

- The proposed development orientates active areas such as the balconies and areas of glazing towards Pittwater Road at the front and Pittwater to the rear; and
- The proposed development utilises suitable landscaping, balustrade and fence heights to ensure there would be no obstruction of surveillance opportunities.

### **Principle 2 - Access Control**

Access Control can be defined as physical and symbolic barriers that are used to 'attract, channel or restrict the movement of people'.

- Entry to the development is through a clearly delineated entry provided by landscaped walls and paving to clearly define the public and private domains to deter unauthorised access to the Site.

### **Principle 3 - Territorial Reinforcement**

Territorial Reinforcement can be described as creating a sense of ownership to a public space or vicinity, encouraging the usage of that space. By increasing the usage capability, this also deters crimes and, further increases the chances of a crime being witnessed and reported in a timely manner.

- The secure entrance to the building emphasises the separation between the private and public domain; and,
- Well maintained landscape design indicates the development will be well-used and cared for to reduce criminal activity.

### **Principle 4 - Space Management**

Space Management is intuitive of Principle 3 – Territorial Reinforcement – and refers to ensuring a space is utilised and cared for appropriately.

- Pathways and planters will be well maintained;
- Continuous proposed repairs and maintenance will discourage vandalism; and
- High quality materials and landscaping along boundaries is provided to assist in discouraging vandalism and graffiti.

The proposed development would successfully integrate the four (4) principles outlined to limit crime outlined in the CPTED guidelines.

## **5.10 BUILDING CODE OF AUSTRALIA**

The proposed development will not alter compliance with the relevant Australian Standards contained within the Building Code of Australia.



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### 5.11 CUMULATIVE IMPACTS

No foreseeable cumulative impacts are to result from the proposed development. Rather the proposed development seeks to enhance an existing residential development within an established residential area.

### 5.12 SUITABILITY OF SITE FOR DEVELOPMENT

The Site is located within an established residential area. The proposed development supports the existing use of the Site for the purpose of a residential dwelling which is consistent with the surrounding context.

Having regard to the characteristics of the Site, context and locality, the Site is considered suitable in accommodating the proposed dwelling house for the following reasons:

- The proposed development will contribute to the existing residential area and will improve the appearance of the development when viewed from the streetscape; and
- The Site is capable of being developed in a manner that will minimise impact to the natural, artificial, and environmental qualities of the Subject Site and neighbouring sites, with any impacts appropriately managed and mitigated.

The Site is therefore considered to be suitable for the proposed development.

### 5.13 SUBMISSIONS

Should any submissions be received in relation to the proposed development, the applicant will address them accordingly.

### 5.14 THE PUBLIC INTEREST

The proposal will have no adverse impact on the public interest and is in accordance with the aims and objectives of the PLEP2014 and PDCP21. Therefore, the development is considered to be in the public interest.



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## PART F CONCLUSION

The purpose of this SEE has been to present the proposed demolition of existing structures and construction of a three-storey dwelling house at 1744 Pittwater Road, Bayview and to assess its potential impacts having regards to Section 4.15(1) of the EP&A Act

The proposal has been prepared after taking into consideration the following key issues:

- The development history of the Site;
- The context of the Site and locality;
- The relevant heads of consideration under Section 4.15(1) of the EP&A Act;
- The aims, objectives and provisions of the relevant statutory and non-statutory planning instruments; and
- The Pre-Development Application Advice received from Council.

The proposal is considered to warrant a favourable determination for the following reasons:

- It is permissible with development consent and consistent with the objectives of the C4 Environmental Living zone pursuant to PLEP2014;
- It is appropriate within the context of the Site and surrounding locality;
- It represents a suitable and appropriate development as assessed against the relevant heads of consideration under Section 4.15 of the EP&A Act;
- The development shall not create any adverse amenity impacts on the surrounding sites or public domain;
- The proposal is consistent with the relevant objectives and controls of PLEP2014 and PDCP21;
- The proposal has been assessed as satisfactory against the planning principles established by the NSW Land and Environment Court in relation to views.

The proposed development is permissible within the zone and is compatible with the zone objectives. As stipulated previously in this SEE, the matters for consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* have been satisfactorily addressed.

In light of the merits of the proposed development and in absence of any significant environmental impact, the proposed development warrants support by Council.

