

**Four Towns
Planning**

Planning and property consultant

STATEMENT OF ENVIRONMENTAL EFFECTS

**Alterations and additions
to existing dwelling house,
secondary dwelling and
associated works**

**10 Kookaburra Close,
Bayview NSW 2104**

✉ mathew@fourtowns.com.au

☎ 0425232018

www.fourtowns.com.au

PO Box 361, Balgowlah NSW 2093

This report has been prepared to support a Development Application under the *Environmental Planning and Assessment Act 1979*.

Report prepared by:

Mathew Quattroville

Director – Four Towns Pty Ltd

Report prepared for:

George and Kathy Casha

10 December 2024

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1. Introduction and Background Information

1.1 Introduction

This report has been prepared as supporting documentation for a Development Application relating to proposed alterations and additions to an existing dwelling house, secondary dwelling and associated works at 10 Kookaburra Close, Bayview, being Lot 39 within Deposited Plan 204996.

This report has been prepared following instructions from the owners of the property George and Kathy Casha. In preparing this application consideration has been given to the following:

- *Environmental Planning and Assessment Act, 1979* (as amended) (EP&A Act);
- Environmental Planning and Assessment Regulation 2021;
- Relevant State Environmental Planning Policies;
- Pittwater Local Environmental Plan 2014 (PLEP 2014);
- Pittwater Development Control Plan 21 (PDCP21);
- Survey Plan prepared by CMS Surveyors Pty Ltd;
- Architectural Plans prepared by Eoin Architects;
- Geotechnical Assessment prepared by White Geotechnical Group;
- Arboricultural Impact Assessment prepared by Complete Arborcare;
- Civil and Hydraulic Engineering package prepared by Cane Consulting;
- BASIX Certificate prepared by Bonnefin Consulting Pty Ltd;
- BCA Report prepared by Absolute BCA;
- Biodiversity Development Assessment Report prepared by Landeco Consulting;
- Waste Management Plan.

This Statement of Environmental Effects describes the proposed development having particular regard to the provisions of Section 4.15 of the EP&A Act 1979 and examines any potential environmental impacts with regard to the relevant sections of the Act, State policies and requirements of Northern Beaches Council's PDCP.

The conclusions of the Statement of Environmental Effects are that the proposed development, being alterations and additions to an existing dwelling house, secondary dwelling and associated works is permissible with development consent and is consistent with the relevant statutory planning instruments including Pittwater Local Environmental Plan 2014 and relevant planning policies of Pittwater Development Control Plan 21.

Accordingly, the proposal succeeds on its merits and should be approved by Council, as submitted.

1.2 Background Information

The site is not the subject of any recent Development Applications to Northern Beaches Council. The proposal has not been the subject of a pre-lodgement meeting with Northern Beaches Council.

2. Site Profile

2.1 Property Description

The subject allotment is described as 10 Kookaburra Close, Bayview, legally known as Lot 39 within Deposited Plan 204996. The site is zoned C4 Environmental Living under the Pittwater Local Environmental Plan 2014.

The site is not listed as a heritage item, nor is it located within a heritage conservation area.

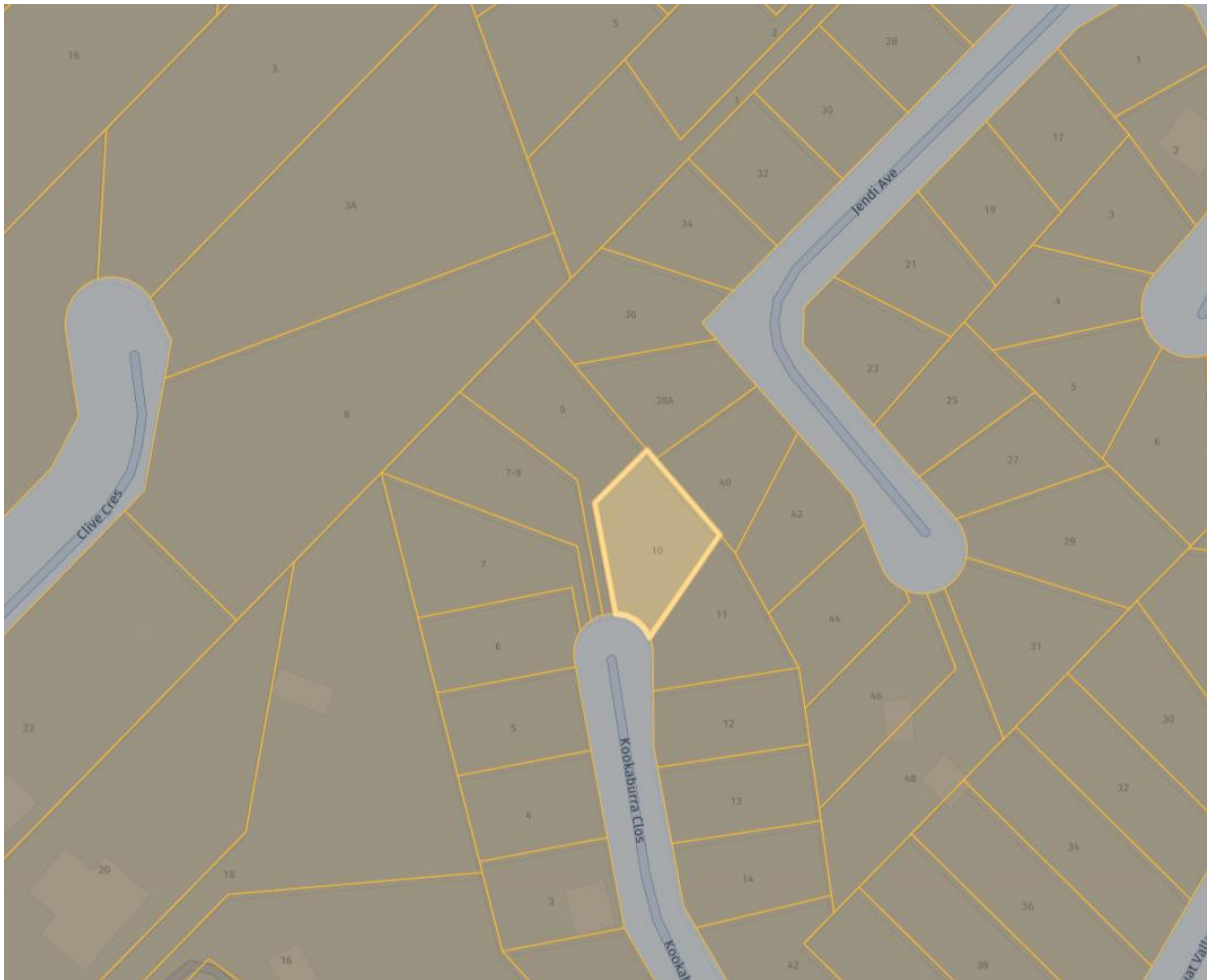
2.2 Site and Locality Description

The site is located on the north-eastern side of the Kookaburra Close cul-de-sac. The site is irregular in shape with a 10.405m curved frontage, a south-eastern side boundary of 30.355m, a western side boundary of 27.43m, a north-western side boundary of 18.25m and a rear north-eastern boundary of 27.44m. The total site area of 791.3sqm. The site has existing vehicular access to Kookaburra Close to a single carport built to front and side boundaries. The site slopes approximately 14.5m from the street frontage to the rear of the site. The site is currently occupied by a one and two storey brick and clad residence with a tiled roof and ancillary structures including decking, a carport structure and landscaping. The locality maps below show the location and area of the site:

Locality Maps



Source: Nearmap 2024



Source: Nearthmap 2024

The locality has a variety of property sizes due to the varying lot sizes and topography of the areas. The locality comprises a mix of single detached dwellings comprising of one to three storeys in height with varying building heights and setbacks.

The proposal is not out of context and will fit in with the existing streetscape of the precinct. A visual analysis is provided on the following pages:

Visual Analysis



Photograph of the site – 10 Kookaburra Close, Bayview



Photograph from the site looking north-west to 7, 8-9 Kookaburra Close



Photograph along the boundary with the adjoining site to the north-west – 8-9 Kookaburra Close



Photograph of adjoining site to the west – 7 Kookaburra Close, Bayview



Photograph of adjoining site to the south-east – 11 Kookaburra Close, Bayview

3. Proposal

The proposed development is for alterations and additions to an existing dwelling house, secondary dwelling and associated works. The proposal remains consistent with the streetscape of Kookaburra Close and the immediate locality.

The proposal is consistent with relevant Council controls and ensures privacy and solar access are maintained for surrounding properties and the site. The proposed alterations and additions to an existing dwelling house, secondary dwelling and associated works include the following:

Demolition Works

- Demolition works as depicted in architectural plans prepared by Eoin Architects.

Lower Ground Floor – Conversion to Secondary Dwelling

- No change to existing floor plate.

Ground Floor – Alterations and Additions

- Reconfiguration of internal floor plan to establish an additional 2.2sqm of habitable floor space in the western corner bedroom where the existing patio is located
- Reconfiguration of internal floor plan to establish an additional 15.5sqm of habitable floor space reducing the extent of the existing north-eastern balcony to the rear of the property
- New stairwell to proposed second floor
- Proposed lift

First Floor - Addition

- Proposed terrace facing north-east to the rear of the property
- Master suite with ensuite, walk-in robe and retreat
- Home theatre
- Office
- Coats/storage room
- Living area
- Proposed entry and foyer area
- Storage/plantroom
- Proposed lift

Garage Floor

- New ancillary 73sqm garage structure addressing the frontage to Kookaburra Close with provisions to accommodate two vehicles and an additional area for storage
- Extended driveway slab
- Proposed lift
- Proposed entry to staircase
- Access to second floor roof terrace structure of the dwelling house

External Works

- Proposed staircase along the south-eastern boundary to access the entry foyer (second floor), the garage level and to the rear garden and private open space areas
- Rooftop terrace space
- Associated works

**Refer to architectural plans prepared by Eoin Architects for a full description of all works.*

4. Statutory Planning Controls

The proposal has been assessed in accordance with the following instruments and controls:

- *Environmental Planning and Assessment Act 1979*, and *Environmental Planning and Assessment Regulation 2021*;
- State Environmental Planning Policies;
- Pittwater Local Environmental Plan 2014; and
- Pittwater Development Control Plan 21.

4.1 *Environmental Planning and Assessment Act 1979 (EP&A Act 1979) and Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)*

The EP&A Act 1979 governs all environmental planning instruments within New South Wales. The proposal has been reviewed pursuant to the matters for consideration within Section 4.15 of the EP&A Act 1979.

The proposal is not Designated Development under Section 4.10 of the EP&A Act 1979 or Schedule 3 of the EPA Assessment Regulation 2021, therefore Northern Beaches Council is the Consent Authority. In addition, the proposal does not constitute an Integrated Development under the EP&A Act 1979, Section 4.46 with no further approvals from other Government agencies required.

4.2 State Environmental Planning Policies (SEPPs)

SEPP (Transport and Infrastructure) 2021

It is submitted that the proposal does not fall under the provisions of SEPP (Transport and Infrastructure) 2021 and therefore no assessment is required.

SEPP (Sustainable Buildings) 2022

The proposal has been assessed in accordance with the relevant provisions of the BASIX and Energy Efficiency. BASIX Certificates have been prepared by Bonnefin Consulting Pty Ltd and outlines the proposal's compliance with the provisions of BASIX and Energy Efficiency for both the alterations and additions to the dwelling house and the conversion of the lower level to a secondary dwelling.

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Chapter 4 of the SEPP (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated prior to granting of consent to the carrying out of any development on that land.

4.6 *Contamination and remediation to be considered in determining development application* *(1) A consent authority must not consent to the carrying out of any development 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.

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is—

(a) land that is within an investigation area,

(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,

(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—

(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and

(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

It is submitted that the site has been used as residential accommodation for decades. The builder/contractors should take all measures to ensure if contamination is found during construction that relevant procedures are followed to report and remove contaminated materials. A site inspection was undertaken with no evidence of landfill on the site. It is our professional opinion that no further studies are required with this application.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021 relates to various rescinded SEPPS that related to the preservation of trees and vegetation, koala habitat and bushland in urban areas. The aims of this Policy are to protect the biodiversity values of trees and other vegetation, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The development remains consistent with the provisions of the SEPP with the application supported by the following expert reports:

- Geotechnical Report prepared by White Geotechnical Group;
- Arboricultural Impact Assessment prepared by Complete Arborcare;
- Biodiversity Development Assessment Report prepared by Landeco Consulting.

Biodiversity Values Map



The subject site is identified as containing land within the biodiversity values map. The Biodiversity Offsets Scheme applies to proposed development that involve the clearing of native vegetation or a prescribed impact on biodiversity (under Clause 6.1 of the Biodiversity Conservation Regulation) and is located on the Biodiversity Values Map.

The proposal has been sensitively designed and sited to minimise the impact of the building footprint on the biodiversity values of the site retaining a number of significant trees on site and reducing the impact on the significant vegetation through construction methods to mitigate site disturbance. To facilitate the proposed works consent is sought for the removal of four (4) trees. The proposal is supported by an Arboricultural Impact Assessment Report prepared by Complete Arborcare.

As a result of the numerous expert meetings and documentation submitted with the application, it is our professional opinion that the design is sympathetic to the natural environment and all measures have been reviewed to ensure the preservation of the site while applying a new dwelling house and associated works. Subject to the recommendations from the Biodiversity Development Assessment Report prepared by Landeco Consulting, we are satisfied that the values of the site will be retained.

4.3 Pittwater Local Environmental Plan 2014 (PLEP2014)

The relevant matters to be considered under PLEP2014 are outlined below in the LEP summary compliance table.

Part 1: Preliminary		
Standard	Control	Comments
1.2 Aims of Plan	<p>(2) The particular aims of this Plan are as follows—</p> <p>(a) to promote development in Pittwater that is economically, environmentally and socially sustainable,</p> <p>(b) to ensure development is consistent with the desired character of Pittwater’s localities,</p> <p>(c) to support a range of mixed-use centres that adequately provide for the needs of the Pittwater community,</p> <p>(d) to retain and enhance land used for employment purposes that is needed to meet the economic and employment needs of the community both now and in the future,</p> <p>(e) to improve access throughout Pittwater, facilitate the use of public transport and encourage walking and cycling,</p> <p>(f) to encourage a range of housing in appropriate locations that provides for the needs of the community both now and in the future,</p> <p>(g) to protect and enhance Pittwater’s natural environment and recreation areas,</p> <p>(h) to conserve Pittwater’s European and Aboriginal heritage,</p>	<p>Complies – the proposal has been skilfully designed by the project designer as alterations and additions to the existing dwelling house including a secondary dwelling and associated works. The proposal enhances and creates a more functional dwelling for the occupants, while ensuring no adverse impacts to adjoining neighbours or to the Bayview locality.</p> <p>The proposal is consistent with the streetscape, noting the steep fall of site from the street to the rear boundary and the height and scale of the properties on the western side of Kookaburra Close considerably elevated above the street. Thus, the height, bulk and scale of the proposed development will be consistent with the streetscape as only the proposed garage will be visible from the street frontage reaching a height of 3.2m.</p> <p>The proposal has been skillfully designed utilising pier and beam construction to minimise the disturbance to the natural landform, and the design of the dwelling house has been sensitively stepped in accordance with the sites sloping gradient to mitigate any bulk and scale impacts that may affect adjoining neighbours.</p>

	(i) to minimise risks to the community in areas subject to environmental hazards including climate change, (j) to protect and promote the health and well-being of current and future residents of Pittwater.	
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Part 4: Principal Development Standards			
Standard	Permitted	Proposed	Comments
4.1 Minimum subdivision lot size	700sqm	N/A	No change to existing lot size
4.1AA Minimum subdivision lot size for community title schemes	N/A	N/A	N/A
4.1B Minimum lot sizes for dual occupancies	N/A	N/A	N/A
4.2 Rural subdivision	N/A	N/A	N/A
4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones	N/A	N/A	N/A
4.3 Height of buildings	8.5m	10.97m	Merit Assessment – refer to Clause 4.3 assessment and Clause 4.6 Report to support proposed variation.
4.4 Floor space ratio	N/A	N/A	N/A
4.5 Calculation of floor space ratio and site area	Noted	N/A	Noted
4.5A Density controls for certain residential accommodation	N/A	N/A	N/A
4.6 Exceptions to development standards	Noted	N/A	The proposal includes a variation to Clause 4.3 Height of Buildings. The proposal is supported by a Clause 4.6 Exceptions to development standards report.

Part 5: Miscellaneous Provisions	
Provisions	Comments
5.1 Relevant acquisition authority	N/A

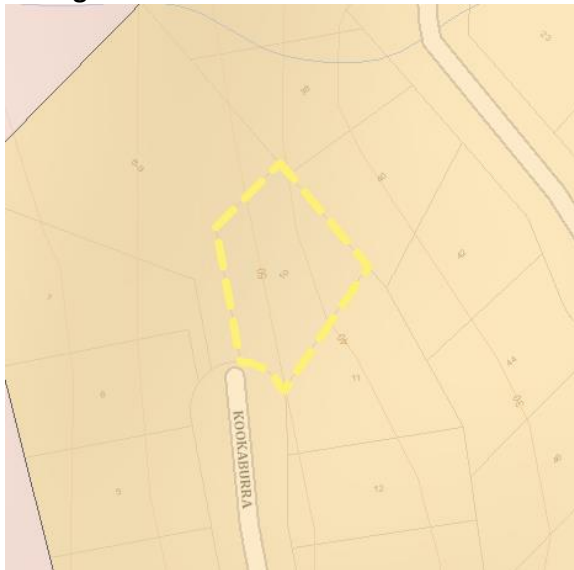
5.1A Development on land intended to be acquired for a public purposes	N/A
5.2 Classification and reclassification of public land	N/A
5.3 Development near zone boundaries	N/A
5.4 Controls relating to miscellaneous permissible uses	N/A
5.5 Controls relating to secondary dwellings on land in a rural zone	N/A
5.6 Architectural roof features	N/A
5.7 Development below mean high water mark	N/A
5.8 Conversion of fire alarms	N/A
5.9, 5.9AA (Repealed)	N/A
5.10 Heritage conservation	N/A – the subject site is not identified as a heritage item or within a conservation area.
5.11 Bush fire hazard reduction	N/A
5.12 Infrastructure development and use of existing buildings of the Crown	N/A
5.13 Eco-tourist facilities	N/A
5.14 Siding Spring Observatory – maintaining dark sky	N/A
5.15 Defence communications facility	N/A
5.16 Subdivision of, or dwellings on, land in certain rural, residential or environmental protection zones	N/A
5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations	N/A
5.18 Intensive livestock agriculture	N/A
5.19 Pond-based, tank-based and oyster aquaculture	N/A
5.20 Standards that cannot be used to refuse consent—playing and performing music	N/A
5.21 Flood Planning	N/A – the subject site is not identified as Flood Prone Land.
5.22 Special Flood Considerations	N/A
5.23 Public bushland	N/A
5.24 Farm stay accommodation	N/A
5.25 Farm gate premises	N/A


Part 6: Urban Release Areas	
Provisions	Comments
6.1 to 6.2	N/A – the site is not located within an urban release area.

Part 7: Relevant Additional Local Provisions	
Provisions	Comments
7.1 Acid sulfate soils	The site is identified as Class 5 Acid Sulfate Soils. Refer to assessment under 7.1 Acid Sulfate Soils below table.
7.2 Earthworks	The proposal includes excavation works. Refer to assessment under 7.2 Earthworks.
7.3, 7.4 (Repealed)	N/A
7.5 Coastal risk planning	N/A – the proposal is not identified in the areas highlighted as coastal risk planning.
7.6 Biodiversity	The proposal is identified within the biodiversity map. Refer to assessment under 7.6 Biodiversity below table.
7.7 Geotechnical hazards	The site is identified within the geotechnical hazards map. Refer to assessment under 7.7 Geotechnical hazards below table.
7.8 Limited development on foreshore area	N/A
7.9 Residual lots	N/A
7.10 Essential service	Complies – the site has adequate access to the relevant essential services.
7.11 Converting serviced apartments to residential flat buildings	N/A
7.12 Location of sex service premises	N/A
7.13 Development on land at 6 Mitchell Road, Palm Beach	N/A

Relevant Schedules	
Schedule	Comments
Schedule 1 – Additional permitted uses	N/A
Schedule 2 – Exempt development	N/A
Schedule 3 – Complying development	N/A
Schedule 4 – Classification and reclassification of public land	N/A
Schedule 5 – Environmental heritage	N/A
Schedule 6 – Pond-based and tank-based aquaculture	N/A

Zoning Provisions



 C4 - Environmental Living

Zone C4 Environmental Living

1 Objectives of zone

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

2 Permitted without consent

Home businesses; Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; 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

4 Prohibited

Industries; Local distribution premises; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

The proposed use is defined as follows under PLEP2014:

dwelling house means a building containing only one dwelling.

Note— Dwelling houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.

secondary dwelling means a self-contained dwelling that—

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

Note—

See clauses 5.4 and 5.5 for controls relating to the total floor area of secondary dwellings.

Secondary dwellings are a type of **residential accommodation**—see the definition of that term in this Dictionary.

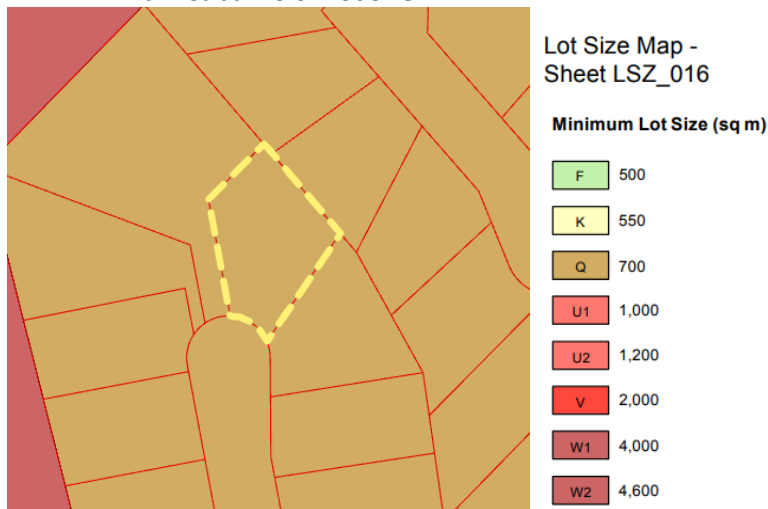
Comment:

The site is zoned C4 Environmental Living. A dwelling house and secondary dwelling are permissible land uses; therefore, the proposed alterations and additions and conversion of the lower level to a secondary dwelling are permissible with Council’s consent. The proposal is consistent with the objectives of the zone, as supported below:

- The proposal provides a low-impact residential development within the Bayview locality that is sympathetic and protective towards the special ecological values in the area.
- The proposal encourages the revitalisation and rehabilitation of the existing site while retaining the aesthetic values, ecological aspects of the area.
- The proposal has been strategically stepped in accordance with the topography of the land to minimise bulk, scale and amenity impacts to adjoining neighbours such as privacy, and access to sunlight.
- The proposed development will have no impact on any riparian and foreshore vegetation and will retain and protect any wildlife corridors.

Part 4 Principal development standards

4.1 Minimum subdivision lot size



(1) The objectives of this clause are as follows—

- (a) to protect residential character and amenity by providing for subdivision where all resulting lots are consistent with the desired character of the locality, and the pattern, size and configuration of existing lots in the locality,

- (b) to provide for subdivision where all resulting lots are capable of providing for the construction of a building that is safe from hazards,*
- (c) to provide for subdivision where all resulting lots are capable of providing for buildings that will not unacceptably impact on the natural environment or the amenity of neighbouring properties,*
- (d) to provide for subdivision that does not adversely affect the heritage significance of any heritage item or heritage conservation area,*
- (e) to provide for subdivision where all resulting lots can be provided with adequate and safe access and services,*
- (f) to maintain the existing function and character of rural areas and minimise fragmentation of rural land,*
- (g) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.*

(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

(3A) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.

(4) This clause does not apply in relation to the subdivision of any land—

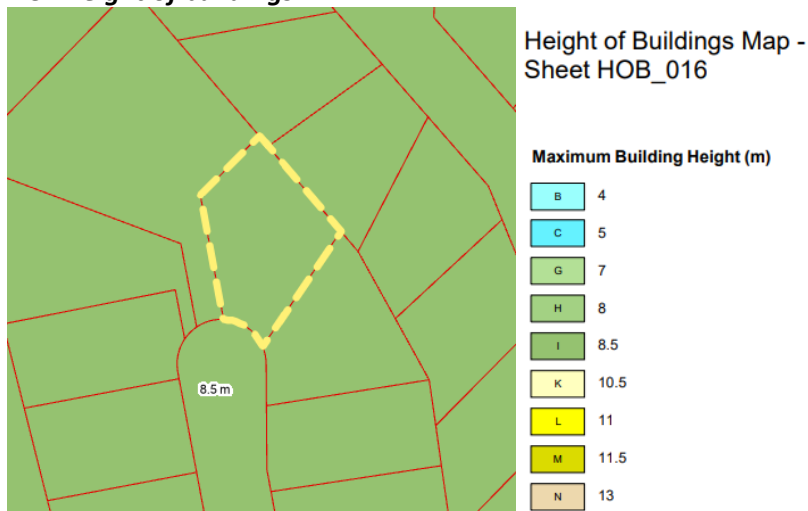
(a) by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or

(b) by any kind of subdivision under the Community Land Development Act 1989.

Comment:

Not applicable - The site has a minimum lot size of 700sqm. The proposal does not include subdivision works; therefore Clause 4.1 is not applicable.

4.3 Height of buildings



(1) The objectives of this clause are as follows—

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (c) to minimise any overshadowing of neighbouring properties,*
- (d) to allow for the reasonable sharing of views,*
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,*
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.*

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

(2A) Despite subclause (2), development on land—

- (a) at or below the flood planning level or identified as “Coastal Erosion/Wave Inundation” on the Coastal Risk Planning Map, and*
- (b) that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map,*
may exceed a height of 8.5 metres, but not be more than 8.0 metres above the flood planning level.

(2B) Despite subclause (2), development on land—

- (a) at or below the flood planning level or identified as “Coastal Erosion/Wave Inundation” on the Coastal Risk Planning Map, and*
- (b) that has a maximum building height of 11 metres shown for that land on the Height of Buildings Map,*
may exceed a height of 11 metres, but not be more than 10.5 metres above the flood planning level.

(2C) Despite subclause (2), development on an area of land shown in Column 1 of the table to this subclause and identified as such on the Height of Buildings Map, may exceed the maximum building height shown on the Height of Buildings Map for that land, if the height of the development is not greater than the height shown opposite that area in Column 2.

Column 1 Column 2

Area Maximum height above the flood planning level

Area 1 11.5 metres

Area 2 8.5 metres on the street frontage and 10.5 metres at the rear

Area 3 8.5 metres

Area 4 7.0 metres

(2D) Despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if—

- (a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and*
- (b) the objectives of this clause are achieved, and*
- (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and*
- (d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.*

(2E) Despite subclause (2), development for the purposes of shop top housing on land identified as “Area 5” on the Height of Buildings Map may have a height of up to 10 metres if the top floor of the building is setback a minimum of 6 metres from the boundary to the primary street frontage.

(2F) Despite subclause (2), development on land identified as “Area 6” on the Height of Buildings Map must not exceed 8.5 metres within the area that is 12.5 metres measured from the boundary of any property fronting Orchard Street, Macpherson Street, Warriewood Road or Garden Street.

(2FA) Despite subclause (2), the maximum height for a secondary dwelling or a rural worker’s dwelling in Zone E4 Environmental Living or Zone RU2 Rural Landscape is 5.5 metres if the secondary dwelling or rural worker’s dwelling is separate from the principal dwelling.

(2FB) Despite subclause (2), in the case of a dual occupancy (detached), the maximum height for the dwelling that is furthest back from the primary street frontage of the lot is 5.5 metres.

(2G) In this clause—

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard, or other freeboard determined by an adopted floodplain risk management plan.

floodplain risk management plan has the same meaning as it has in the *Floodplain Development Manual* (ISBN 0 7347 5476 0), published in 2005 by the NSW Government.

Comment:

Merit Assessment – the court now considers the definition of “ground level (existing)” *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582, which insists that the ground level (existing) is measured from the **excavated** ground level (within the footprint of the existing building) to the highest point of the proposal directly above. It is noted that the Court accepted (at [74]) that there is an ‘environmental planning ground’ that may justify the contravention of the height standard under ‘clause 4.6’ when the prior excavation of the site (within the footprint of the existing building) distorts the maximum building height plane. This falls hand in hand with the original leading cases *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 and *Stamford Property Services Pty Ltd v City of Sydney & Anor* [2015] NSWLEC 1189.

It is noted that common-sense should prevail from the new court case “Merman Investments Pty Ltd” with the fact that many height planes are now going to be distorted creating an argument which goes hand in hand with the original court cases relating to the extrapolated levels of a site through ‘Bettar’.

As a result of the above, it is determined that the maximum building above ground level (existing) is 10.97m for the proposed development. This results in a 2.47m variation or 29.06%. It is noted that the building height flows from 3.2m at the front of the site to the maximum 10.97m which is consistent with the topography of that side of Kookaburra Close. Clause 4.3 2(D) allows an increase to 10m if components 2(D)a-d can be achieved. It is our professional opinion these are achieved and can be applied to elements 10m and under. It is acknowledged that some architectural featured roof designs breach the 10m allowance. On this basis, it is our understanding that the height then gets measured from the 8.5m height allowance. It is noted that the breach is the result of the sloping nature of the site, several existing man-made level changes which distort the existing ground level and the existing man-made changes. If the natural ground level was applied, the proposed variation would be consistent with other approvals granted in the area. Regardless, the natural topography of the site and the existing building (which is already non-compliant) makes compliance with the building height impractical, and therefore unreasonable for Council to enforce. The bulk and scale and two to three storey appearance of Kookaburra Close is also retained. The proposal is supported and in our opinion is consistent with the objectives of Clause 4.3, as outlined below:

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

The site is located within an area identified within A4.4 Church Point and Bayview Locality which outlines the desired character of the area. The desired character statement of A4.4 Church Point and Bayview Locality is provided below:

A4.4 Church Point and Bayview Locality

Desired Character

The Church Point and Bayview locality will remain a low-density residential area with dwelling houses a maximum of two storeys in any one place in a natural landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancy dwellings will be located on lowlands in the locality on land that has less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Retail, community and recreational facilities will serve the community.

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport. The locality is characterised by steeply sloping blocks so the provision of facilities such as inclinator, driveways and carparking need to be sensitively designed. The shared use of vehicular/pedestrian access, and the use of rooftops as parking areas can be solutions that minimise the physical and visual impact on the escarpment or foreshore.

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. Views from the buildings shall be maintained below the tree canopy level capturing spectacular views up the Pittwater waterway. 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.

The locality is visually prominent particularly from Scotland Island, Bilgola Plateau, and the Pittwater waterway. Therefore, 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.

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

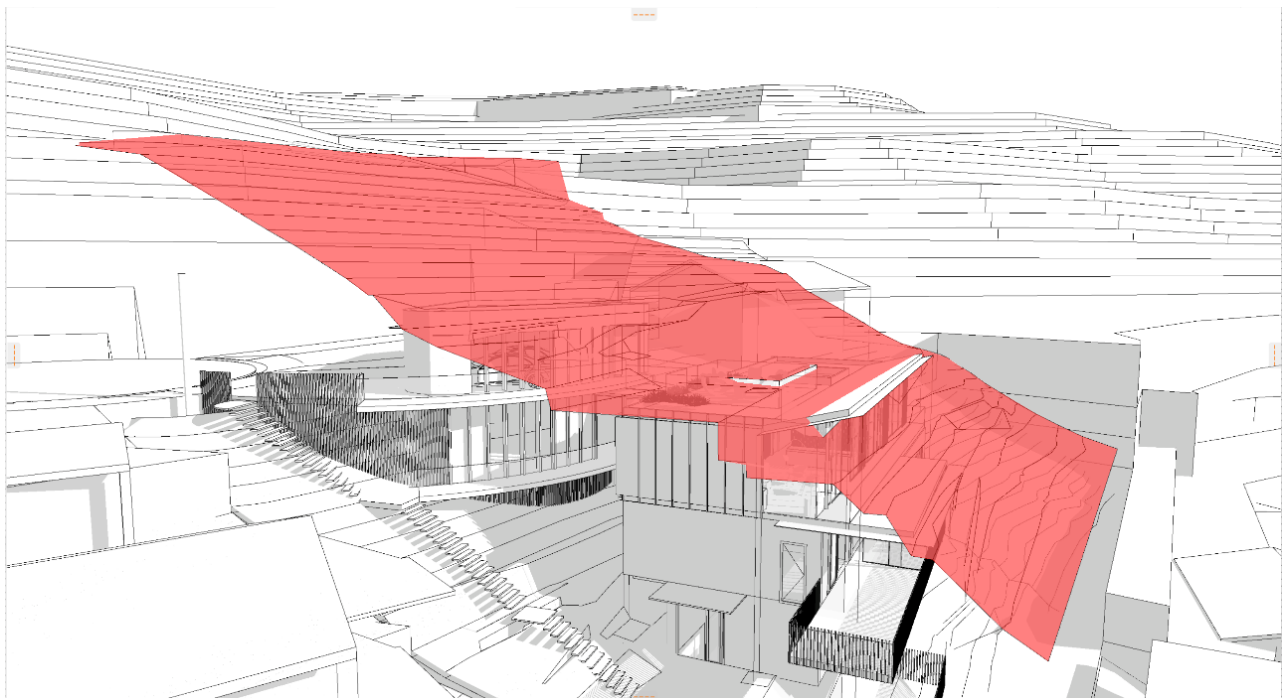
Pedestrian/cycle access around the foreshore and to areas of open space will be upgraded and maintained.

Church Point will remain an important link to the offshore communities.

After reviewing the desired character statement, it is our professional opinion that the building by virtue of its height, bulk and scale, is consistent with the locality and desired character of the area. I have formed the considered opinion that the project is a sympathetic design and development with a bulk and scale consistent with the existing and future character of the area. It is also noted that most observers would not find the proposed development by virtue of its height and scale, in particular the building height breaching elements, offensive, or unsympathetic in a streetscape context. This objective is met.

(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

The proposal has been strategically designed to minimise the bulk and scale impacts of the project. The project architect has worked tirelessly to design alterations and additions for a modern high-end dwelling that meet the sites constraints and the existing bulk and scale of the area. The proposal has been designed to be compatible with the functions of a dwelling while accommodating a bulk and scale that is complementary to the natural environment. The image below shows a 3D height plane (10m) through the proposal. It is acknowledged that the minor encroachments relate to the architecturally designed new roof and also a minor element of the balustrade for the roof top terrace. It is our opinion as above that this will have minimal to no impact on the streetscape and adjoining properties. This objective is met.



Extract showing 3D 10m height plane through the site



Photograph of adjoining site to the west – note bulk and scale

(c) to minimise any overshadowing of neighbouring properties,

The proposed alterations and additions to the existing dwelling house will have minimal overshadowing impacts to neighbouring properties ensuring adequate levels of solar access are maintained to their private open space and primary living areas. Refer to shadow diagrams provided with the DA package. This objective is met.

(d) to allow for the reasonable sharing of views,

The proposal for alterations and additions to the existing dwelling house will have no adverse impacts by way of view of sharing. Having inspected the site and identified available public and private view lines over and across the site, I am satisfied that the building height variation will not give rise to any unacceptable view loss with a view sharing outcome maintained in accordance with the planning principle established in the matter of Tenacity vs Warringah Council (2004) NSWLEC 140. Notwithstanding the proposed minor building height variation, the proposal is consistent with this objective.

(e) to encourage buildings that are designed to respond sensitively to the natural topography,

The proposed alterations and additions to the existing dwelling have been designed to respond to the existing natural topography of the land, noting the constraints associated with the steep sloping site, while still accommodating alterations and additions to the dwelling that is consistent with the bulk and scale of the area and linking the garage level with the main dwelling. The proposal is in our opinion is consistent with this objective.

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

The proposal will enhance the site through new alterations and additions which create a more sustainable dwelling which will improve the functionality of the site. The proposal has been designed to minimise any impacts on the natural environment, utilising pier and beam construction to mitigate any disruption to the site's natural landform. The site is not identified or located close to known heritage items. The proposal is consistent with this objective.

(2D) Despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the Height of Buildings Map may exceed a height of 8.5 metres, but not be more than 10.0 metres if—

(a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the Height of Buildings Map is minor, and

(b) the objectives of this clause are achieved, and

(c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and

(d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.

It is our professional opinion that the proposed variation is minor as the subject site meets the objectives of Clause 4.3 (as outlined above) being situated on a slope greater than 16.7 degrees. The proposal has been designed with due regard to the existing building footprint and the need to minimise cut and fill. On this basis above, a variation to the building height is warranted in this instance.

It is acknowledged that Council has consistently held that there are adequate environmental planning grounds for alterations and additions to vary the development standard for the maximum building height, especially where existing man-made changes distort the height plane. There is also precedence of acceptable variations within the Bayview locality.

It is our professional opinion that the building by virtue of its height, bulk and scale, is consistent with the locality and desired character of the area. We have formed the considered opinion that the project is a sympathetic design and development with a bulk and scale consistent with the existing and future character of the area. The proposal is not offensive, or unsympathetic in a streetscape context nor the context from Kookaburra Close, and therefore the variation can be supported by Northern Beaches Council.

4.4 Floor space ratio

Comment: Not applicable.

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows—

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Note—

The [Environmental Planning and Assessment Regulation 2021](#) requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

(5) (Repealed)

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note—

When this Plan was made it did not include all of these zones.

(7) (Repealed)

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,

(c) clause 5.4,

(caa) clause 5.5.

Comment:

The proposal includes a variation to Clause 4.3 Height of Buildings. Refer to Clause 4.6 Variation to Development Standard report. It is our professional that there are sufficient environmental planning grounds that warrant the variation as proposed.

Part 5 Miscellaneous provisions

5.4 Controls relating to miscellaneous permissible use

(9) Secondary dwellings on land other than land in a rural zone If development for the purposes of a secondary dwelling is permitted under this Plan on land other than land in a rural zone, the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—

- (a) 60 square metres,*
- (b) 25% of the total floor area of the principal dwelling.*

Comment:

The proposal includes the conversion of the lower ground floor to a secondary dwelling. The size of the secondary dwelling complies with the 25% of the total floor area of the principal dwelling allowance under Clause 5.4(9).

5.10 Heritage conservation

(1) Objectives The objectives of this clause are as follows—

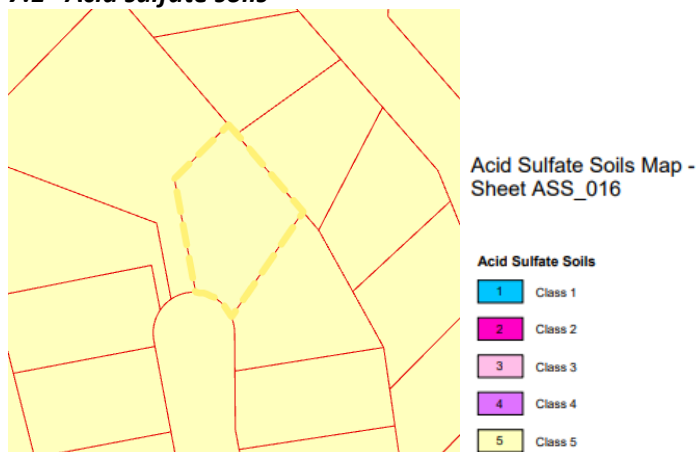
- (a) to conserve the environmental heritage of Pittwater,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

Comment:

Not applicable – the site is not identified as a heritage item nor is it located within a conservation area.

Part 7 Additional local provisions

7.1 Acid sulfate soils



(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

(2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

Class of land	Works
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- 1 Any works.
- 2 Works below the natural ground surface.
Works by which the watertable is likely to be lowered.
- 3 Works more than 1 metre below the natural ground surface.
Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
- 4 Works more than 2 metres below the natural ground surface.
Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.
- 5 Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.

(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if—

(a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and

(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.

(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power)—

(a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,

(b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),

(c) minor work, being work that costs less than \$20,000 (other than drainage work).

(6) Despite subclause (2), development consent is not required under this clause to carry out any works if—

(a) the works involve the disturbance of less than 1 tonne of soil, and

(b) the works are not likely to lower the watertable.

Comment:

The site is identified as Class 5 Acid Sulfate Soils. The proposal does not include any major excavation works which would trigger the requirements of an acid sulfate soils management plan.

7.2 Earthworks

(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

(2) Development consent is required for earthworks unless—

(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or

(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.

(3) *In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) the effect of the development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*
- (i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.*

(4) *In this clause—*

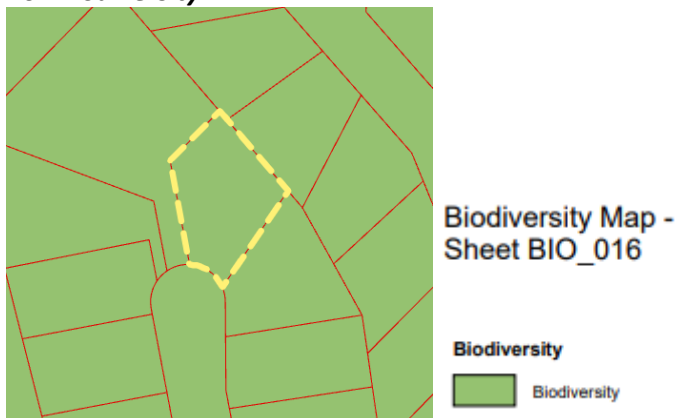
environmentally sensitive area has the same meaning as environmentally sensitive area for exempt or complying development in clause 3.3.

Note— *The National Parks and Wildlife Act 1974, particularly section 86, deals with harming Aboriginal objects.*

Comment:

Complies – the proposed alterations and additions include minor-moderate excavation works to accommodate the construction of the extended driveway and crossover as well as the post and beam footings involved in the construction of the additional second floor and garage structure. The proposed works will not have a detrimental effect on drainage patterns, have been strategically designed to flow with the land and to minimise the required cut and fill and will not have an adverse impact to adjoining properties. The proposal is also supported by a Geotechnical Assessment prepared by White Geotechnical Group. It is therefore our professional opinion that the proposal meets the relevant objectives of Clause 7.3.

7.6 Biodiversity



(1) *The objective of this clause is to maintain terrestrial, riparian and aquatic biodiversity by—*

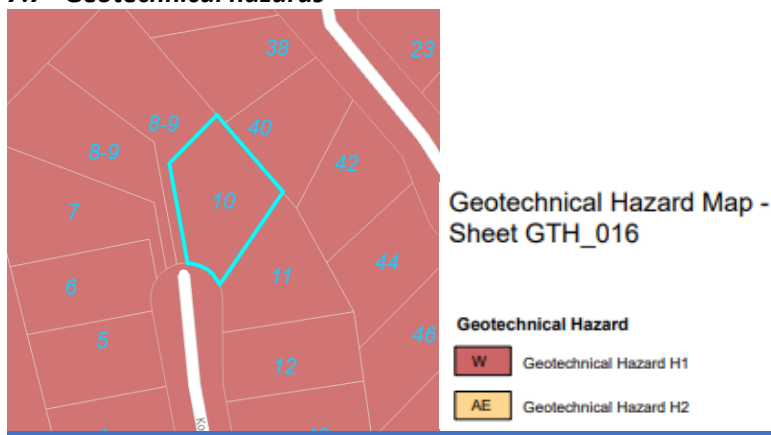
- (a) protecting native fauna and flora, and*
- (b) protecting the ecological processes necessary for their continued existence, and*

- (c) encouraging the conservation and recovery of native fauna and flora and their habitats.
- (2) This clause applies to land identified as “Biodiversity” on the [Biodiversity Map](#).
- (3) Before determining a development application for development on land to which this clause applies, the consent authority must consider—
- (a) whether the development is likely to have—
 - (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
 - (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
 - (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
 - (iv) any adverse impact on the habitat elements providing connectivity on the land, and
 - (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—
- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
 - (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

Complies – the site is identified within the PLEP Terrestrial Biodiversity Map. The proposed alterations and additions have been designed to minimise any impact on the biodiversity of the site. The proposal includes the removal of four (4) trees to facilitate the construction of the ancillary garage structure. The proposal is supported by an Arboricultural Impact Assessment Report prepared by Complete Arborcare as well as a Biodiversity Development Assessment (BDAR) Report prepared by Landeco Consulting. It is our professional opinion that the proposal will not have an unreasonable impact on the biodiversity values of the site and can be supported by Council as submitted.

7.7 Geotechnical hazards



- (1) *The objectives of this clause are to ensure that development on land susceptible to geotechnical hazards—*
- (a) matches the underlying geotechnical conditions of the land, and*
 - (b) is restricted on unsuitable land, and*
 - (c) does not endanger life or property.*
- (2) *This clause applies to land identified as “Geotechnical Hazard H1” and “Geotechnical Hazard H2” on the Geotechnical Hazard Map.*
- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks—*
- (a) site layout, including access,*
 - (b) the development’s design and construction methods,*
 - (c) the amount of cut and fill that will be required for the development,*
 - (d) waste water management, stormwater and drainage across the land,*
 - (e) the geotechnical constraints of the site,*
 - (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*
- (4) *Development consent must not be granted to development on land to which this clause applies unless—*
- (a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and*
 - (b) the consent authority is satisfied that—*
 - (i) the development is designed, sited and will be managed to avoid any geotechnical risk or significant adverse impact on the development and the land surrounding the development, or*
 - (ii) if that risk or impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that risk or impact, or*
 - (iii) if that risk or impact cannot be minimised—the development will be managed to mitigate that risk or impact.*

Comment:

Complies - The site is located within the geotechnical hazards map. The proposed works relate to alterations and additions to the existing dwelling house, and associated works. The application is supported by a geotechnical assessment prepared by White Geotechnical Group. Refer to the report for full details, with a summary noting:

9. Suitability of the Proposed Development for the Site

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

7.10 Essential services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

Comment:

Complies – the proposal will utilise existing essential services available to the site.

4.4 Pittwater Development Control Plan (PDCP21)

In designing the proposed changes to the built form, due consideration has been given to the respective sections and objectives of PDCP21, in particular:

Key components of the DCP have been detailed below. The proposal is compliant with relevant provisions of PDCP21.

Section A Shaping Development in Pittwater		
Control	Proposed	Compliance
<p><i>A4.4 Church Point and Bayview Locality</i></p> <p><u><i>Desired Character</i></u> <i>The Church Point and Bayview locality will remain a low-density residential area with dwelling houses a maximum of two storeys in any one place in a natural landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancy dwellings will be located on lowlands in the locality on land that has less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Retail, community and recreational facilities will serve the community.</i></p> <p><i>Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport. The locality is characterised by steeply sloping blocks so the provision of facilities such as inclinator, driveways and carparking need to be sensitively designed. The shared use of vehicular/pedestrian access, and the use of rooftops as parking areas can be solutions that minimise the physical and visual impact on the escarpment or foreshore.</i></p> <p><i>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. Views from the buildings shall be maintained below the tree canopy level capturing</i></p>	<p>The proposal has been strategically designed by the project architect and the client with a view to provide functional improvements to the existing dwelling house with minimal impact to the adjoining neighbours.</p> <p>The subject site has a steep sloping topography. The development proposal has been designed to sensitively respond with the landform and has been adequately stepped down the slope to integrate with the landscape and to minimise any bulk and scale impacts generated from the proposed development.</p> <p>The development has been strategically designed to ensure that any bulk and scale impacts on the streetscape will be negligible with only the proposed garage visible from the street frontage reaching a height of 3.2m.</p> <p>As a result of the design constraints from the sloping site, when viewed from the rear the proposed dwelling house reaches a scale of</p>	<p>Complies</p>

<p><i>spectacular views up the Pittwater waterway. 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.</i></p> <p><i>The locality is visually prominent particularly from Scotland Island, Bilgola Plateau, and the Pittwater waterway. Therefore, 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.</i></p> <p><i>Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.</i></p> <p><i>Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.</i></p> <p><i>Pedestrian/cycle access around the foreshore and to areas of open space will be upgraded and maintained.</i></p> <p><i>Church Point will remain an important link to the offshore communities.</i></p>	<p>three stories with some minor breaches to the permissible height envelope. In our professional opinion these breaches are acceptable on merit as the site is situated on a slope greater than 16.7 degrees and has been designed with due regard to the existing building footprint and the need to minimise cut and fill. The height and scale of the dwelling house is consistent with the desired character of the locality and compatible with the height and scale of surrounding and nearby development in the streetscape. At the rear, the height and scale of the dwelling house will have minimal overshadowing impacts to neighbouring properties ensuring adequate levels of solar access are maintained to their private open space and primary living areas. Furthermore, the height and scale of the dwelling house will not have any adverse impacts on any view corridors appreciable from any adjoining properties.</p> <p>Likewise, the proposed vehicular access and carparking facilities on-site have been sensitively designed in accordance with the steep topography to accommodate adequate on-site parking within the constraints of the site. Additionally, the proposal includes provisions for a lift</p>	
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	<p>to assist in improving pedestrian access on the site where there are traversability issues for those who may be mobility impaired.</p> <p>Where possible the proposal has been designed to retain and enhance the locally native tree canopy and other significant vegetation to assist the development to blend into the natural environment and to enhance wildlife corridors.</p> <p>The proposal as submitted is in keeping with the desired character of the Church Point and Bayview Locality and is acceptable on merit.</p>	
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Section B General Controls		
Control	Proposed	Compliance
B1 Heritage Controls		
B1.1-1.4	Not applicable – the site is not identified as a heritage item or within a heritage conservation area, nor does it adjoin or will impact a heritage item.	N/A
B2 Density Controls		
B2.1-B2.6	Not applicable – the proposal does not include Torrens or strata subdivision	N/A
B3 Hazard Controls		
B3.1 Landslip Hazard <i>All development on land to which this control applies must comply with the requirements of the Geotechnical Risk</i>	Complies – the site is identified as a ‘Geotechnical Hazard H1’ on the Pittwater Local Environmental Plan 2014 Geotechnical Hazard Map the proposal is supported by a	Yes

<p><i>Management Policy for Pittwater (see Appendix 5).</i></p> <p><i>Development must be designed and constructed to ensure that every reasonable and practical means available is used to remove risk to an acceptable level as defined by the Geotechnical Risk Management Policy for Pittwater (see Appendix 5) for the life of the development.</i></p> <p><i>The development must not adversely affect or be adversely affected by geotechnical processes nor must it increase the level of risk for any people, assets and infrastructure in the vicinity due to geotechnical hazards.</i></p>	<p>geotechnical assessment report prepared by White Geotechnical Group.</p>	
<p>B3.6 Contaminated Land and Potentially Contaminated Land <i>Addressed in Chapter 4 of SEPP (Resilience and Hazards) 2021</i></p>	<p>Complies – it is submitted that the site has been used for the purpose of residential accommodation for decades. The builder/contractors should take all measures to ensure if contamination is found during construction that relevant procedures are followed to report and remove contaminated materials.</p>	<p>Yes</p>
<p>B4 Controls Relating to the Natural Environment</p>		
<p>B4.1-B4.22</p>	<p>Complies – the site is identified within the Biodiversity Values Map. The proposal is supported by an Arboricultural Impact Assessment and a Biodiversity Development Assessment (BDAR) Report prepared by Landeco Consulting.</p>	<p>Yes</p>
<p>B5 Water Management</p>		
<p>B5.15 Stormwater <i>Stormwater runoff must not cause downstream flooding and must have minimal environmental impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake and waterway or the like.</i> <i>The stormwater drainage systems for all developments are to be designed, installed</i></p>	<p>Complies – A stormwater management plan has been prepared in accordance with Northern Beaches Councils requirements by Cane Consulting.</p>	<p>Yes</p>

<i>and maintained in accordance with Council's Water Management for Development Policy.</i>		
B6 Access and Parking		
B6.1-6.2 Access and Internal Driveways	Complies – the proposal includes a new extended driveway and crossover to Kookaburra Close. The proposal has been designed to provide a functional and safe driveway for the dwelling incorporating provisions to allow for safe and efficient vehicular maneuverability on-site. The proposed driveway design complies with all relevant Australian Standards and has been appropriately designed to provide adequate sight distance to maximise pedestrian and vehicular safety.	Yes
B6.3 Off-Street Vehicle Parking Requirements	Complies – provisions for two off-street parking spaces provided.	Yes
B8 Site Works Management		
B8.1 Construction and Demolition - Excavation and Landfill <i>Controls</i> <i>Excavation and landfill on any site that includes the following:</i> <ul style="list-style-type: none"> • <i>Excavation greater than 1 metre deep, the edge of which is closer to a site boundary or structure to be retained on the site, than the overall depth of the excavation;</i> • <i>Any excavation greater than 1.5 metres deep below the existing surface;</i> • <i>Any excavation that has the potential to destabilize a tree capable of collapsing in a way that any part of the tree could fall onto adjoining structures (proposed or existing) or adjoining property;</i> • <i>Any landfill greater than 1.0 metres in height; and/or</i> • <i>Any works that may be affected by geotechnical processes or which may</i> 	Complies – the proposal includes excavation works which are not considered excessive, and which will not impact adjoining properties. The proposal is supported by a geotechnical assessment report prepared by White Geotechnical Group.	Yes

<p><i>impact on geotechnical processes including but not limited to constructions on sites with low bearing capacity soils, must comply with the requirements of the Geotechnical Risk Management Policy for Pittwater (see Appendix 5) as adopted by Council and details submitted and certified by a Geotechnical Engineer and/or Structural Engineer with the detail design for the Construction Certificate.</i></p>		
<p>B8.2 Construction and Demolition - Erosion and Sediment Management <i>Controls</i> Erosion and Sediment Management</p> <p><i>Erosion and sedimentation prevention measures must be installed on all sites to prevent the migration of sediment off the site into any waterway, drainage systems, public reserves, road reserve or adjoining private lands.</i></p> <p><i>Erosion and sedimentation prevention measures must be installed in accordance with Managing Urban Stormwater: Soils and Construction (Landcom 2004) on the downstream side of any works undertaken on the boundary of the site or on public lands adjoining the site to prevent the migration of sediment off the site into any waterway, drainage systems, public reserves, road reserve or adjoining private lands.</i></p> <p><i>Appropriate devices are to be in place at all times to prevent the migration of sediment off the site.</i></p>	<p>Complies – An Erosion and Sediment Control Plan is submitted as part of the DA package.</p>	<p>Yes</p>
<p>B8.3 Construction and Demolition - Waste Minimisation <i>Controls</i> Waste materials generated through demolition, excavation and construction works is to be minimised by reuse on-site,</p>	<p>Complies – the proposal will utilise and minimise waste generation through the reuse of relevant demolition materials such as soil. Refer to Waste Management Plan for further details.</p>	<p>Yes</p>

<i>recycling, or disposal at an appropriate waste facility.</i>		
<p>B8.4 Construction and Demolition - Site Fencing and Security</p> <p><i>Controls</i></p> <p><i>All sites are to be protected by site fencing for the duration of the works.</i></p>	Noted – the site will be fenced during construction.	Yes
<p>B8.5 Construction and Demolition - Works in the Public Domain</p> <p><i>Controls</i></p> <p><i>All works undertaken within the public road reserve must be protected in a manner to ensure pedestrian and vehicular safety at all times.</i></p> <p><i>All works undertaken on site or in the public road reserve must make provision for pedestrian and traffic flow and not adverse nuisance.</i></p> <p><i>All works undertaken on a site or in the public road reserve must make good any damage or disruption to the public infrastructure.</i></p>	Not applicable – no works proposed in the public domain.	N/A
<p>B8.6 Construction and Demolition - Traffic Management Plan</p> <p><i>Controls</i></p> <p><i>For all development where either excavated materials to be transported from the site or the importation of fill material to the site is 100m³ or greater, a Construction Traffic Management Plan indicating truck movements, and truck routes is to be provided and approved by Council prior to the commencement of works.</i></p> <p><i>All transport works must not cause adverse disruption or nuisance to adjoining residences, businesses or the street system.</i></p>	Not applicable – the proposed works are minor and do not require a traffic management plan.	N/A

Section C Development Type Controls

Control	Proposed	Compliance
C1 Design Criteria for Residential Development		
<p>C1.1 Landscaping <i>Controls</i> <i>All canopy trees, and a majority (more than 50%) of other vegetation, shall be locally native species. Species selection and area of landscape to be locally native species is determined by extent of existing native vegetation and presence of an Endangered Ecological Community. Note if the land is within an Endangered Ecological Community there will be a Development Control specifically covering the requirements for Landscaping in an Endangered Ecological Community.</i></p> <p><i>In all development a range of low-lying shrubs, medium-high shrubs and canopy trees shall be retained or provided to soften the built form.</i></p> <p><i>At least 2 canopy trees in the front yard and 1 canopy tree in the rear yard are to be provided on site. Where there are existing canopy trees, but no natural tree regeneration, tree species are to be planted to ensure that the canopy is retained over the long-term. Where there are no canopy trees the trees to be planted are to be of sufficient scale to immediately add to the tree canopy of Pittwater and soften the built form.</i></p> <p><i>Each tree planted is to have a minimum area of 3 metres x 3 metres and a minimum 8m³ within this area to ensure growth is not restricted.</i></p> <p><i>The following soil depths are required in order to be counted as landscaping:</i></p> <ul style="list-style-type: none"> • 300mm for lawn • 600mm for shrubs • 1metre for trees 	<p>Complies – the proposal has been designed to retain all significant vegetation and natural features on-site where possible. To facilitate the construction of the proposed garage structure, the proposal includes the removal of four (4) trees equating to 0.02ha of vegetation removal within portions of the site identified within the Biodiversity Values Map.</p> <p>The application is supported by an Arboricultural Impact Assessment prepared by Complete Arbocare as well as a Biodiversity Development Assessment (BDAR) Report prepared by Landeco Consulting. The proposal has been designed with regards to mitigate, minimise and avoid, maintaining landscaped and vegetated areas at the rear of the property. The proposal complies with the controls and objectives of control C1.1 Landscaping and can be supported by Council as submitted.</p>	Yes

<p><i>The front of buildings (between the front boundary and any built structures) shall be landscaped to screen those buildings from the street as follows:</i></p> <ul style="list-style-type: none"> • <i>A planter or landscaped area with minimum dimensions of 4m² for shop top housing developments,</i> • <i>60% for a single dwelling house, secondary dwelling, rural workers' dwellings, or dual occupancy, and</i> • <i>50% for all other forms of residential development.</i> <p><i>Screening shall be of vegetation (not built items), and shall be calculated when viewed directly onto the site.</i></p> <p><i>In bushfire prone areas, species shall be appropriate to the bushfire hazard.</i></p> <p><i>Landscaping shall not unreasonably obstruct driver and pedestrian visibility.</i></p> <p><i>Development shall provide for the reasonable retention and protection of existing significant trees, especially near property boundaries, and retention of natural features such as rock outcrops.</i></p> <p><i>Canopy trees are to be located a minimum of 5 metres from existing and proposed built structures, or minimum of 3 metres where pier and beam footings are used.</i></p> <p><i>Noxious and undesirable plants must be removed from the site</i></p>		
<p>C1.2 Safety and Security Controls <i>There are four Crime Prevention through Environmental Design (CPTED) principles that need to be used in the assessment of development applications to minimise the opportunity for crime</i></p>	<p>Complies - The proposed alterations and additions have been designed to comply with the four principles of CPTED.</p>	<p>Yes</p>

<p>C1.3 View Sharing <i>Controls</i> <i>All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.</i></p> <p><i>The proposal must demonstrate that view sharing is achieved through the application of the Land and Environment Court's planning principles for view sharing.</i></p> <p><i>Where a view may be obstructed, built structures within the setback areas are to maximise visual access through the structure e.g. by the provision of an open structure or transparent building materials.</i></p> <p><i>Views are not to be obtained at the expense of native vegetation.</i></p>	<p>Complies – the proposed alterations and additions will have minimal impact to any view corridors appreciable from any adjoining properties or from the public domain.</p>	<p>Yes</p>
<p>C1.4 Solar Access <i>Controls</i> <i>The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.</i></p> <p><i>Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).</i></p> <p><i>Solar collectors for hot water or electricity shall receive at least 6 hours of sunshine between 8.00am and 4.00pm during mid winter.</i></p> <p><i>Developments should maximise sunshine to clothes drying areas of the proposed development or adjoining dwellings.</i></p> <p><i>The proposal must demonstrate that</i></p>	<p>Complies – the proposed alterations and additions will maintain sufficient solar access to the private open space and principal living areas of the subject site, and the proposed works will not have an unreasonable impact on the solar access to the adjoining neighbours.</p> <p>Refer to shadow diagrams prepared by Eoin Architects.</p>	<p>Yes</p>

<p><i>appropriate solar access is achieved through the application of the Land and Environment Court planning principle for solar access.</i></p>		
<p>C1.5 Visual Privacy Controls <i>Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).</i></p> <p><i>Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.</i></p> <p><i>Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.</i></p> <p><i>Direct views of private open space or any habitable room window within 9m can be restricted (see diagram below) by:</i></p> <ul style="list-style-type: none"> • <i>vegetation/landscaping</i> • <i>a window sill height 1.7 metres above floor level, or</i> • <i>offset windows</i> • <i>fixed translucent glazing in any part below 1.7 metres above floor level, or</i> • <i>solid translucent screens or perforated panels or trellises which have a maximum of 25% openings, and which are:</i> <ul style="list-style-type: none"> • <i>permanent and fixed;</i> • <i>made of durable materials; and</i> • <i>designed and painted or coloured to blend in with the dwelling.</i> 	<p>Complies – the proposed alterations and additions have been designed to minimise the visual privacy impact on the adjoining neighbours. The proposed second floor terrace will face the rear of the property and will be adequately screened to prevent any overlooking impacts to the north-western neighbour at 8-9 Kookaburra Close and to the south-eastern neighbour at 11 Kookaburra Close.</p> <p>All windows on the proposed second floor on the north-western and south-eastern side building façades have been suitably offset to prevent overlooking of more than 50% of any private open space areas or habitable room windows at nos. 8-9 and no. 11 Kookaburra Close adjoining the site.</p> <p>The proposed roof top terrace is setback 11m to the rear boundary, 15.4m to the western side boundary and 9.6m to the eastern side boundary.</p> <p>The proposed works meet the objectives and controls of clause 1.5.</p>	<p>Yes</p>
<p>C1.6 Acoustic Privacy Controls</p>	<p>Complies – the proposed development will not impact the</p>	<p>Yes</p>

<p><i>Noise-sensitive rooms, such as bedrooms, should be located away from noise sources, including main roads, parking areas, living areas and communal and private open space areas and the like.</i></p> <p><i>Walls and/or ceilings of dwellings that are attached to another dwelling/s shall have a noise transmission rating in accordance with Part F(5) of the Building Code of Australia. (Walls and ceilings of attached dwellings must also comply with the fire rating provisions of the Building Code of Australia).</i></p> <p><i>Noise generating plants including pool/spa motors, air conditioning units and the like shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.</i></p> <p><i>Developments must comply in all respects with the Protection of the Environment Operations Act 1997, and other relevant legislation.</i></p>	<p>acoustic amenity of the occupants, nor will it impact the amenity of adjoining neighbours.</p> <p>The proposal is alterations and additions to the existing dwelling house. The use will remain as existing for residential land use and will not produce a large amount of noise from the use of the premises. Any noise generated from the proposed development will be associated with a 'dwelling house' and is an acceptable form of development within the C4: Environmental Living zoning of the site. The subject development will not impact the acoustic amenity of the occupants, nor will it impact the amenity of adjoining neighbours.</p>	
<p>C1.7 Private Open Space Controls Private open space shall be provided as follows:-</p> <p><u>a) Dwelling houses, attached dwellings, semi-detached dwellings, and dual occupancies:-</u></p> <p><i>Minimum 80m² of private open space per dwelling at ground level, with no dimension less than 3 metres. No more than 75% of this private open space is to be provided in the front yard.</i></p> <p><i>Within the private open space area, a minimum principal area of 16m² with a minimum dimension of 4m and grade no steeper than 1 in 20 (5%).</i></p> <p><i>Dwellings are to be designed so that private</i></p>	<p>Complies – the proposed alterations and additions comply with the numerical requirements of control C1.7 providing an area of at least 80sqm of private open space accessible at ground level at appropriate dimensions and grades and with sufficient solar access. The proposed total private open space will equate to 461sqm or 54% of the site.</p>	<p>Yes</p>

<p><i>open space is directly accessible from living areas enabling it to function as an extension of internal living areas.</i></p> <p><i>Private open space areas are to have good solar orientation (i.e. orientated to the north-east or north-west where possible). Where site or slope constraints limit optimisation of orientation, the private open space area must have access to some direct sunlight throughout the year (see Solar Access).</i></p> <p><i>Private open space should be located to the rear of the dwelling to maximise privacy for occupants.</i></p> <p><i>Where this open space needs to be provided to the front of the dwelling, the area should be screened from the street to ensure that the area is private.</i></p> <p><i>A balcony located above ground level, but which has access off living areas of dwellings, can be included as private open space. The dimensions should be sufficient so that the area can be usable for recreational purposes (i.e. a minimum width of 2.4m). First floor balconies along the side boundary must be designed to limit overlooking and maintain privacy of adjoining residential properties.</i></p> <p><i>Private open space areas should include provision of clothes drying facilities, screened from the street or a public place. Shared clothes drying facilities are acceptable.</i></p> <p><i>An accessible and usable area for composting facilities within the ground level private open space is required.</i></p>		
<p>C1.9 Adaptable Housing and Accessibility <i>Accessibility for all development</i></p> <p><i>Development shall include the design and</i></p>	<p>Not applicable</p>	<p>N/A</p>

<p><i>construction of works in the public domain to ensure accessibility for the full frontage of the site to any public road and to ensure access to the site from the public domain.</i></p> <p><i>Development within areas subject to flooding must provide for access on land within private ownership. In this regard ramps must not encroach into the public domain.</i></p>		
<p>C1.11 Secondary Dwellings and Rural Worker's Dwellings Controls <i>The development of a secondary dwelling or rural worker's dwelling will result in not more than two (2) dwellings being erected on an allotment of land.</i> <i>A secondary dwelling or rural worker's dwelling contains not more than two (2) bedrooms and not more than one (1) bathroom.</i></p> <p><i>A landscaping strip of 1.5m minimum width shall be provided along the side boundary where any driveway is located adjacent to an existing dwelling.</i> <i>Where the secondary dwelling or rural worker's dwelling is separate from the principal dwelling, only one storey will be allowed.</i></p> <p><i>Where the secondary dwelling or rural worker's dwelling is located within, or is attached to the principal dwelling (including the garage) the maximum building height is to be in accordance with the height controls contained within Pittwater Local Environmental Plan 2014.</i></p> <p><i>A secondary dwelling above a detached garage is not supported.</i></p>	<p>The proposed secondary dwelling relates to the existing lower ground level which does not impact the height, albeit a minor variation proposed for other works.</p>	<p>Yes, on merit</p>
<p>C1.12 Waste and Recycling Facilities Controls <i>All development that is, or includes, demolition and/or construction, must</i></p>	<p>Complies – the application includes a Waste Management Plan as per Northern Beaches Councils requirements.</p>	<p>Yes</p>

<p><i>comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan</i></p>		
<p>C1.13 Pollution Control Controls <i>Residential development must be designed, constructed, maintained and used in a proper and efficient manner to prevent air, water, noise and/or land pollution.</i></p> <p><i>Developments must comply in all respects with the Protection of the Environment Operations Act 1997, and other relevant legislation.</i></p>	<p>Complies – the proposal has been designed to minimise pollution and will be constructed and maintained in a proper and efficient manner to prevent air, water, noise and land pollution.</p>	<p>Yes</p>
<p>C1.14 Separately Accessible Structures Controls <i>A separately accessible structure may be permitted for use as a studio, home office, workshop area, rumpus room and the like, provided that:</i></p> <ul style="list-style-type: none"> <i>i. it is ancillary to a dwelling;</i> <i>ii. it is not designed for separate habitation and does not contain any cooking facilities.</i> 	<p>Not applicable</p>	<p>N/A</p>
<p>C1.19 Incline Passenger Lifts and Stairways Controls <i>Incline passenger lifts and stairways shall:</i></p> <ul style="list-style-type: none"> <i>i. be designed and located so they do not involve excessive excavation, or the removal of natural rock or trees, and</i> <i>ii. be erected as near as possible to the ground level (existing) of the site, and shall not involve the erection of high piers or visible retaining structures, and</i> <i>iii. be located and designed to minimise the effects of noise from the motor and overlooking of adjoining dwellings, and</i> <i>iv. be painted to blend in with surrounding vegetation and screened by landscaping and</i> 	<p>Complies – the proposed stairway along the south-eastern boundary has been thoughtfully designed and located to minimise site disturbance and to avoid any excavation works or the removal of natural rock or trees. The stairway has been designed to respond to the ground level (existing) of the site and does not involve the erection of any excessively high piers or visible retaining structures. The proposed stairway is set back 2m from the south-eastern side boundary and is adequately screened in areas where there are overlooking impacts directly impacting habitable rooms at no. 11 Kookaburra Close.</p>	<p>Yes</p>



<p>v. <i>be set back two (2) metres from the side boundary to the outer face of the carriage</i></p> <p>vi. <i>be located wholly on private land, and</i></p> <p>vii. <i>have a privacy screen where there is a direct view within 4.5m to a window of a habitable room of another dwelling.</i></p>		
<p>C1.23 Eaves <i>Controls</i> <i>Dwellings shall incorporate eaves on all elevations.</i> <i>Eaves must be a minimum of 450mm in width, excluding any fascia/barge boards and gutters.</i></p>	<p>Not applicable – control C1.23 Eaves is considered outdated and inappropriate to enforce strict compliance with for contemporary construction and architectural practices. In accordance with recent approvals granted by Council, it is not necessary for the proposed development to incorporate eaves 450mm in width on all elevations.</p>	<p>N/A</p>
<p>C1.24 Public Road Reserve - Landscaping and Infrastructure <i>Controls</i> <u><i>Landscaping General - All Development</i></u> <i>Landscaping within the public road reserve is to include street trees planted at 6m centres.</i> <i>Street trees are to be planted to encourage the free passage of pedestrians.</i> <i>Street trees should not interfere with existing powerlines.</i> <i>All existing trees over 3m in height and native vegetation within the road reserve areas are to be retained where practical. The existing trees are to be protected during the construction of works through temporary perimeter fencing that is 1.8m high.</i> <i>New tree plantings are to be a minimum 35 litre size with 1m x1m hole and backfilled with suitable planting medium.</i> <i>Trees are to be appropriately supported by</i></p>	<p>Complies – no specific landscaping works are proposed within the public road reserve. Nonetheless, the landscaped areas will be maintained in accordance with the construction works that will take place within the public road reserve for the new extended crossover to Kookaburra Close. The proposal complies with control C1.24.</p>	<p>N/A</p>

<p><i>two stakes (minimum 50mm x 50mm) with Hessian ties.</i></p> <p><i>To ensure a consistent streetscape the new tree plantings are to be the same as the existing adjacent street trees.</i></p> <p><i>Where appropriate, Council encourages the use of local endemic native species according to the list of local native species in Pittwater.</i></p> <p><i>Grassed areas are to be turfed with Couch species (weed free) and even grade to a maximum 4% grade.</i></p> <p><i>All work is subject to a Section 139 approval from Council.</i></p> <p><u><i>Dwelling Houses, Secondary Dwellings and Dual Occupancy</i></u></p> <p><i>The location of new landscaping (street trees) is not to hinder the future construction of a 1.5m wide footpath in location to be nominated by Council and is subject to a Section 139 approval from Council.</i></p>		
<p>C1.25 Plant, Equipment Boxes and Lift Over-Run</p> <p><i>Controls</i></p> <p><i>Where provided, plant and equipment boxes, air conditioning units and lift over-runs are to be integrated internally into the design fabric of the built form of the building. Council does not encourage air conditioning units on the roof of residential flat buildings and multi dwelling housing. The location of air conditioning units shall be indicated on development assessment plans for approval at the time of Development Application lodgement.</i></p> <p><i>Locate and design all noise generating equipment such as mechanical plant rooms, mechanical equipment, air conditioning units, mechanical ventilation from car parks,</i></p>	<p>Complies – the proposal includes a dedicated plantroom where all noise generating and mechanical equipment is to be stored to protect the acoustic privacy of the residents and neighbours.</p> <p>Furthermore, the proposed lift has been designed to integrate into the built form of the building with no overrun or visually prominent elements detracting from the streetscape character.</p>	<p>Yes</p>

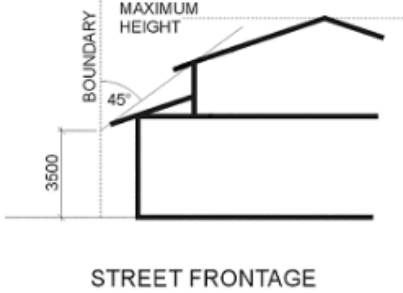
<i>driveway entry shutters, garbage collection areas or similar to protect the acoustic privacy of workers, residents and neighbours.</i>		
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Section D Locality Specific Development Controls		
Control	Proposed	Compliance
<u>D4 Church Point and Bayview Locality</u>		
<p>D4.1 Character as viewed from a public place</p> <p><i>Buildings which front the street must have a street presence and incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with any design themes for the locality. Blank street frontage facades without windows shall not be permitted.</i></p> <p><i>Walls without articulation shall not have a length greater than 8 metres to any street frontage.</i></p> <p><i>Any building facade to a public place must incorporate at least two of the following design features:</i></p> <ul style="list-style-type: none"> <i>i. entry feature or portico;</i> <i>ii. awnings or other features over windows;</i> <i>iii. verandahs, balconies or window box treatment to any first floor element;</i> <i>iv. recessing or projecting architectural elements;</i> <i>v. open, deep verandahs; or</i> <i>vi. verandahs, pergolas or similar features above garage doors.</i> <p><i>The bulk and scale of buildings must be minimised.</i></p> <p><i>Garages, carports and other parking</i></p>	<p>Merit assessment – the proposed alterations and additions have been skilfully designed by the project designer to provide a functional dwelling that is of a modern and contemporary design while been sustainable through retaining parts of the existing dwelling.</p> <p>The proposal is of a bulk and scale consistent with the locality and has been designed with minimal impacts to adjoining neighbours and will not impact the character as viewed from a public place.</p> <p>The proposed garage structure occupies a width greater than 50% of the frontage and exceeds the 7.5m limit. This variation to the control is acceptable on merit as the boundaries of the irregularly shaped allotment aggressively taper towards the frontage making compliance with this control difficult to achieve. The garage has been thoughtfully designed to provide adequate space to accommodate on-site parking for two vehicles and also adequate storage and areas for bins, bicycles and other storage requirements. Furthermore, due to the constraints caused by the significant slope on the site, the only appropriate and feasible location for</p>	<p>Complies on merit</p>

<p><i>structures including hardstand areas must not be the dominant site feature when viewed from a public place. Parking structures must be located behind the front building line, preferably set back further than the primary building, and be no greater in width than 50% of the lot frontage, or 7.5 metres, whichever is the lesser.</i></p> <p><i>Landscaping is to be integrated with 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.</i></p> <p><i>Television antennas, satellite dishes and other telecommunications equipment must be minimised and screened as far as possible from public view. General service facilities must be located underground.</i></p> <p><i>General service facilities must be located underground.</i></p> <p><i>Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.</i></p>	<p>the garage structure is forward of the dwelling house.</p>	
<p>D4.2 Scenic protection - General Controls <i>Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.</i></p>	<p>The proposed alterations and additions have been strategically designed to be consistent with the streetscape and the Bayview locality. The proposal will not impact the scenic qualities of the area and have been strategically located to minimise impacts to the natural environment.</p>	<p>Yes</p>
<p>D4.3 Building colours and materials Controls <i>External colours and materials shall be dark and earthy tones as shown below:</i></p>	<p>The proposal has been designed to be contemporary whilst ensuring the dwelling fits in with the natural aspects of Pittwater.</p> <p>Refer to architectural plans for full details on building colours and materials.</p>	<p>Yes</p>

 <p><i>White, light coloured, red or orange roofs and walls are not permitted:</i></p>  <p><i>Finishes are to be of a low reflectivity.</i></p> <p><u>Variations</u> <i>Council may consider lighter coloured external walls (excluding white) only for residential development within Area 3 on the Landscaped Area Map, and for non-residential development in areas that are not visually prominent.</i></p> <p><i>Heritage items may vary this control where heritage colours and fabrics appropriate to the building are applied.</i></p>		
<p>D4.5 Front building line</p> <p><u>Controls</u> <i>The minimum front building line shall be in accordance with the following table.</i></p> <p><i>E4 Environmental Living - 6.5 or established building line, which ever is the greater</i></p> <p><i>Built structures other than driveways, fences and retaining walls are not permitted within the front building setback.</i></p> <p><u>Variations</u> <i>Where the outcomes of this control are achieved, Council may accept a minimum building setback to a secondary street of half the front building line.</i></p> <p><i>Where the outcomes of this control are achieved, Council may accept variation to these building lines in the following circumstances:</i></p>	<p>Merit assessment – the proposed alterations and additions request a variation to the front building line with minor encroachments relating to components of the proposed garage influenced by the curved nature of the frontage.</p> <p>In this instance as the front building line corresponds with a proposed carparking structure, strict compliance with control D4.5 is unnecessary as reduced front setbacks are permissible where carparking is provided on steeply sloping sites.</p>	<p>Complies on merit</p>

<p><i>considering established building lines; degree of cut and fill; retention of trees and vegetation; where it is difficult to achieve acceptable levels for building; for narrow or irregular shaped blocks; where the topographic features of the site need to be preserved; where the depth of a property is less than 20 metres.</i></p> <p><i>Where carparking is to be provided on steeply sloping sites, reduced or nil setbacks for carparking structures and spaces may be considered, however all other structures on the site must satisfy or exceed the minimum building line applicable.</i></p> <p><i>On-site wastewater treatment systems and rainwater tanks are permitted within the front building setback provided that they do not exceed 1m in height above ground level (existing).</i></p>		
<p>D4.6 Side and rear building line <u>Controls</u> <i>The minimum side and rear building line for built structures including pools and parking structures, other driveways, fences and retaining walls, shall be in accordance with the following table.</i></p> <p><i>E4 Environmental Living - 2.5 to at least one side; 1.0 for other side; 6.5 rear (other than where the foreshore building line applies)</i></p> <p><u>Variations</u> <i>Where alterations and additions to existing buildings are proposed, maintenance of existing setbacks less than as specified may be considered where it is shown that the outcomes of this clause are achieved.</i></p> <p><i>Where the depth of a property is less than 20 metres, Council may accept a reduced building setback from the rear boundary.</i></p>	<p>Merit assessment – the proposed carparking/garage structure encroaches within 760mm of the permissible 1m side setback control on the western boundary where the site tapers in width towards the street frontage.</p> <p>The proposed garage structure has been sited in accordance with the existing carport structure on-site retaining a similar setback to the western boundary. Noting the boundary corresponds with an access handle servicing nos. 8 and 9 Kookaburra Close, the proposed structure will have no privacy, amenity, or bulk and scale impacts on the adjoining neighbours to the west.</p>	<p>Complies on merit</p>

	<p>The proposal complies with the relevant outcomes of D4.6 noting that the proposal achieves the desired future character of the area, is of a bulk and scale consistent with the locality, ensures privacy and amenity to neighbouring dwellings and enhances the landscaping on the site. The proposed western setback is acceptable on merit and can be supported by Council as submitted.</p>	
<p>D4.8 Building envelope <u>Controls</u> <i>Buildings are to be sited within the following envelope:</i></p>  <p style="text-align: center;">STREET FRONTAGE</p> <p><i>Planes are to be projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries to the maximum building height (refer to Pittwater Local Environmental Plan 2014).</i></p> <p><u>Variations</u> <i>Where the building footprint is situated on a slope over 16.7 degrees (ie 30%), variation to this control will be considered on a merits basis.</i></p> <p><i>Where subject to Estuarine, Flood & Coastline (Beach) Hazard Controls, the building envelope shall be measured from a height above the minimum floor level requirement under the Estuarine, Flood and Coastline (Beach) Hazard Controls.</i></p> <p><i>Eaves or shading devices that provide shade in summer and maximise sunlight in winter,</i></p>	<p>Merit assessment – there is an encroachment of the side building envelope where the proposed second floor meets the projected plane aligning with the north-western boundary. This encroachment is considered to be minor and is caused by the irregular shape of the allotment where the site boundary tapers towards the rear. The siting of the proposed second floor has been designed to be consistent with that of the ground and first floors of the existing dwelling house in an effort to minimise the site coverage and any loss of landscaped area on the site. In our professional opinion, the proposal is consistent with the desired outcomes of D4.8 as the height, bulk and scale of the development will have a negligible impact on the amenity, privacy and solar access of the adjoining site to the north-west at no. 8-9 Kookaburra Close. Additionally, the proposal will have no impact to any appreciable view corridors or vistas from the adjoining site to the north-west or from the public domain. The proposed variation to the building enveloped is acceptable on merits basis as the building footprint is</p>	<p>Complies on merit</p>

<p><i>shall be permitted to extend outside the building envelope.</i></p> <p><i>Council may consider a variation for the addition of a second storey where the existing dwelling is retained.</i></p>	<p>situated on a slope over 16.7 degrees.</p>	
<p>D4.10 Landscaped Area – Environmentally Sensitive Land</p> <p><u>Controls</u> <i>The total landscaped area on land zoned R2 Low Density Residential or E4 Environmental Living shall be 60% of the site area.</i></p> <p><i>The use of porous materials and finishes is encouraged where appropriate.</i></p> <p><i>Any alterations or additions to an existing dwelling shall provide a minimum 60% of the site area as landscaped area.</i></p> <p><u>Variations</u> <i>Provided the outcomes of this control are achieved, the following may be permitted on the landscaped proportion of the site:</i></p> <ol style="list-style-type: none"> <i>1. impervious areas less than 1 metre in width (e.g. pathways and the like);</i> <i>2. for single dwellings on land zoned R2 Low Density Residential or E4 Environmental Living, up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)).</i> 	<p>Merit assessment – the subject site is identified as ‘Area 1’ within the Pittwater Landscaped Area Map. The proposed total landscaped area on the site will equate to 57.9% of the allotment (458sqm).</p> <p>This marginal variation to the landscaping requirements is acceptable on merit as the proposal satisfies the outcomes of D4.10 noting the development is in keeping with the desired future character of the Bayview locality, the bulk and scale of the dwelling house will maintain a reasonable level of amenity and solar access to adjoining neighbours, and the proposed changes will ensure stormwater runoff is reduced.</p> <p>Noting variations upwards of 6% can be supported for impervious landscape treatments, the inclusion of the proposed 16sqm roof garden would achieve compliance with the 60% requirement. In this instance it is our professional opinion that the minor variation to the total landscaped area requirements is acceptable on merit and can be supported by Council.</p>	<p>Complies on merit</p>
<p>D4.11 Fences – General</p> <p><u>Controls</u> <i>Front fences and side fences (within the front building setback) shall;</i></p>	<p>Not applicable – no new fencing proposed with this application.</p>	<p>N/A</p>

<p><i>not exceed a maximum height of 1 metre above existing ground level, be compatible with the streetscape character, and not obstruct views available from the road.</i></p> <p><i>Fences are to be constructed of open, see-through, dark-coloured materials.</i></p> <p><i>Landscaping is to screen the fence on the roadside. Such landscaping is to be trimmed to ensure clear view of pedestrians and vehicles travelling along the roadway, for vehicles and pedestrians exiting the site.</i></p> <p><i>Original stone fences or stone fence posts shall be conserved.</i></p> <p><i>b. Rear fences and side fences (to the front building line)</i></p> <p><i>Fencing is permitted along the rear and side boundaries (other than within the front building setback) to a maximum height of 1.8 metres.</i></p> <p><i>c. Fencing adjoining Pittwater Waterway</i></p> <p><i>Fences are to be setback 3 metres from the property boundary adjacent to the waterway, and shall have a maximum height of 1.8 metres.</i></p> <p><i>Fences are to be constructed of open, see-through, dark-coloured materials. Landscaping is to screen the fence on the foreshore side.</i></p> <p><i>d. Corner lots or lots with more than one frontage</i></p> <p><i>Applicants shall nominate their side, rear and front boundaries if fences are proposed.</i></p> <p><i>e. Fencing on land on Council's Flood Hazard Maps</i></p>		
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No masonry fences will be permitted on land identified in High Flood Hazard Areas or on land within a Floodway.

All fences in High Flood Hazard Areas or within a Floodway are to be constructed in 'open' materials, for the full height of the fence, to allow for the passage of floodwaters through the fence.

Variations

Within the front building setback, provided the outcomes of this clause are achieved, fencing to a maximum height of 1.8 metres may be considered where the main private open space is in front of the dwelling, the lot is a corner lot or has more than one frontage or the site is located on a main road with high traffic noise. In such instances, front fencing shall:

- i. be setback a minimum of one metre for any fence higher than one metre (in the case of corner lots or lots with more than one frontage this setback may be varied based on merits); and*
- ii. be articulated to provide visual interest and further opportunities for landscaping, and*
- iii. be screened by landscaping within the setback area; and*
- iv. not restrict casual visual surveillance of the street, and*
- v. provide a 45 degree splay (or equivalent) either side of any vehicular entrance, minimum dimensions of 2 metres by 2 metres; and*
- vi. 50% or more of the fence is transparent.*

See also controls relating to gated access points in Part B: Access Driveways and Offstreet Parking

<p><i>Provided the outcomes of this control are achieved, where fencing exceeds more than 1m in height and abuts a public road, a boundary setback less than the height of the fence may be considered based on merits.</i></p>		
<p>D4.13 Construction, Retaining walls, terracing and undercroft areas <u>Controls</u> <i>Lightweight construction and pier and beam footings should be used in environmentally sensitive areas.</i></p> <p><i>Where retaining walls and terracing are visible from a public place, preference is given to the use of sandstone or sandstone like materials.</i></p> <p><i>In the provision of outdoor entertaining areas, preference is given to timber decks rather than cut/fill, retaining walls and/or terracing.</i></p> <p><i>Undercroft areas shall be limited to a maximum height of 3.5 metres. Adequate landscaping shall be provided to screen undercroft areas.</i></p>	<p>Complies – pier and beam construction is proposed for the development to minimise any disturbance to the natural landforms on the site. No retaining walls or terracing proposed visible from the streetscape or the public domain. No undercroft areas proposed.</p>	<p>Complies</p>

5. Matters for Consideration Pursuant to Section 4.15 of the Environmental Planning & Assessment Act 1979

The following matters are to be taken into consideration when assessing an application pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended). Guidelines (in *italic*) to help identify the issues to be considered have been prepared by the Department of Planning and Environment. The relevant issues are:

(a) The provisions of:

(i) *The provision of any Environmental Planning Instrument*

Comment: The proposal is permissible and consistent with the intent of the Pittwater Local Environmental Plan and Development Control Plan as they are reasonably applied to the proposed works given the constraints imposed by the sites location, topography and environmental constraints.

(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 Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

Comment: Not applicable.

(iii) *Any development control plan*

Comment: The proposal has been reviewed and assessed under Pittwater Development Control Plan 21.

(iiia) *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*

Comment: Not applicable.

(iv) *The Regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*

Comment: Not applicable.

(v) *(repealed)*

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

Context and Setting:

i. What is the relationship to the region and local context in terms of:

- *The scenic qualities and features of the landscape*
- *The character and amenity of the locality and streetscape*
- *The scale, bulk, height, mass, form, character, density and design of development in the locality*
- *The previous and existing land uses and activities in the locality*

Comment: The proposed alterations and additions are consistent with recent approvals granted in the Church Point and Bayview locality and consistent with neighbouring developments with minimal residential amenity impacts in terms of views, privacy or overshadowing.

ii. What are the potential impacts on adjacent properties in terms of:

- *Relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)*
- *visual and acoustic privacy*
- *views and vistas*
- *edge conditions such as boundary treatments and fencing*

Comment: These matters have been discussed in detail earlier in this report. The works have been designed such that potential impacts are minimal and within the scope of the built form controls.

Access, transport and traffic:

Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:

- *Travel Demand*
- *dependency on motor vehicles*
- *traffic generation and the capacity of the local and arterial road network*
- *public transport availability and use (including freight rail where relevant)*
- *conflicts within and between transport modes*
- *Traffic management schemes*
- *Vehicular parking spaces*

Comment: The proposal will improve vehicular and pedestrian access on-site with the provision of a new driveway, crossover, stairwell and lift. Additionally, on-site parking will be improved with the provision of additional garage space.

Public Domain

Comment: The proposed development will have no adverse impact on the public domain.

Utilities

Comment: Existing utility services will connect to service the dwelling.

Flora and Fauna

Comment: The proposal does not have an adverse impact to flora or fauna. The proposal includes the removal of four (4) trees to facilitate the construction of the ancillary garage structure. The proposal is supported by an Arboricultural Impact Assessment Report prepared by Complete Arborcare. As the site is also identified within the biodiversity values map the proposal is also supported by a Biodiversity Development Assessment (BDAR) Report prepared by Landeco Consulting.

Waste Collection

Comment: Normal domestic waste collection applies to the existing dwelling house.

Natural hazards

Comment: The site is partially located in the geotechnical hazards H1 area. A geotechnical assessment report prepared by White Geotechnical Group has been provided with the DA package.

Economic Impact in the locality

Comment: The proposed development will not have any significant impact on economic factors within the area notwithstanding that it will generate additional employment opportunities through the construction period with respect to the proposed works.

Site Design and Internal Design

i) Is the development design sensitive to environmental considerations and site attributes including:

- *size, shape and design of allotments*
- *The proportion of site covered by buildings*
- *the position of buildings*
- *the size (bulk, height, mass), form, appearance and design of buildings*
- *the amount, location, design, use and management of private and communal open space*
- *Landscaping*

Comment: These matters have been discussed in detail earlier in this report. The potential impacts are considered to be minimal and within the scope of the general principles, desired future character and built form controls.

ii) How would the development affect the health and safety of the occupants in terms of:

- *lighting, ventilation and insulation*
- *building fire risk – prevention and suppression*
- *building materials and finishes*
- *a common wall structure and design*
- *access and facilities for the disabled*
- *likely compliance with the Building Code of Australia*

Comment: The proposed development can comply with the provisions of the Building Code of Australia. The proposal complies with the relevant standards pertaining to health and safety and will not have any detrimental effect on the occupants.

Construction

i) What would be the impacts of construction activities in terms of:

- *The environmental planning issues listed above*
- *Site safety*

Comment: The proposal will employ normal site safety measures and procedures will ensure that no safety or environmental impacts will arise during construction.

(c) The suitability of the site for the development

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development prohibitive*
- *Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*

- *Are utilities and services available to the site adequate for the development*
- *Are the site attributes conducive to development*

Comment: The site is located in an established residential area. The adjacent development does not impose any unusual or impossible development constraints. The proposed development will not cause unmanageable levels of transport demand with the existing use of a dwelling house to be retained.

(d) Any submissions received in accordance with this act or regulations

Comment: No submissions are available at this time.

(e) The public interest

Comment: The proposed works are permissible and consistent with the intent of PLEP2014 and PDPC21 controls as they are reasonably applied to the proposed alterations and additions of the existing dwelling house and conversion of the lower ground floor as a secondary dwelling. The development would not be contrary to the public interest.

In our opinion, the development satisfies the planning regime applicable to development on this particular site having regards to the considerations arising from its context.

The proposal is acceptable when assessed against the heads of consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979* (as amended), and is appropriate for the granting of consent and accordingly, is in the public interest.

6. Summary and Conclusion

The proposal for alterations and additions to an existing dwelling house, secondary dwelling and associated works at 10 Kookaburra Close, Bayview, being Lot 39 within Deposited Plan 204996. The proposal is permissible and consistent with the intent of the built form controls as they are reasonably applied to the proposed works. It is considered that the proposal is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The merits of the application have been assessed in accordance with the provisions of the relevant requirements of PLEP 2014 and the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended). There is no evidence that the impacts of the development would warrant amendment to the subject proposal or justify refusal. Where a variation is proposed, adequate documentation has been provided to support the application.
- The nature of the development is appropriate having regard to the area of the site, its geographical location, topography, constraints and adjoining land uses.

Accordingly, the proposal for alterations and additions to an existing dwelling house, secondary dwelling and associated works at 10 Kookaburra Close, Bayview, is acceptable from environmental, social, and planning perspectives and approval should therefore be granted by Council.