

Statement of Environmental Effects

1744 PITTWATER ROAD, BAYVIEW

Title Details:	Lot B on DP390788
Proposal:	Development Application for 1 into 2 Lot Subdivision
Owner:	G.S.H Irwin and R.J.L Irwin
Applicant:	Melissa Neighbour, Sky Town Planning
Consent Authority:	Northern Beaches Council
Date:	20 November 2020



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1 Introduction

This Statement of Environmental Effects has been prepared by SKY Town Planning, on behalf of Mr. Lloyd Irwin, as a component of a development application over land located at 1744 Pittwater Road, Bayview and seeking consent for the subdivision of Lot B DP390788 into two (2) residential lots.

This Statement reviews the proposed development by assessing the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, (as amended) including:

- *The Environmental Planning and Assessment Regulation 2000*
- *State Environmental Planning Policy No. 55 (SEPP No. 55) Remediation of Land*
- *State Environmental Planning Policy (Coastal Management) 2018*
- *Pittwater Local Environmental Plan 2014*
- *Pittwater 21 Development Control Plan*

This report provides the applicant's assessment against these provisions and requirements, and concludes that the development is appropriate and consistent with planning controls and intent for the area.

An analysis of impacts upon neighbouring properties as per the site analysis plan submitted with this application, shows the proposal will not have any significant adverse or unreasonable amenity impacts including privacy, solar and view loss.

The proposal is also accompanied by an arborist report, geo-tech report and civil designs which collectively demonstrate the development will not have any adverse environmental, social or economic impacts. Lastly, the proposal represents an efficient use of well-located land.

Accordingly, Council's approval of the application is therefore sought, subject to relevant and reasonable conditions.

2 Site and Surrounds

2.1 Locational Context

The subject site is located in the suburb of Bayview within the Northern Beaches Local Government Area (LGA) located in central New South Wales. Surrounding suburbs include Mona Vale, Newport, and Ingleside. Refer to Figure 1 below.

The site is located in a predominately residential area. Housing character is low density on large blocks.

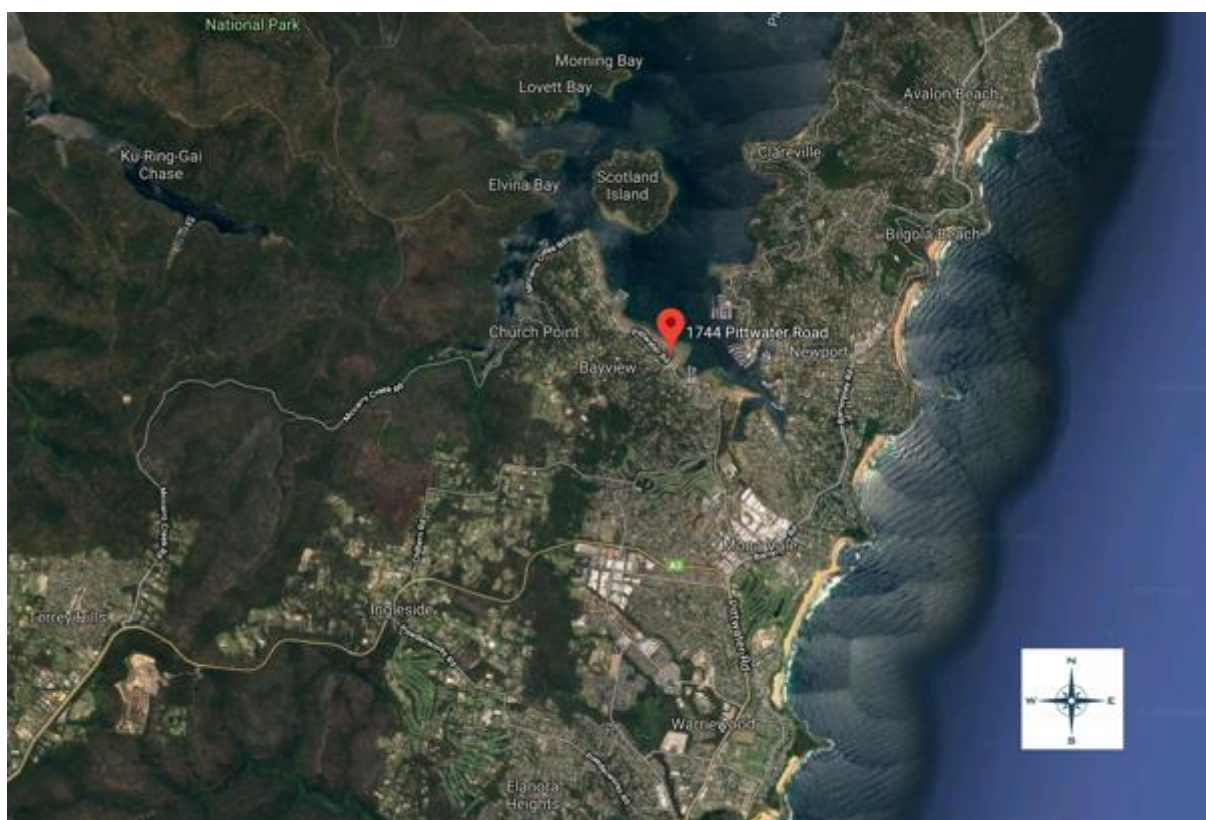


Figure 1 – Site Context (Source: Google)

2.2 Site Description

The development site is 1744 Pittwater Road, Bayview, and legally described as **Lot B DP390788**.

The site is in rectangular shape and has an area of 1563sqm. The site fronts onto the Pittwater waterway and is adjoined on both side boundaries by residential lot. The site slopes down from Pittwater Road to the waterway.

Existing improvements on the site include a 2 storey dwelling, driveway and associated landscaping.

The details of the site are included on the survey plan prepared by TSS Surveying, Plan No 192304_A, dated 14/10/2019 which accompanies the DA submission (please refer to Attachment A).

The site is zoned E4 Environmental Living under the LEP. Other controls affecting the site:



Foreshore Building Line



Pittwater landscaped area Map



Estuarine Hazard Map



Figure 2: Site frontage photograph (Source: Google street view)

3 The Proposal

The proposal seeks consent for a 1 into 2 lots Torrens title subdivision in a battle axe configuration with the following lot sizes:

- Proposed Lot 1: 685sqm
- Proposed Lot 2: 701sqm (873.6m with the access handle and passing bay)

Please refer to Appendices B, C and D for the plan of proposed subdivision and the engineering drawings.

3.1 Lot Size and Dimensions

The size and dimensions of the lots are appropriate in order to allow for the future development of dwellings with setbacks that can comply with the DCP controls. The plan of proposed subdivision shows that the two building envelopes can be built on site that ensures the following:

- retention of trees and bushland,
- vehicular access,
- provision of services,
- provision of emergency services,
- and safety from hazard,
- A building which achieves the desired character of the area and is commensurate with the amenity standards of surrounding development, and does not overly impact on the environment, and can be erected within that envelope.

It is noted that the minimum lot size control for the subject site is 700sqm. The development proposes one new compliant lot at 701sqm, and one new lot at 685sqm, which is a 2.16 percentage deviation from the minimum lot size. Please refer to the attached Section 4.6 Variation Statement for this minor non-compliance.

The site is affected by the foreshore building line and as shown on the plan of proposed subdivision, Lot 2 can still accommodate a compliant building footprint. This DA is accompanied by a civil engineering plan (refer Attachment C) which shows that Lot 2 can be serviced via the existing driveway crossover which currently provides access to proposed lot 1.

3.2 Access

Both lots will have access to Pittwater Road via the existing driveway which will be further developed into an access handle with a width of 3.5m and length of 44.82m. As the driveway is longer than 40m a passing bay has been provided.

3.3 Density and Scale

The proposed development will maintain a similar scale and density to existing development in the locality. The scale and layout of the development will not give rise to any significant adverse impacts upon neighbouring properties.

The proposed subdivision is an orderly and efficient layout.

3.4 Impact on Amenity

While the proposal is only for subdivision and the final built form for the 2 separate dwellings will be the subject of a separate subsequent DAs, a site analysis plan has been prepared to assess potential impact upon adjoining properties.

As can be seen on the plan, the proposed subdivision, which will result in two dwellings being built as part of future DAs, will not unreasonably impact the main views and vistas of neighbouring properties towards the water.

The main views from the adjoining dwellings towards the water are not impacted. While some side views maybe marginally impacted, the extent of this impact cannot be assessed until a dwelling is proposed as part of a new DA. At this time, architectural design solutions can ensure minimal impacts are incurred. In any case, as per the view sharing principles and assessment, enunciated by the decision of Senior Commissioner Roseth in *Tenacity Consulting P/L v Warringah Council (2004) NSWLEC 140*, 'views across side boundaries are more difficult to protect than those from front boundaries', and further "The expectation to maintain side views is often unrealistic." This proposed subdivision meets the view sharing principles and will result in equitable preservation of views and vistas.

3.5 Trees

There is a total of 5 trees to be removed as part of the proposal. All of these have low tree significance as determined by the Arborist, and they are exempt. All other trees can be successfully retained and protected with APZs where needed. The building platform in Lot 1 has been moved 6m away from the blue gum (tree 6), and can be successfully retained. Please refer to the Arborist Report for more detail.

No street trees are to be removed as part of this development application.

4 Statutory Planning Framework

4.1 State Environmental Planning Policies

The proposed development is subject to the following State Environmental Planning Policies.

4.1.1 State Environmental Planning Policy No. 55 (SEPP No. 55) Remediation of Land.

According to clause 7 of SEPP No. 55 Council may not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and 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.

Response: As the land has been continually used for residential purposes, the likelihood of contamination is low. In this regard, it is considered that the site is suitable for the proposed use.

4.1.2 State Environmental Planning Policy (Coastal Management) 2018

The proposed development site is mapped as Coastal Environment Area and Coastal Use Area. Part 2 of the SEPP (Coastal Management) outlines the Development Controls for coastal management areas. The controls in the relevant divisions of this SEPP are addressed below.

13 Development on land within the coastal environment area

(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) coastal environmental values and natural coastal processes,*
- (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) Aboriginal cultural heritage, practices and places,*
- (g) the use of the surf zone.*

14 Development on land within the coastal use area

(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:*

- (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
- (iv) Aboriginal cultural heritage, practices and places,*
- (v) cultural and built environment heritage, and*
- (b) is satisfied that:*
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

16 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Response: The proposed development will maintain a similar scale and density to existing development in the locality, and will therefore not negatively impact the visual amenity or scenic qualities of the coastline. The subdivision allows for the new building footprint in Lot 2 to setback the required distance from the foreshore, as such natural coastal processes will not be impacted by the development.

4.2 Pittwater Local Environmental Plan 2014

4.2.1 Zone and Objectives

The subject property is zoned E4 Environmental Living pursuant to Pittwater Local Environmental Plan 2014 under which subdivision is permissible with consent. The stated objectives of the E4 zone are as follows:

- *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.*

Response: It is considered that the proposed development meets the objectives of the Zone E4 Environmental Living. This is justified on the basis that the subdivision will facilitate the

development of two new dwellings, thus increasing housing variety within the area. Further, the proposal will increase housing density in an established residential area, that is close to the services and facilities of the local economic centre, making efficient and orderly use of well-located land.

There are no statutory zoning or zone objectives that are an impediment to the granting of approval to the proposed development. ^{LEP}_{SEP}

4.2.2 Principle development standards

Clause 4.1 Minimum subdivision lot size

Response: Pittwater LEP 2014 Clause 4.1 minimum subdivision lot size is applicable to the subdivision of any land and therefore this development proposal. The minimum lot size control for the subject site is 700sqm. The development proposes one new compliant lot at 701sqm, and one new lot at 685sqm, which is a 2.16 percentage deviation from the minimum lot size. Please refer to the attached Section 4.6 Variation Statement for this minor non-compliance.

Clause 5.5 Development within the coastal zone

The objectives of this clause are as follows:

- (a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,*
- (b) to implement the principles in the NSW Coastal Policy, and in particular to:*
 - (i) protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and*
 - (ii) protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and*
 - (iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and*
 - (iv) recognise and accommodate coastal processes and climate change, and*
 - (v) protect amenity and scenic quality, and*
 - (vi) protect and preserve rock platforms, beach environments and beach amenity, and*
 - (vii) protect and preserve native coastal vegetation, and*
 - (viii) protect and preserve the marine environment, and*
 - (ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
 - (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and*
 - (xi) protect Aboriginal cultural places, values and customs, and*
 - (xii) protect and preserve items of heritage, archaeological or historical significance.*

Response: The proposed development will maintain a similar scale and density to existing development in the locality, and will therefore not negatively impact the visual amenity or scenic qualities of the coastline. The subdivision allows for the new building footprint in Lot 2 to be setback the required distance from the foreshore, as such natural coastal processes will not be impacted by the development.

4.3 Pittwater 21 Development Control Plan

This section of the SEE addresses all the relevant controls applicable to the site and the proposed use.

B2.2 Subdivision - Low Density Residential Areas (R2, E3, E4)

Outcomes

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

Maintenance of the existing environment. (En)

Equitable preservation of views and vistas to and/or from public/private places. (S)

The built form does not dominate the natural setting. (En)

Population density does not exceed the capacity of local and regional infrastructure and community services. (En, S, Ec)

Population density does not exceed the capacity of local and regional transport facilities. (En, S, Ec)

Response: It is considered the development proposal supports councils' objectives for subdivision in low density Residential areas. While one of the lots does not meet the minimum lot size control by 2.16%, this is solely as a result of the passing bay provided for the driveway which is required due to its length, and the lots are suitable and relative to the capacity of the land. The proposal maintains the existing scale and character of the environment.

The development is an established residential area, that is close to services, maximising the environmental, social and economic opportunities of the site by increasing housing density near employment, services and facilities.

While the proposal is only for subdivision and the final built form for 2 separate dwellings will be the subject of a separate subsequent DAs, a site analysis plan has been prepared to assess potential impact upon adjoining properties.

As can be seen on the plan, the proposed subdivision, which will result in two dwellings being built as part of future DAs, will not unreasonably impact the main views and vistas of neighbouring properties towards the water.

The main views from the adjoining dwellings towards the water are not impacted. While some side views maybe marginally impacted, the extent of this impact cannot be assessed until a dwelling is proposed as part of a new DA. In any case, as per the view sharing principles and assessment, enunciated by the decision of Senior Commissioner Roseth in Tenacity Consulting P/L v Warringah Council (2004) NSWLEC 140, 'views across side boundaries are more difficult to protect than those from front boundaries', and further "The expectation to maintain side views is often unrealistic." This proposed subdivision meets the view sharing principals and will result in equitable preservation of views and vistas.

Controls

Control	<u>Response:</u>	Complies?
Any lot (or lots) to be created by a subdivision of an existing lot (or lots) shall have a minimum lot depth of 27 metres.	The lot depth is 34.68 metres and above.	Complies
Any lot (or lots) to be created by a subdivision of an existing lot (or lots) on land identified as Area 1 on the Landscaped Area Map shall have a minimum lot width at the building line of 16 metres.	Lot width range: Lot 1 15.73m - 14.79m Lot 2 18.51m – 17.725	Minor variation requested – please see statement below. Complies
Any lot (or lots) to be created by a subdivision of an existing lot (or lots) shall have a minimum lot width at the building line of 9 metres at the waterfrontage.	The width of Lot 2 at the water frontage is in excess of 18m.	Complies
Any lot (or lots) are to be capable of providing for the construction of a building which is safe from hazards, does not unreasonably impact on the natural environment, does not adversely affect heritage, and can be provided with adequate and safe access and services.	The lots can be adequately serviced and accessed as shown on the proposed plan of subdivision and the civil engineering plans. The building platform for Lot 2 is set back from the foreshore, thereby not affecting the natural coastal processes.	Complies
A person shall not subdivide land if the allotment(s) intended to be created have a slope in excess of 16.7 degrees (30%), measured between the highest and lowest points on any such allotment(s).	Highest Level on Block to Lowest level on Lot 1 13.4-9.1 = Fall 4.3 over 52.3 = 8.2% Highest Level on Block to Lowest level on Lot 2 9.8-1.6 = Fall 8.2 over 39.1 = 20.9% (Main Block Diagram) These Levels have been based on a Topographical Detail Survey provided by STS and undertaken by TSS Surveyors.	Complies

The minimum area for building shall be 175m ² .	The lots can both accommodate building platforms of 175sqm.	Complies
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Justification statement for minor variation to lot width control for Lot 2

The lot width for Lot 2 ranges from 15.73m - 14.79m, thereby only slightly short of meeting the DCP control of 16m. In terms of *visual* bulk and scale this minor non-compliance is negligible as the proposal does comply when the adjoining access handle of 3.72 is included. Therefore, the development will have the appearance of meeting the control. The development complies with Council's intent for the subject site and the area. The development is appropriate in terms of density and scale and is therefore a low impact development. The minor variation will not have any impacts on the environment nor on any surrounding properties.

B3.10 Estuarine Hazard - Subdivision

Outcomes

Protection of people. (S)

Protection of the natural environment. (En)

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

Controls

Obtaining Estuarine Planning Level

To apply this control, the Estuarine Planning Level must first be established by:

- Obtaining Estuarine Planning Level Advice using the 'Flood and Estuarine Levels Tool' from Council's Web site, or;
- An independent assessment undertaken by a Coastal Engineer (as defined in Appendix Z - Estuarine Risk Management Policy for Development in Pittwater.

The Estuarine Planning Level may vary landward across the site based on foreshore edge treatment and distance from the foreshore edge.

The Estuarine Planning Level does not apply to Jetties, Bridging Ramps or pontoons located on the seaward side of the foreshore edge.

Response: Given the low impact of this proposal, and the fact the building platform of Lot 2 is located behind the foreshore building line, it is considered that the outcomes of this control are achieved.

4.3 EP&A Act 1979, Section 4.15 Evaluation – Matters for Consideration

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development, the subject of the development application and the provisions of any environmental planning instrument (EPI'S).

- **The provision of any planning instrument, draft environmental planning instrument, development control plan or regulations [Section 4.15 (1) (a)]**

Response: As demonstrated in this S.E.E., the proposal is permissible and generally in accordance with the development standards contained within Pittwater Local Environmental Plan 2014 and the Pittwater 21 Development Control Plan.

Whilst the proposal requires the consent authority to give favourable consideration to a minor variation to lot frontage, strict compliance has been found to be unnecessary having regard to the particular circumstances of the case including the attainment of an appropriate contextual fit and the proposal satisfying the objectives of the zone and of the subdivision chapter in the DCP. It is considered that sufficient environmental planning grounds exist to support the variation.

- **The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality [Section 4.15 (1) (b)]**

Response: The proposed development is an efficient and orderly use of well-located land. It is considered that the resultant development is compatible with and will complement the character of the area. The proposed development for residential subdivision is within an area that is intended and planned for low density residential development, and will have no adverse environmental, social or economic impacts.

- **The suitability of the site for the development [Section 4.15 (1) (c)]**

Response: The site and development meet all of Councils objectives and generally meets the applicable development controls. Having regard to this assessment, it is considered that the land is suitable for the intended development.

- **The suitability of the development when considering public interest [Section 4.15 (1) (e)]**

Response: The proposed development is consistent with the objectives of the Environmental Planning and Assessment Act in so far as it promotes the co-ordinated and orderly, and economic use and development of the land. The proposal will not unreasonably impact upon the environment, the character of the locality or upon the amenity of adjoining properties. As a result, it is considered that the development, subject to conditions, is consistent with the public interest.

5 Summary of Proposal

The proposal is permissible and is generally in accordance with the development standards contained within Pittwater Local Environmental Plan 2014 as they relate to this subdivision over the subject site and to the intent of the development controls contained within Pittwater 21 Development Control Plan.

The development promotes the co-ordinated and orderly, and economic use and development of the land. The architect has responded to the client brief to provide a site-specific design response which takes advantage of the properties attributes whilst respecting the environmental characteristics of the site and the amenity of adjoining residential properties. The outcome is low density subdivision design.

The identified non-compliances have been acknowledged and appropriately justified having regard to the associated objectives. The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is our professional opinion that the application should be granted development consent, subject to conditions.

Melissa Neighbour
Principal Planner
SKY Town Planning
November 2020