

The background of the entire page is an architectural rendering of a modern building. The building features a curved facade with a series of horizontal bands, some of which are glass-enclosed balconies or terraces. The ground floor is a large, glass-walled atrium or entrance area where several people are walking. The building is set against a clear blue sky. The text is overlaid on a dark, semi-transparent rectangular area in the upper left portion of the image.

# Statement of Environmental Effects

Building Information Certificate for  
3 Clive Crescent, Bayview

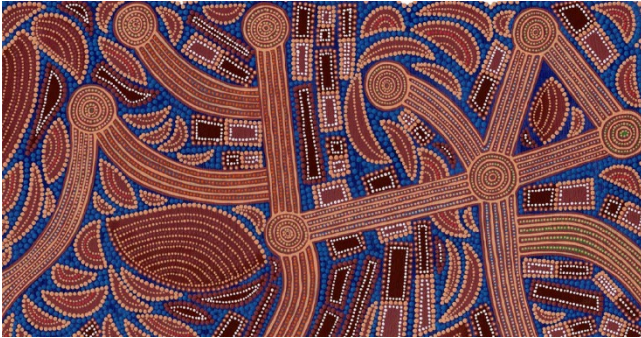
Submitted to Northern Beaches Council  
on behalf of Mr. Patrick Fitzgibbon

20 May 2024

[gyde.com.au](http://gyde.com.au)

# GYDE

## Acknowledgment of Country



**Towards Harmony by Aboriginal Artist Adam Laws**

Gyde Consulting acknowledges and pays respect to Aboriginal and Torres Strait Islander peoples past, present, Traditional Custodians and Elders of this nation and the cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander people. We recognise the deep and ongoing connections to Country – the land, water and sky – and the memories, knowledge and diverse values of past and contemporary Aboriginal and Torres Strait communities.

Gyde is committed to learning from Aboriginal and Torres Strait Islander people in the work we do across the country.

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### **Disclaimer**

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## Appendices

The following plans and technical reports accompany the development application. Gyde has relied on the information in these reports, prepared by professionals in their field, for the preparation of this statement of environmental effects.

Appendix	Document	Prepared by
A	Survey Plan with Elevations	ESA Survey
B	Extant Development Consents	Gyde/Northern beaches GIPA

# 1. Executive Summary

This Statement of Environmental Effects (SEE) has been prepared for Northern Beaches Council to accompany a Building Information Certificate (BIC) to Northern Beaches Council (NBC). The site's address is 3 Clive Crescent, Bayview (the site), and is comprised of a single allotment, referenced as Lot 6, DP31237.

This SEE has been prepared pursuant to Section 4.12 of the Environmental Planning and Assessment Act, 1979 and Clause 50 of the Environmental Planning and Assessment Regulation, 2000. The purpose of this SEE is to:

- Describe the development and its context;
- Assess the built form against the applicable planning controls and guidelines; and
- Assess the potential environmental impacts and mitigation measures.

This SEE relates to an existing approved dwelling believed to have been originally constructed in the mid 1950's. The dwelling has undergone degrees of owner modification in the interim decades, with the most recent development approval (ref: 808/94) dating to 1994 for additions and alterations to the site including new extensions on the southeast elevation, a new double garage, and new terraces on the northeast elevation.

The site is zoned 'R5- Large Lot Residential' under the *Pittwater Local Environmental Plan 2014* (PLEP 2014) and all development currently on the site falls within the permitted uses of the zone. The site also falls under the controls of the Pittwater 21 Development Control Plan (PDCP).

Despite the developments on site falling within the permitted uses of the zone, previous owners of the site have conducted some works without obtaining the relevant consents. Consequently, NBC have opened two investigations for unauthorised building works, referenced as **BLD2024/00210** and **BLD2021/02619**. The new owners of the site (Mr. and Mrs Fitzgibbon) seek to work with NBC and rectify the previous owners' mistakes of not obtaining necessary consents. They aim address the referenced investigations by regularising the aforementioned developments on site through the BIC process.

**BLD2024/00210** is the most recent investigation relating to external alterations to the dwelling, including extensions and alterations to the balconies and terraces. The previous owners constructed extensions and alterations at the rear elevation to a poor standard, resulting in the structural integrity of the first and second floor terraces being compromised. Upon purchasing the property and realising the extent of poor-quality construction, Mr. and Mrs. Fitzgibbon sought to rectify the building elements that presented significant safety risks. This was achieved by undertaking significant repairs and, in some areas where the building had failed, undertaking reconstruction. The first-floor balcony and terrace were repaired and reconstructed to the approved building envelope, with a portion of the terrace enclosed in accordance with the approved plans of DA1983/99, and another portion extended into additional living areas. On the second floor, the reconstructed terrace and balcony was extended to match the slab and footings of the floor below, representing an approximate 80m<sup>2</sup> extension to the approved area. Despite no formal consent being requested, these works are nonetheless compliant with the relevant provisions outlined in the PLEP and PDCP.

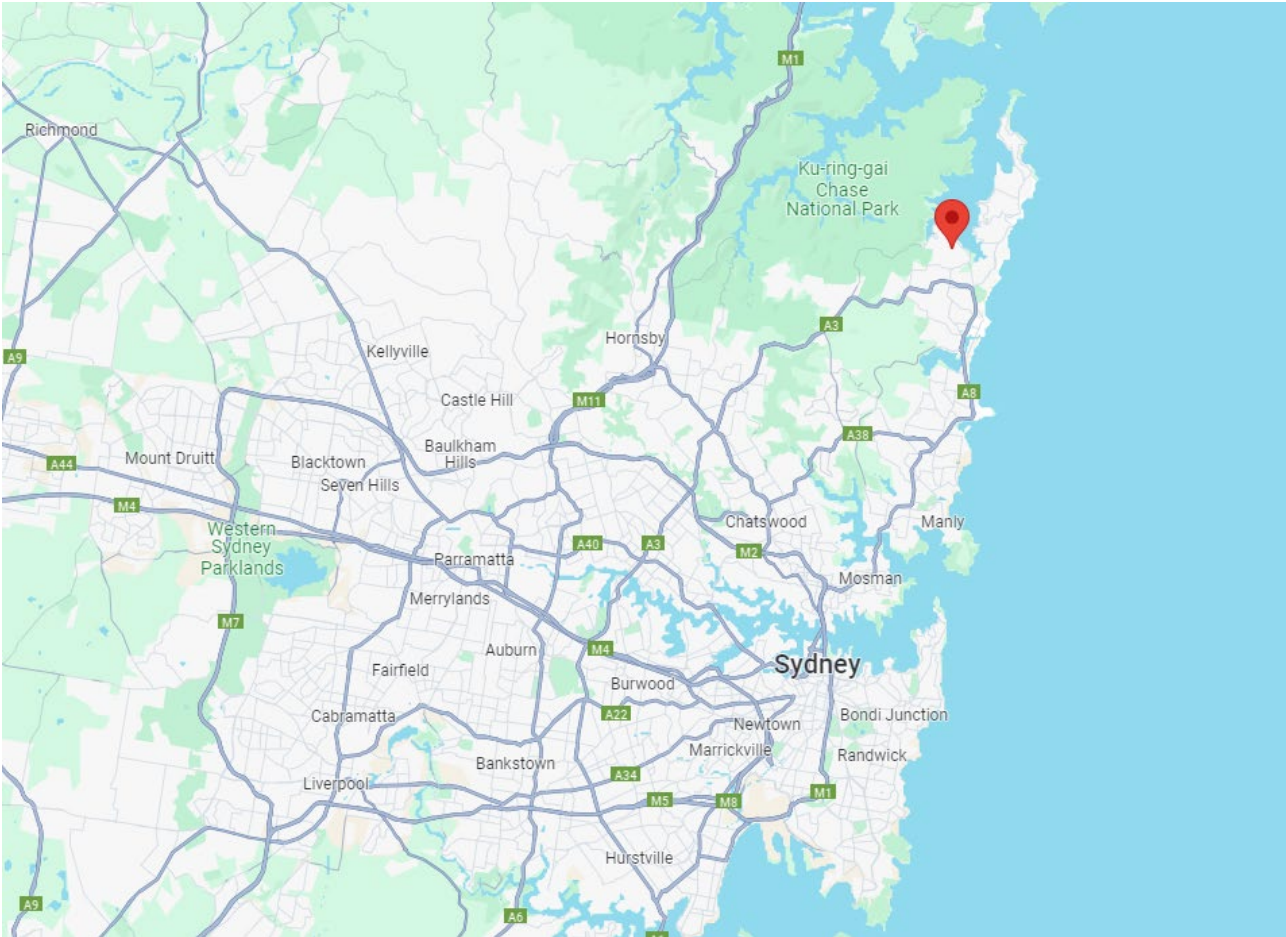
**BLD2021/02619** relates to a first storey addition to the approved pool house, together with the addition of a pool cabana and surrounding deck. Although development consent was not sought by the previous owner for these works, the additional storey remains below the Height of Building development standard of 8.5 metres outlined in the PLEP. The additional storey causes no adverse environmental impacts or impacts on neighbouring amenity and its use as a secondary dwelling is consistent with the objectives of the PLEP zone and the PDCP. The pool cabana is considered to fall under the controls of complying development and while the 100m<sup>2</sup> decking area exceeds the complying development threshold, it causes no adverse impacts and is ultimately considered to be consistent with the objectives of the zone.

This SEE concludes that this proposal supports an appropriate and permitted use and it is compatible with the R5 zone. The additional building elements remain consistent with the desired future character of the area, and they present no adverse amenity impacts. It is considered that the proposal delivers on the objectives of the zone given its lack of adverse impacts and its approval is in the public interest.

## 2. Site Analysis

### 2.1 Site Location

The site’s address is 3 Clive Cresent, Bayview 2104, and it is located within the Northern Beaches Council Local Government Area (LGA) approximately 25km north of Sydney’s CBD. The locality map shown below in Figure 1 identifies the site in the wider context of the city.





### 2.2.1 Site Description

The site is zoned 'R5- Large Lot Residential' and is comprised of a large dwelling, arranged over 3 floors together with a swimming pool, pool-house, terraces, balconies, front and rear garden spaces, and driveway with significant parking for multiple vehicles. The site is bound by residential properties to the north, south, east, and west and the boundary treatment features a mixture of closed board timber privacy fencing and dense vegetation. There are several mature trees on site, together with shrubs and grasses within the garden areas.

Due to the sloping topography towards the northern end of the site, the southern element of the building is arranged over 2 floors, with the northern portion of the building is arranged over 3 floors as the building line projects forward with the camber of the slope.

The site is identified with its boundaries and outlined in red in Figure 2 below.



Figure 2 Aerial view with the site outlined in red (source: Near Map 2024)

### 2.2.2 Existing Improvements relating to BLD2024/00210

#### The Main Dwelling

The main dwelling is believed to have been constructed sometime in the mid-late 1950's and has been subject to owner alteration and modification over time. A GIPA request submitted to council reveals a planning and building approval history dating back to 1973. These approvals have been tabled in [section 2.4](#) of this SEE.

A site survey has also been conducted and this can be found in Appendix A. The table below details some key height information and reference points.

Table 2 Survey findings

Building Element	RL	Height (m)
Ground Floor Level	88.82	0.00m
First Floor Level	91.59	2.77m
Second Floor Level	95.20	6.38m
Ridge Apex Level	100.50	11.68m

The heights identified through the site survey are consistent with all prior development consents issued by Council. The most recent official plan where the height is visible can be found on plan 2234 'Alterations & additions to Residence' approved under Building Approval 808/94 of September 1994. This can be found in Figure 3 below, together with the current building survey with RL heights for comparison at Figure 4.



Figure 3 Approved plan under Building Approval 808/94 of September 1994 showing height of 11.68m (source: GIPA from NBC)

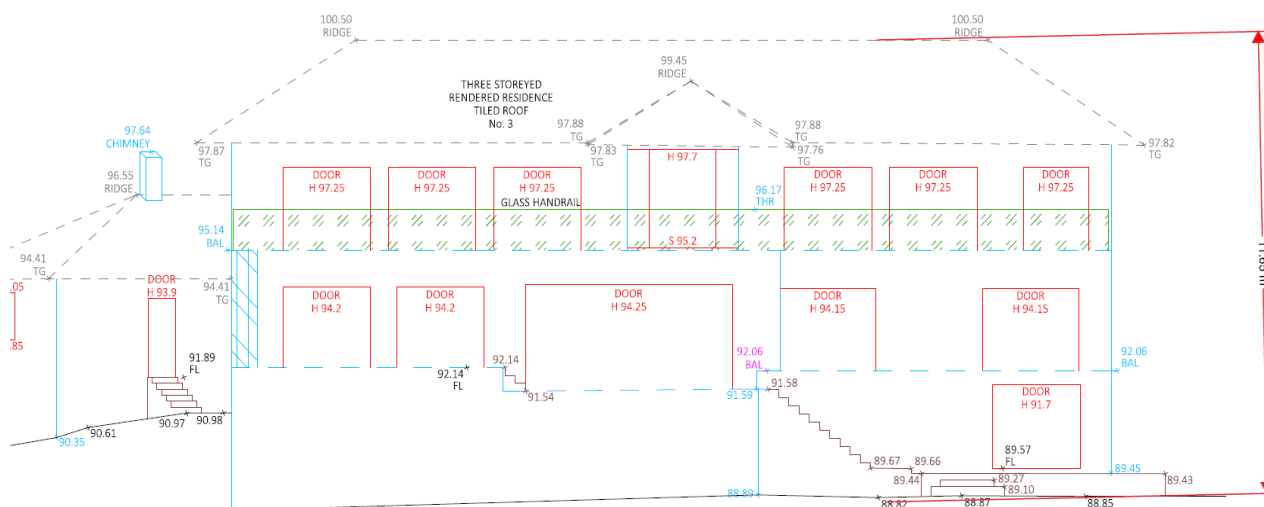
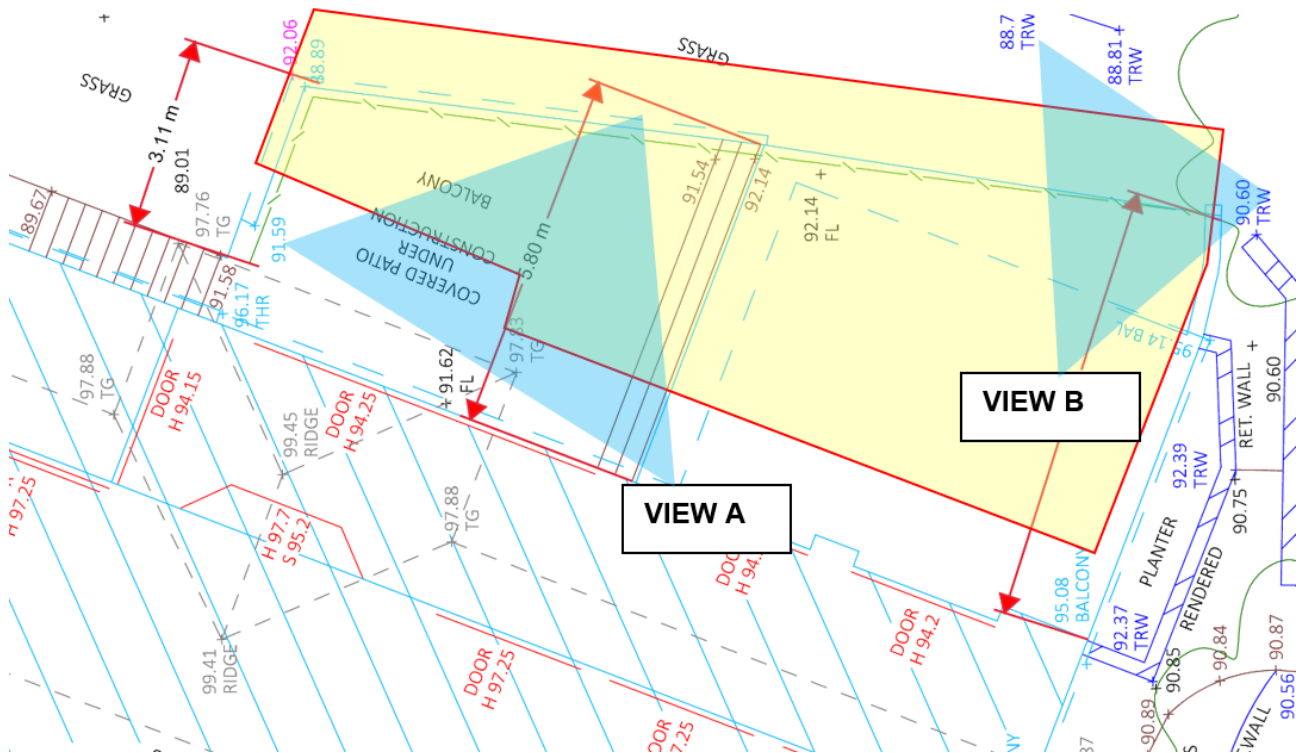


Figure 4 Survey of north-east elevation showing RL ridge of 100.50 and GF of 88.82 providing a building height of 11.68m (source: ESA Surveys)



### Balcony and Terrace Areas

Both the first and second floor feature balcony and terraced areas. These appear as a quarilateral prism protruding form from the northeast (rear) elevation of the building. With regards to their appearance, these areas match the existng dwelling, with white painted and rendered walls, and mabrled grey terrace floors. The balcony ballustrading is comprised of toughened non-rflective glass. The floor plan of the balcony and terrace areas is shown below in Figure 5, this has been abstracted form the survey plan.



**Figure 5 Site survey plan showing the projection of the second-floor terrace and balcony (highlighted in yellow), with approximate measurements included. (Source: ESA Surveys)**

Images of the second floor balcony and terrace areas can be seen in the Figures below, with View A and View B correlating with the markers indicated on the survey plan above in Figure 6.



**Figure 6** Photographs of the second-floor terrace area, with View A and View B referenced on the survey (Source: Gyde)

## Enclosed Terrace on the First Floor

An enclosed terrace area on the first floor was approved under planning application DA1983/99 (Consent reference: 83/134) and this is clearly visible on approved plan WD1. This is shown in Figure 7 below.

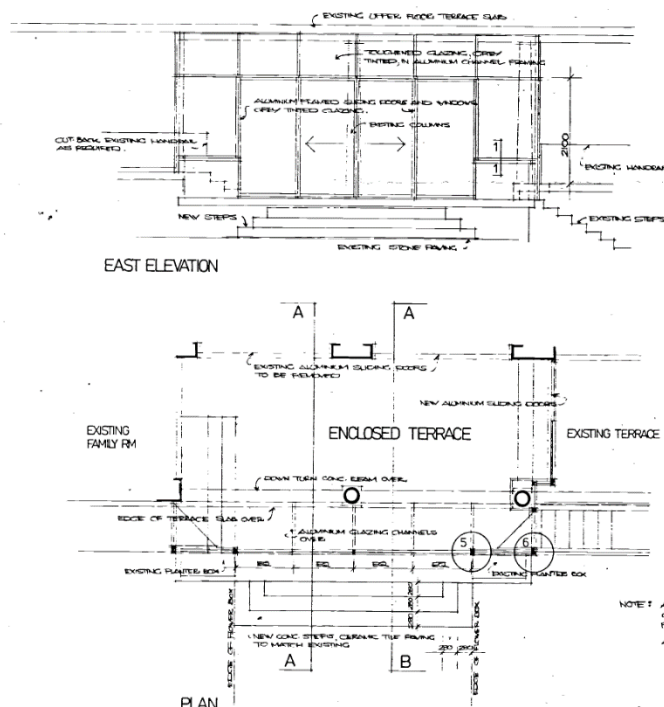


Figure 7 Plan WD1 showing enclosed terrace on the first floor, approved under planning application DA1983/99 (Consent reference: 83/134) (source: GIPA from Northern beaches Council)

The poor construction quality of the approved enclosed terrace was allowing water to ingress and causing damage to the structural integrity of the building. Consequently, the new owners were required to repair and reconstruct this element. The image in Figure 8 identifies the terrace area from an internal perspective.



Figure 8 Images detailing the enclosed terrace from an internal perspective (source: Gyde)



## First Floor Living Area

The first floor contains a living area that extends off the internal kitchen/diner. This room is adjacent to the enclosed terrace areas outlined above. This room features 6 sliding doors; these are glazed and have anthracite grey aluminium casings together with a marbled grey tile floor. An image is shown in Figure 9 below.

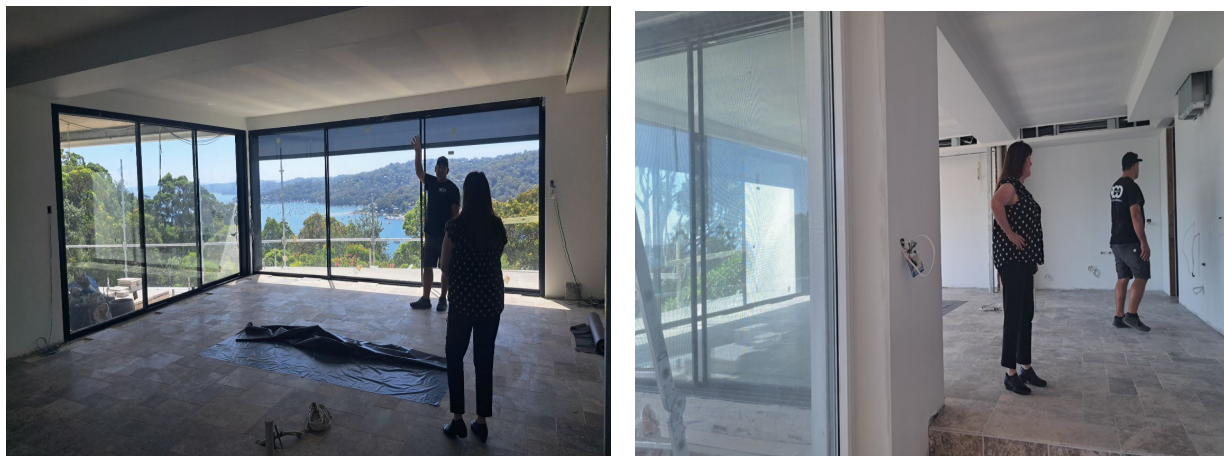


Figure 9 Internal views of the first floor living area living area (source: Gyde)

## 2.2.3 Existing Improvements relating to BLD2021/02619

The south side of the site behind the main dwelling also features a pool house, pool cabana and decking area. These are identified and described below.

### The Pool House

The site features a pool house immediately to the east of the swimming pool. This building follows the same footprint as plans approved under building approval 3035/79 and measures approximately 6.66 metres in total height. The building has been surveyed and this is shown in Figure 10 below.

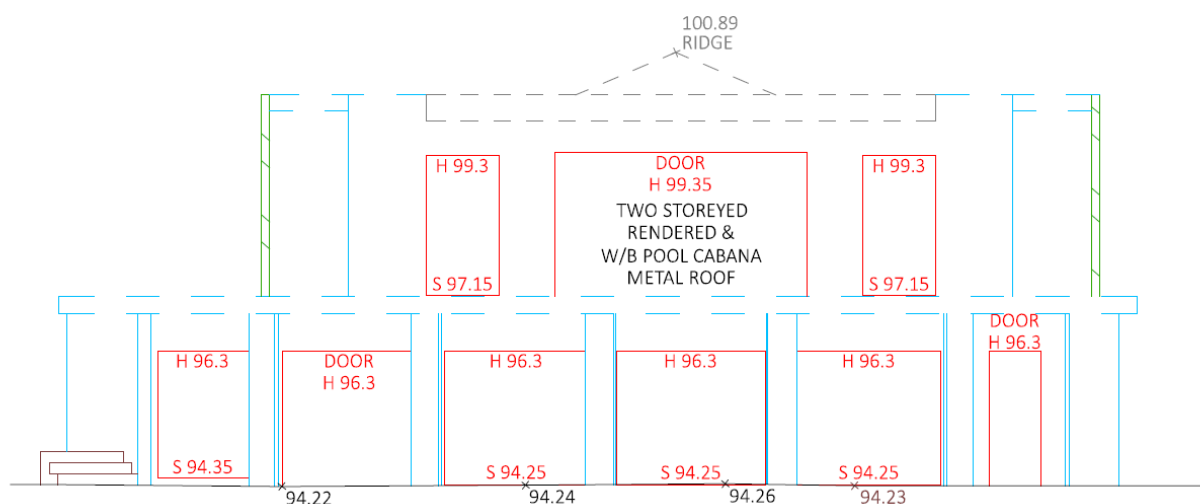


Figure 10 Site survey plan of the pool house (Source: ESA Surveys)

The Pool House also follows the same building aesthetic as the host dwelling, with a dark slate grey roof. Images of the pool house can be seen in Figures 11 and 12 below.



Figure 11 Images of the pool house (source: Gyde)

## The Pool Cabana

The site also features a pool cabana used as a BBQ area- this structure measures approximately 4.50 metres by 6.6 metres and is detailed in the images below.

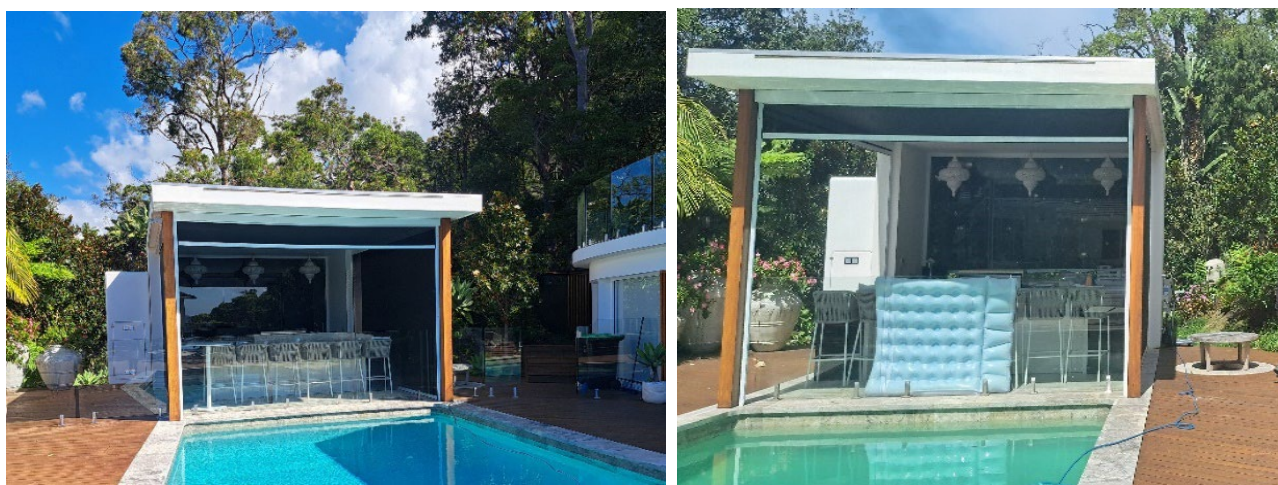


Figure 12 Images of the pool cabana (source: Gyde)

## Decking Area

The swimming pool is also surrounded by decking, this extends to both the pool house and the pool cabana. This covers approximately 100m<sup>2</sup> in total area. Images of the decking can be seen in Figure 13.





Figure 13 Images of the decking area (source: Gyde)

## 2.3 The surrounding locality

Clive Crescent is a quiet residential cul-de-sac, featuring a total of 6 large lot properties. The wider area is characterised by a predominantly large lot urban landscape, with large fully detached dwellings ranging from 2-4 storeys.

Clive Crescent can only be accessed via Lentara Road to the west, which siphons off south from Narla Road and Minkhara Road which lead to the main trunk road of Mona Vale Road (A3) which is approximately 1.8km to the south.

The site is immediately surrounded by the following development:

- To the north: 16 & 14 Illya Avenue (R5- Large Lot Residential)
- To the east: 6 Valley Close (C4- Environmental Living)
- To the south: 3A Clive Crescent (R5- Large Lot Residential)
- To the west: 5 Clive Crescent (R5- Large Lot Residential)





Figure 14      Aerial view of the surrounding locality with the site outlined in red (source: Near Map 2024)

2.4      Relevant Planning and Building Application History

Table 2      Planning History

Reference	Type	Description	Date	Decision
A1433/73	Building Application	Swimming Pool	19.11.1973	Approved
3035/79	Building Application	Additions to dwelling	28.08.79	Approved
DA1983/99 (83/134)	Planning Application	Alterations to existng dwelling house involving the closure of a terrace	21.04.1983	Approved
1126/84	Building Approval	Pool and alterations	26.04.1984	Approved
2114/87	Building Approval	Additions to dwelling	07.09.1987	Approved
808/94	Building Approval	Alterations and additions to dwelling	12.09.1994	Approved



### 3. Description of Development

#### 3.1 Overview

This application seeks to regularise external alterations to the dwelling, including extensions and alterations to the terrace and balcony areas. These aspects of the development relate to investigation **BLD2024/002/10**. The application also seeks to regularise the creation of an additional storey on the approved pool house and its conversion into a secondary dwelling, together with a modest pool cabana and a small area of decking. These aspects of the development relate to investigation **BLD2021/02619**.

For clarity, the investigations referenced above have been separated and addressed in turn, with the respective development particulars outlined in each.

#### 3.2 Development relating to BLD2024/00210:

There are 3 development particulars relating to the above referenced investigation. These are identified in Figure 15 below in blue (1), purple (2), and yellow (3).



Figure 15 Drone view of the approved dwelling with 3 development particulars identified in blue, purple and yellow (source: Gyde)

##### 3.2.1 1: Extension and Conversion of First Floor Terrace into Additional Living Space

Development particular 1 (identified in Figure 15 above in blue) relates to the conversion of the first-floor terrace into additional indoor living space. To facilitate this change, the wall on the northeastern side of the dwelling was extended forward by approximately 4.00 metres of the approved building line to be flush with the approved slab level below. This approved slab and footing is shown in Figure 16.

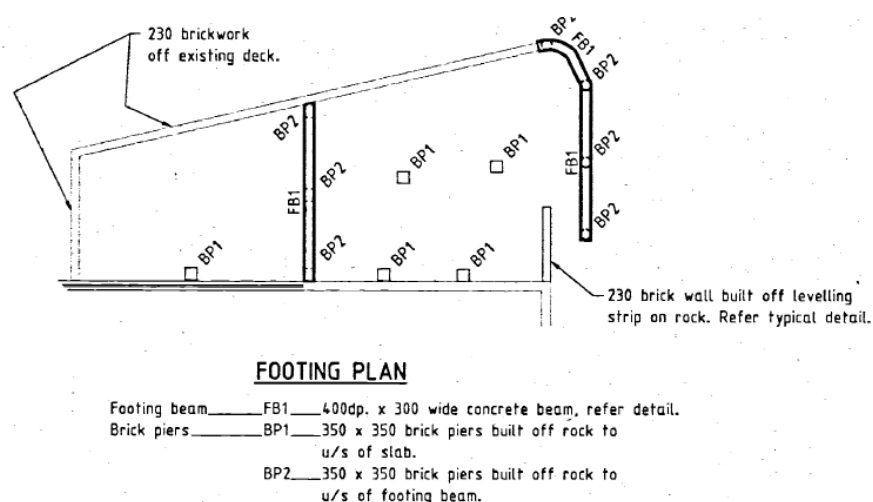


Figure 16 Approved footing plans (reference H1246-S1) for Building Approval 808/94 (source: GIPA request from NBC)

Full-height floor to ceiling glazed patio doors measuring 2.06 metres in height have also been installed to enclose the space. To be clear, the first-floor footings and slab have not been altered from the approved plans (reference H1246-S1 as shown in Figure 16 above), the space has simply been enclosed through the addition of walls and installation of glazed doors on top of the approved footings.

The changes proposed represent an approximate increase of 20m<sup>2</sup> to the internal living space of the main dwelling. This is a modest increase relative to the main dwelling, which covers more than 450m<sup>2</sup>. Figure 17 below shows an image of the extended and converted indoor living space from an internal perspective.



Figure 17 Internal view looking north-east from the extended and converted living areas (source: Gyde)

### 3.2.2 2: Extension and Enclosure of First Floor Terrace

The poor construction quality of the approved first floor balcony and enclosed terrace was allowing water to ingress and causing damage to the structural integrity of the building. Consequently, the new owners were required to repair and reconstruct this element.



As part of these restorative works, the enclosed terrace area was also extended forwards of the rear building line in approved plans of DA1983/99- Figure 18 identifies this area. This extension was by a modest amount, measuring approximately 4.00m in total. Similarly to development particular 1 outlined in 3.2.1, the extensions creating the enclosed terrace follow the existing approved slab and footings (Figure 16) and stay within this envelope.



Figure 18 The enclosed terrace area highlighted in yellow, which is built above the approved footings (source: Gyde)

### 3.2.3 3: Extension of Second Floor Balcony and Terrace

The plans approved under Building Approval 808/94 of September 1994 detail a 'stepped' balcony and terrace area, presented across two storeys. The first-floor terrace is approved as projecting of the rear building line by approximately 7.00 metres at the longest point, and 3.11 metres at the shortest. On the second floor, there is a smaller balcony projection approved, this measures approximately 3.00 metres. The approved floor plans are shown in the Figures below.

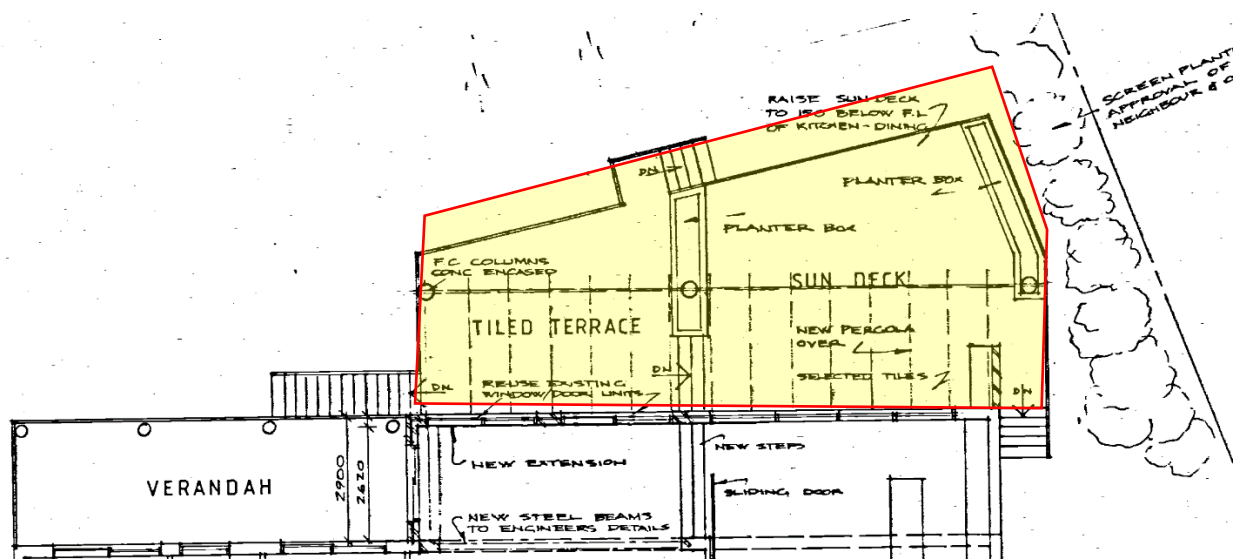


Figure 6 Approved first floor terrace and balcony (highlighted in yellow) (Source: GIPA from NBC)

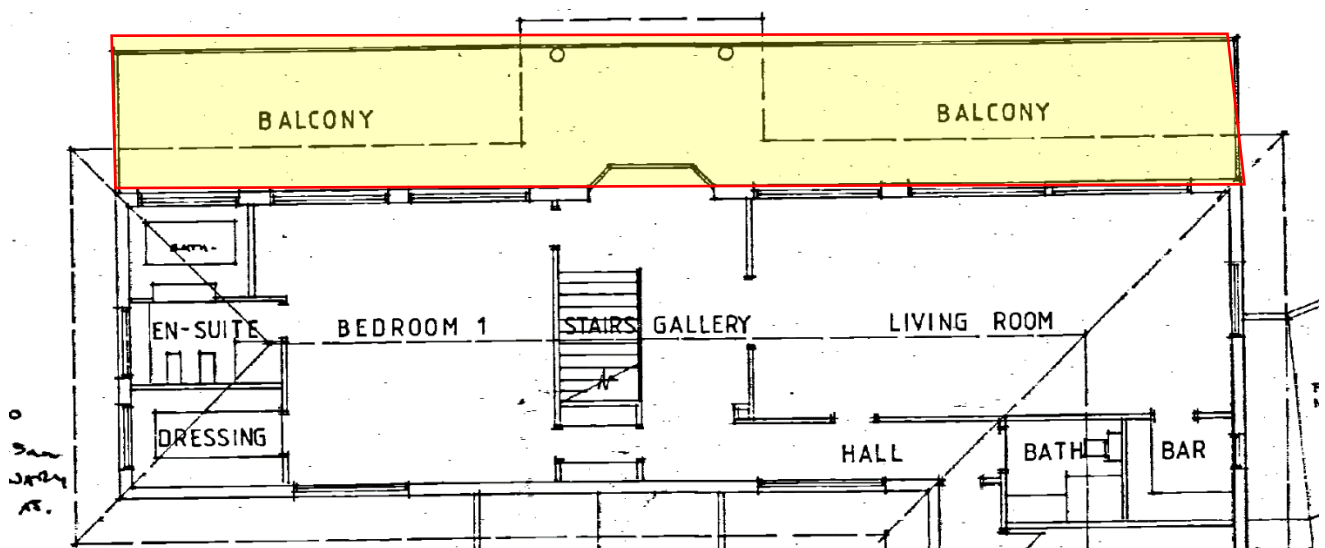
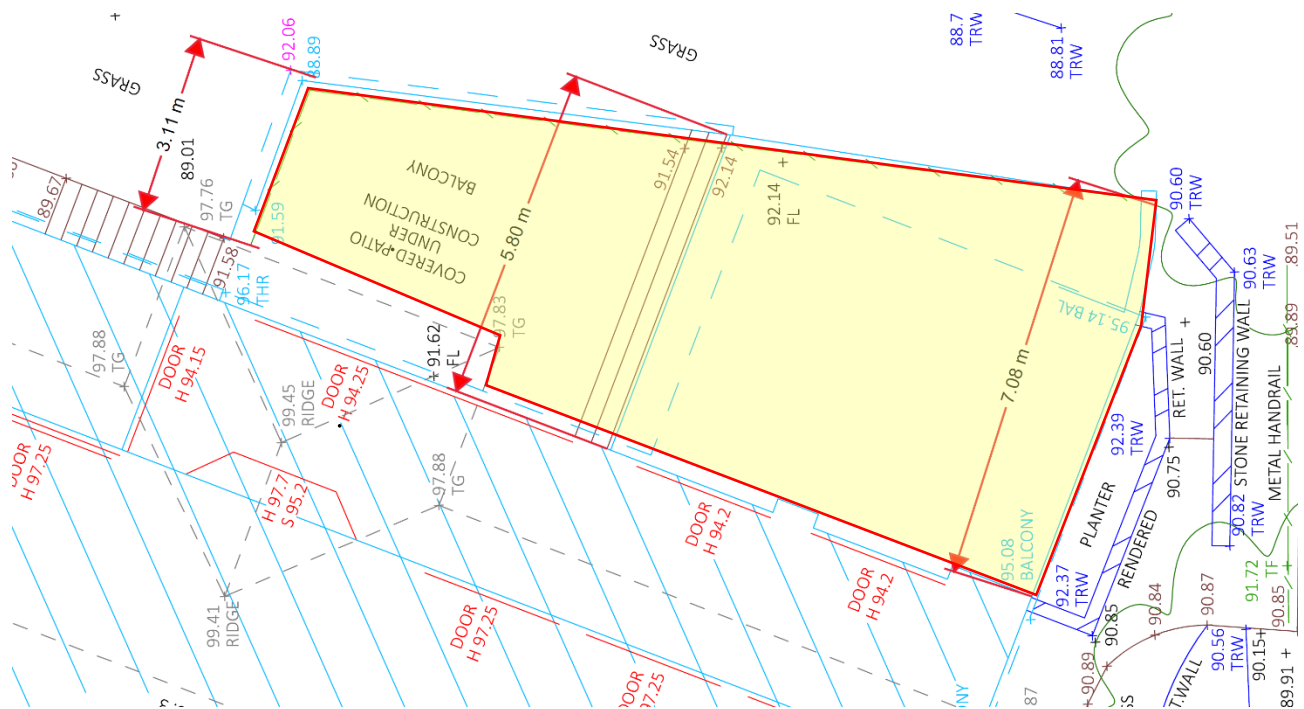


Figure 19 Approved second floor terrace and balcony (highlighted in yellow) (Source: GIPA from NBC)

The development featured on the site follows the footprint of the balcony and terrace under Building Approval 808/94 of September 1994 shown in Figures 18 and 19 above, albeit with a modest difference.

Rather than feature a 'stepped' balcony and terrace across two floors, the projection on the second floor is flush with the first floor below, utilising the slab and structural supports throughout. This appears as a uniform rear quadrilateral prism and represents an approximate 80m<sup>2</sup> extension to the approved second floor balcony area. The floor plan of the second floor balcony and terrace area is shown in the Figure below, this has been abstracted from the survey plan.





**Figure 20** Site survey plan showing the projection of the terrace and balcony (highlighted in yellow), with approximate measurements included. (Source: ESA Surveys)

As with the development particulars outlined in 3.2.1 and in 3.2.2, the extensions proposed on the second-floor balcony area follow the existing approved slab and footings on the first floor (Figure 16) and do not result in any extension to the approved envelope.

The image in the Figure below identifies the second-floor balcony projection positioned directly above the approved building footings of the first floor. The balcony area utilises the roof of the enclosed terrace area on the first floor as useable outdoor space.



**Figure 21** The extended balcony on the second floor outlined in yellow, built above the approved footings and enclosed terrace area of the first floor (source: Gyde)



The aerial images below provide additional context to the changes that have occurred in recent years to the second-floor balcony area and first floor terraces. From the satellite history, it appears that the works to extend the first-floor terrace and second floor balcony area were undertaken by the previous owners in late 2021, with the development complete by January 2022.



**Figure 22** Aerial view of the site change over time to show the change to the second floor. (source: NeapMap/ Gyde)

The extensions undertaken by the previous owners without consent in 2022 amounted to an approximate 42m<sup>2</sup> increase to the floor area covered by the balcony and terrace areas on the second floor. When the current owners took proprietorship of the property, they rectified the poor-quality construction of the first and second floor balcony and terrace areas.

In the process of reconstruction, the current owners also extended the second floor so that the building line became flush with the first floor below- this can be seen in the 2024 satellite images shown in the Figure above. The modest alterations and extensions undertaken by the current owners amount to approximately 38m<sup>2</sup>.

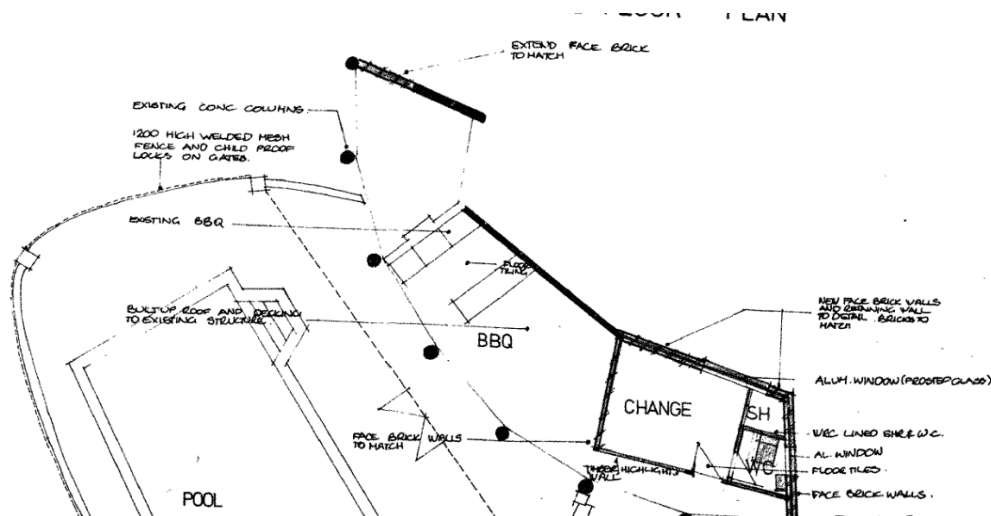
Therefore, the total area of extended balcony and terrace areas on the second floor proposed to be extended is approximately 80m<sup>2</sup>.

### 3.3 Development relating to BLD2021/02619:

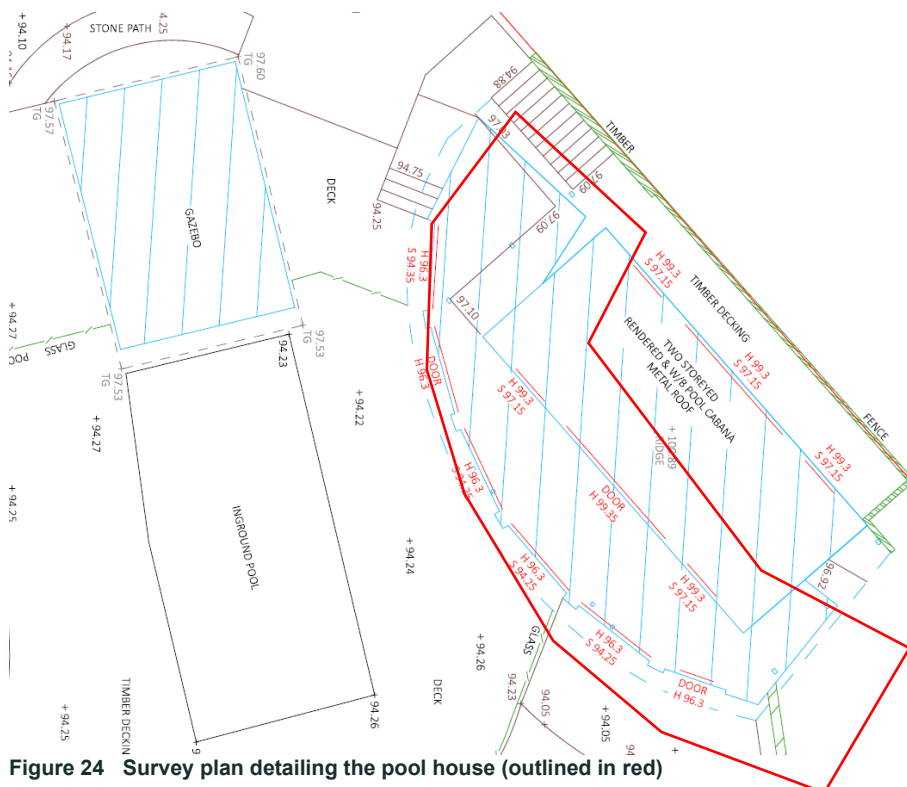
The development proposal relating to this investigation has 4 distinct particulars. These are outlined below.

### 3.3.1 1: First Storey Addition to the Approved Pool House

The pool house on site was approved in 1979, under building approval 3035/79 (see Figure 23 below) and the building has been referenced on all subsequent approved site plans. The footprint of the building follows the approved plans, and this is evident when comparing them with the survey. There is a slight extension of the building line towards the boundary, however this does not protrude any further than the approved building line (outline in red in Figure 24 below). The 'long columns' referenced on the 1979 approval are still present, and these are detailed in blue on the survey plan.



**Figure 23** Approved plans of the pool house under Building Approval 3035/79 (source: GIPA request to NBC)



**Figure 24** Survey plan detailing the pool house (outlined in red)

Although the principle of a structure and the footprint are the same as approved, a question remains surrounding the number of storeys that the pool house should have. Through a GIPA request to Northern Beaches Council, it appears that no elevations exist for the approved pool house. Therefore, it remains unclear if the pool house was approved as a single storey or two storey building. Regardless, it is clear that consent for a two-storey pool house was explicitly sought by previous owners. Consequently, the new owners wish to regularise the pool house as a two-storey building.

As shown in the survey elevation below, the pool house measures approximately 6.6 metres to the ridge, meaning the building is almost 2 metres below the Height of Building development standard of 8.5 metres outlined in the PLEP.

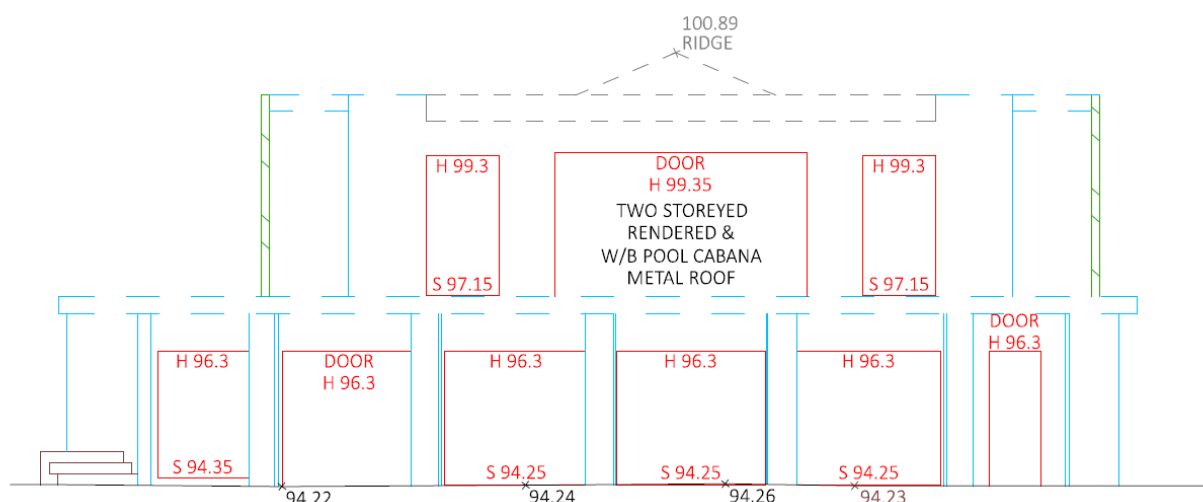


Figure 25 Site survey plan of the pool house (Source: ESA Surveys)

### 3.3.2 2: Conversion of Pool House to Secondary Dwelling

In addition to regularising the pool house as a two-storey building, it is proposed to use the pool house as a secondary was a secondary dwelling. This is permissible with consent in the R5 zone and consistent with the objectives of the PDCP.

### 3.3.3 3: Erection of Pool Cabana

Using NearMap, it appears that previous owners began construction in 2019 for the erection of a single storey pool cabana, however the relevant consent was never sought for these works. The pool cabana measures approximately 4.50 metres by 6.6 metres, covering an area of approximately 29m<sup>2</sup>.

The construction of a cabana is specified development provided for in 2.17 the ECD SEPP 2008, under Subdivision 9 Cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses. Such developments are considered exempt from requiring planning consent, providing that the development standards outlined in 2.18 are complied with.

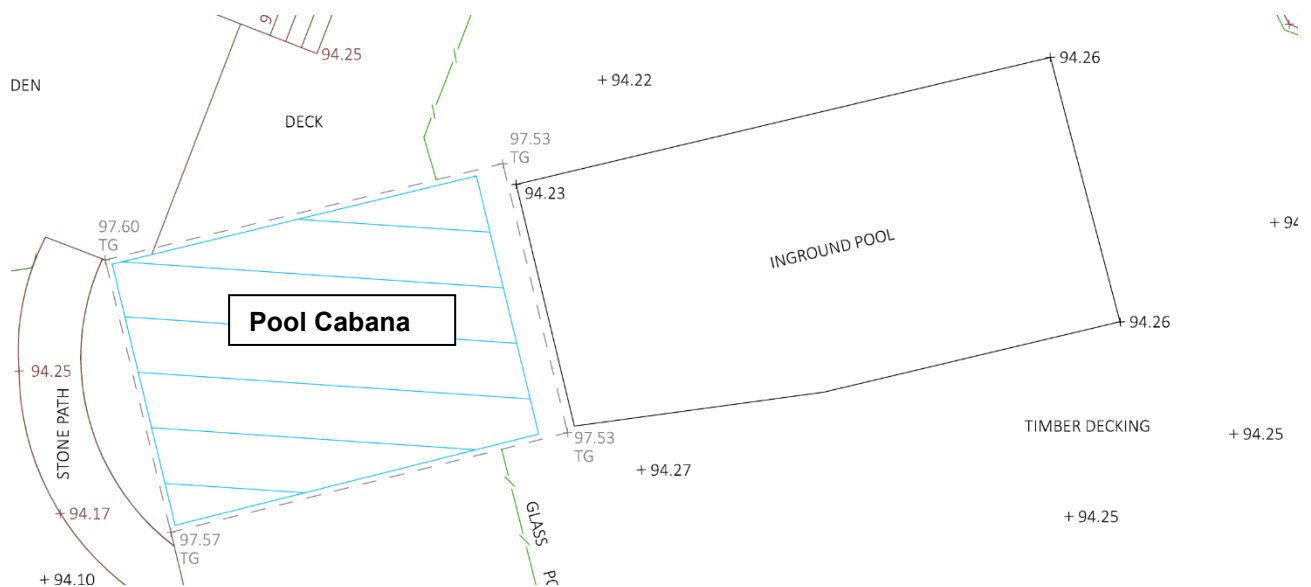
2.18 1(b) (i) states that cabanas must not exceed 50m<sup>2</sup> in floor area, and 2.18 (c) states they must not exceed 3 metres in height. The building on site measures approximately 29m<sup>2</sup> in floor area and 2.5 metres in height, therefore complying with the standards prescribed.

The pool cabana is pictured in Figure 26 together with a floor plan provided at Figure 27.





**Figure 26** Images of the pool cabana (source: Gyde)



**Figure 27** Survey plan of the pool cabana (source: Gyde)

### 3.3.4 4: Installation of Pool Decking

As with the pool house and the pool cabana, the current owners seek to regularise the decking area installed by previous owners. The decking area covers approximately 100m<sup>2</sup> in total area and this is detailed in the aerial images below, with the changes visible between March 2019 through to November 2019.



Figure 28 Images of the decking, with the source: Gyde)

The installation of decking is specified development provided for in 2.11 of the ECD SEPP 2008, under Subdivision 6, Balconies, decks, patios, pergolas, terraces and verandahs. Such developments are considered exempt from requiring planning consent, providing that the development standards outlined in 2.12 are complied with.

The development standard stipulated in 2.12 (b) specifies that the decking must not exceed 25m<sup>2</sup>. The decking on site covers approximately 100 m<sup>2</sup>, thus exceeding the threshold to be considered exempt development. The current owners are therefore seeking consent for the installation of the decking as shown in Figure 28.

## 4. Statutory Planning Considerations

### 4.1 Overview

The relevant statutory framework considered in the preparation of this report comprises:

- *Environmental Planning and Assessment Act 1979*;
- *Environmental Planning and Assessment Regulation 2021*;
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*;
- *State Environmental Planning Policy (Housing) 2021*;
- *State Environmental Planning Policy (Resilience and Hazards) 2021*;
- *State Environmental Planning Policy (Resources and Energy) 2021*;
- *State Environmental Planning Policy (Sustainable Buildings) 2022*;
- *State Environmental Planning Policy (Planning Systems) 2021*;
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*;
- *Northern Beaches Council Local Environmental Plan 2014*

Where relevant, these are addressed below.

### 4.2 *Environmental Planning and Assessment Act 1979*

#### 4.2.1 Section 4.15 of EP&A Act 1979

Section 4.15(1) of the EPA Act specifies the matters which a consent authority must consider when determining a development application. The relevant matters for consideration under Section 4.15 of the EPA Act are addressed in the table below.

**Table 3**      **Section 4.15 of EP&A Act 1979**

Section	Comment
Section 4.15(1)(a)(i) Any environmental planning instrument	Consideration of relevant instruments is discussed in Chapter 4 of this SEE.
Section 4.15(1)(a)(ii) Any draft environmental planning instrument	Not relevant to this application.
Section 4.15(1)(a)(iii) Any development control plan	Consideration of relevant the development control plan is discussed in <a href="#">Section 4.7</a> of this SEE.
Section 4.15(1)(a)(iia) Any planning agreement	Not applicable to this site.
Section 4.15(1)(a)(iv) Matters prescribed by the regulations	Refer to <a href="#">Section 4.3</a> .
Section 4.15(1)(b) - (e)	Refer to Chapter 4 of this SEE for consideration of (b), (c) and (e).  Matter (d) relates to submissions and is a matter for the consent authority following public exhibition of the development application.



#### 4.2.2 Section 4.46 – Integrated Development

This section of the EPA Act defines integrated development as matters which require consent from Council and one or more approvals under related legislation. In these circumstances, prior to granting consent Council must obtain from each relevant approval body their General Terms of Approval (GTA) in relation to the development. The development is not considered to be integrated development.

### 4.3 Environmental Planning and Assessment Regulation 2021

#### 4.3.1 Clause 61 – Additional matters that consent authority must consider

Clause 61(1) prescribes that the consent authority in determining a DA must consider Australian Standard AS 2601 – 2001. Any demolition works will be undertaken in accordance with AS 2601-1991. The Demolition of Structures published by Standards Australia.

### 4.4 Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) lists and protects threatened species, populations and ecological communities that are under threat of extinction in NSW. Applicants must consider whether their proposal will exceed the following Biodiversity Offset Scheme Development Thresholds:

1. Exceeding the clearing threshold on an area of native vegetation
1. Carrying out development on land included in the Biodiversity Values Land Map –
2. Having a 'significant effect' on threatened species or ecological communities

Part of the site is included on the Biodiversity Values Land Map (see Figure 29 below) however the building works has been carried out on the existing dwelling, with no additional building envelope encroaching onto the surrounding land. The works have not resulted in the clearing of any vegetation. Consequently, the proposal does not impact any vegetation.

The site is not mapped as having Biodiversity Values on the Biodiversity Values Map and Threshold Tool. The proposal is not expected to have a significant effect on any threatened species of ecological communities. Therefore, the proposal will not exceed the Biodiversity Offset Scheme Development Thresholds.



Figure 29 Biodiversity Values Map with site outlined in yellow (Source: NSW Biodiversity Values Map and Threshold Tool)

## 4.5 State Environmental Planning Policies

### 4.5.1 SEPP Resilience and Hazards. Chapter 4 - Remediation of Land

The provisions of this chapter establish a State-wide planning approach for the remediation of contaminated land. Pursuant to s4.6 the 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.*

The land has no known history of contamination. Planning and Building records date back to 1979 with no reference to contamination. Therefore, with the evidence available it is considered that there is no contamination present on site.

### 4.5.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) – 2004

The aim of this Policy is to establish a scheme to encourage sustainable residential development (the BASIX scheme). This on-line assessment tool calculates the dwelling's energy and water scores based on a range of design data.

SEPP BASIX requires the submission of a BASIX certificate to accompany an application for development consent for any "BASIX affected building". A BASIX certificate for the residential component of the development can be obtained at the request of Council.

## 4.6 Pittwater Local Environmental Plan 2014

### 4.6.1 Zoning and Permissibility

As shown in the Figure 30 below, the site is zoned R5 Large Lot Residential under the provisions of the Pittwater Local Environmental Plan 2014 (the **PLEP 2014**). The proposal is characterised as a dwelling house and residential accommodation in the PLEP 2014 dictionary. Dwellings and secondary dwellings are permissible with consent in the R5 zone.

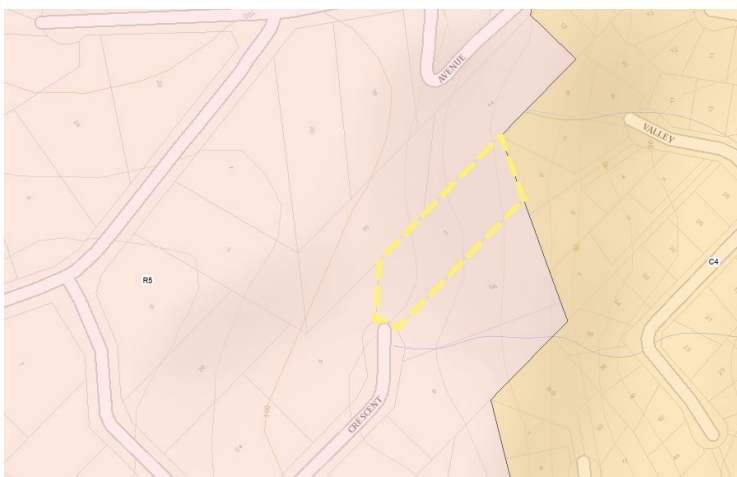


Figure 30 Site Zoning Map (Source: NSW Spatial Viewer)

The objectives of the R5 Large Lot Residential zone are outlined below.


1. **To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.**
2. **To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.**
3. **To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.**
4. **To minimise conflict between land uses within this zone and land uses within adjoining zones.**
5. **To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.**

The proposal is consistent with the objects of the zone because as it offers a high standard of residential amenity whilst minimising impacts on the surrounding environment and the adjacent zones. The site benefits from being a large lot, measuring 4134m<sup>2</sup>, which provides a significant buffer to adjacent sites. The site features a large residential dwelling that has been in situ for more than 50 years, the development extensions, alterations and additions do not unreasonably increase the demand on public services as there will not be a net-provision of primary dwellings. The residential use of the site is ultimately compatible with the surrounding residential land uses in the immediate vicinity.

#### 4.6.2 Relevant Clauses

An assessment of the proposal against the relevant provisions of the **PLEP 2014** is set out in the following table.

**Table 4** Assessment against relevant provisions of The Pittwater Local Environmental Plan 2014

Clause	Provision	Assessment
4.3 Height of buildings	<p>Establishes a maximum building height of 8.5m for the site.</p>  <p>Height of Buildings Map from the PLEP 2014 with the site in red (Source: NSW legislation)</p>	<p>The height of the main building has not been altered or extended. As outlined in <a href="#">3.3.1</a>, the first storey addition to the approved pool house will measure 6.6m in height from the ground floor level.</p> <p>This maximum height has been calculated using the survey data, which details a RL100.89 to the ridge, and RL 94.22 to the ground floor.</p> <p>6.6m is almost 2 meters below the 8.5m Height of Building limit stipulated in the PLEP. The building height is therefore consistent with the PLEP.</p>
4.4	Floor space ratio ( <b>FSR</b> ).	No FSR has been established for the site under the PLEP. The



Clause	Provision	Assessment
		proposal includes a modest increase to internal living areas at the dwelling; however, this is not restricted by the PLEP.

## 4.7 Pittwater 21 Development Control Plan (as amended)


It is specified in section 3.42 of the EPA Act, that the purpose of a development control plan (DCP) is to provide guidance on:

























- giving effect to the aims of the PLEP 2014
- facilitating development that is permissible under the PLEP, and
- achieving the objectives of the R5 Zone applying to the site.

The provisions of a DCP made for that purpose are not statutory requirements. An assessment of the proposal against the relevant provisions of the Pittwater 21 DCP is set out in the following table. The site is located in the 'Bayview Heights Locality' and as such the requirements of A4.2 apply to the site. In any instances where the proposal departs from a numerical requirement this is assessed in the context of the objectives or aims of the numerical requirement (where available) and the principal purpose of the Pittwater 21 DCP as noted above.

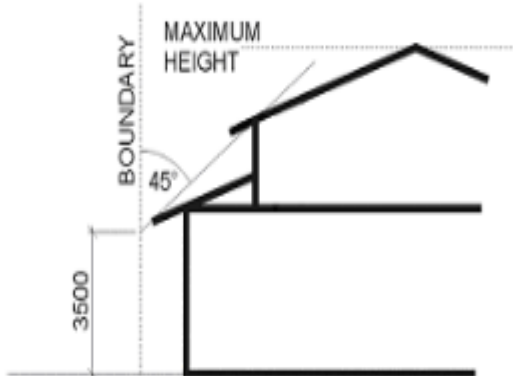
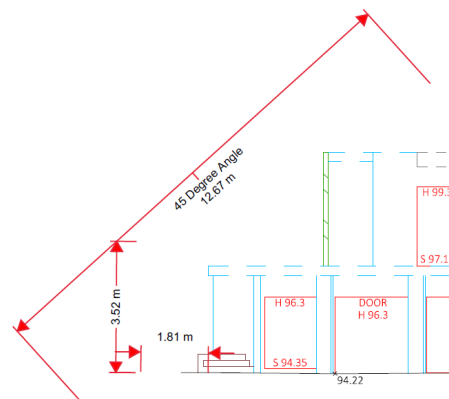
Table 5 Assessment against relevant provisions of Pittwater Development Control Plan 2004

Clause	Provision	Assessment
<b>A4.2 Bayview Heights Desired Character</b>	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.	<p>The site proposes a modest secondary dwelling in the form of the Pool House.</p> <p>There is minimal environmental impact as the Pool House is an approved structure and has been since at least 1979 under Building Approval 3035/79.</p> <p>The unauthorised works are for a first-floor extension above the existing Pool House. Due to the location on the site, the site topography and extensive vegetation, this building is mostly obscured from the neighbouring dwellings and has no impact.</p>
<b>C1.5 Visual Privacy</b>	<p>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).</p> <p>Elevated decks and pools, verandas and balconies should incorporate privacy screens</p>	<p>The site has a large overall area, and all private open space is adequately screened due to the significant separation distances between the host dwelling (3 Clive Crescent) and adjacent properties.</p> <p>All decks, pools and balconies are located at the front and rear of the building.</p>

Clause	Provision	Assessment
	<p>where necessary and should be located at the front or rear of the building.</p> <p>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.</p>	<p>There are no direct views into lower-level dwellings. A slight glimpse of the neighbouring property can be seen through dense mature vegetation however this does not cause any impacts. This is shown in the pictures below taken by Gyde in May 2024.</p>  <p>(Source: Gyde)</p>
<b>C1.11 Secondary Dwellings and Rural Worker's Dwellings</b>	<p>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.</p> <p>A secondary dwelling or rural worker's dwelling contains not more than two (2) bedrooms and not more than one (1) bathroom.</p> <p>Where the secondary dwelling or rural worker's dwelling is separate from the principal dwelling, only one storey will be allowed.</p>	<p>The Pool House proposed as a secondary dwelling does not result in the provision of more than 2 dwellings on the land.</p> <p>The secondary dwelling proposed has a single bedroom and as such complies.</p> <p>The secondary dwelling is two storeys in height, however as per the DCP, design flexibility for second storey development has been provided. As per the survey, the building measures 6.66m in total height, compared to the primary dwelling of 11.68m, this is subservient in comparison. The total height is also</p>

Clause	Provision	Assessment									
		<p>below the PLEP 2014 Height of Building limit of 8.5m.</p> <p>Despite the provision of an upper level, as discussed above the Pool House has no detrimental impacts on neighbouring dwellings.</p>									
<b>C1.14 Separately Accessible Structures</b>	<p>A separately accessible structure may be permitted for use as a studio, home office, workshop area, rumpus room and the like, provided that:</p> <p>it is ancillary to a dwelling;</p> <p>it is not designed for separate habitation and does not contain any cooking facilities.</p>	<p>The Pool Cabana is ancillary to the main dwelling and is used incidentally to the pool. It is not designed for separate habitation and does not feature any permanent cooking facilities.</p>									
<b>D2.2 Scenic protection - General</b>	<p>Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.</p>	<p>The development site is screened from public view due to the dense vegetation. Although the water can be seen from the dwelling, these are far reaching glimpses and when viewed from any wider public vantage point the dwelling assimilates into the landscape, primarily due to the colour palette and significant distances.</p>									
<b>D2.3 Building colours and materials</b>	<p><b>Controls</b> External colours and materials shall be dark and earthy tones as shown below:</p> <table border="0"> <tr> <td> Black ✓</td> <td> Dark grey ✓</td> <td> Dark green ✓</td> </tr> <tr> <td> Dark brown ✓</td> <td> Mid grey ✓</td> <td> Green ✓</td> </tr> <tr> <td> Brown ✓</td> <td> Dark blue ✓</td> <td></td> </tr> </table>	 Black ✓	 Dark grey ✓	 Dark green ✓	 Dark brown ✓	 Mid grey ✓	 Green ✓	 Brown ✓	 Dark blue ✓		<p>All materials included as part of the development follow the dark and earthy tones shown in the material colour palette.</p>
 Black ✓	 Dark grey ✓	 Dark green ✓									
 Dark brown ✓	 Mid grey ✓	 Green ✓									
 Brown ✓	 Dark blue ✓										
<b>D2.6 Side and rear building line</b>	<p>The minimum side and rear building line for built structures including pools and parking structures other than driveways, fences and retaining walls, shall be in accordance with the following:</p> <p>6.5m (side)</p> <p>20m (rear)</p>	<p>The rear setback is more than 40.00 metres, and the side setbacks of the extensions follow the approved building envelope, so they do not encroach further towards the boundary than is already approved under relevant consents.</p> <p>When having regard to the pool house, although the building is closer (1.8m) than the 6.5m stipulated in the DCP, the extension of the building line westwards towards the boundary does not encroach</p>									



Clause	Provision	Assessment
		any closer than the distance approved under previous consents. Therefore, there are no adverse impacts that arise.
<b>D2.7 Building envelope</b>	<p>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).</p> 	<p>The extensions and alterations to the main dwelling do not alter the building envelope in a way that contradicts D2.7.</p> <p>The Pool House follows the requirement:</p> 
<b>D2.12 Construction Retaining walls, terracing and undercroft areas</b>	<p>Lightweight construction and pier and beam footings should be used in environmentally sensitive areas.</p> <p>Retaining walls and terracing shall be kept to a minimum.</p> <p>On steeper slopes, preference is given to the use of stable rock ledges and escarpments to reduce the visual bulk of buildings. Where retaining walls and terracing are visible from a public place, preference is given to the use of sandstone or sandstone like materials.</p> <p>In the provision of outdoor entertaining areas, preference is given to timber decks rather than cut/fill, retaining walls and/or terracing.</p> <p>Undercroft areas shall be limited to a maximum height of 3.5 metres. Adequate landscaping shall be provided to screen undercroft areas.</p> <p>Timber Log Retaining Walls Not Permitted</p>	<p>Lightweight construction has been used in the terraces and balconies. Retaining walls have been kept to a minimum, with the reinforcing of existing approved retaining walls where appropriate.</p> <p>No retaining walls are visible from public spaces and the stable rock ledge has been used to support the development, as was the case with the approved building footings plans (reference H1246-S1) for Building Approval 808/94.</p> <p>Timber deck is used for the entertaining area surrounding the pool, rather than cut/fill.</p> <p>There are no undercroft areas or timber walls proposed.</p>

## 5. Assessment of Likely Impacts

### 5.1 Overview

This section identifies and assesses the impacts of the development with specific reference to the heads of consideration under Section 4.15 of the Act.

### 5.2 Context and Setting

The context and setting of the development site is described in Section 2.3 of this Statement. Further consideration of the compatibility of the proposal and its surroundings can be undertaken with regard to the Land Environment Court Planning Principle on “compatibility with context” in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191. In order to test whether a proposal is compatible with its context, the following two questions can be asked:

**Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.**

The additional extensions and alterations to the balcony and terrace areas, together with the Pool House, Pool Cabana and decking will not result in any additional physical impacts on surrounding development. There will be no detrimental impact in terms of view loss, setbacks, privacy, or overshadowing. The balcony and terrace areas have been extended and altered within the approved footing envelope of the constructed building. There are no impacts in relation to bushfire, access, traffic, built form, neighbourhood character, views, or reflectivity.

**Is the proposal’s appearance in harmony with the buildings around it and the character of the area?**

The existing built form is an appropriate response to surrounding development in the locality. It is of similar bulk and scale of adjoining and adjacent developments in the vicinity. The proposal maintains the existing development’s appearance within the large lot urban landscape and does not detract from the character of the area. The building works blend in to the existing building and due to the topography and vegetation on the site, are hidden for the most part from public and private domains.

### 5.3 Natural Environment

#### 5.3.1 Flora and fauna

The proposal is limited to the extension and alteration of existing structures within the approved footings, and consequently the development does not encroach on any additional land. The building works therefore has no adverse impacts on flora and fauna.

#### 5.3.2 Tree removal

No trees are impacted or removed as a result of the development as proposed.

#### 5.3.3 Soils

The site is mapped as having *Class 5 Acid Sulfate Soils*. The building works are covered by an existing building and hard standing. Rainwater in these areas is captured through the drainage infrastructure on site and discharged through stormwater infrastructure. Consequently, minimal infiltration and impact to site soils is expected to occur given the minimal exposed soils and relevant drainage infrastructure in the developed areas.

### 5.3.4 Flooding

The site is not identified as being in an area vulnerable to flooding, as defined on the NBC Flood Hazard Map (see Figure 31 below). The building works do not increase the overall hard surface area and water catchment. Consequently, there are no identified flood risks.

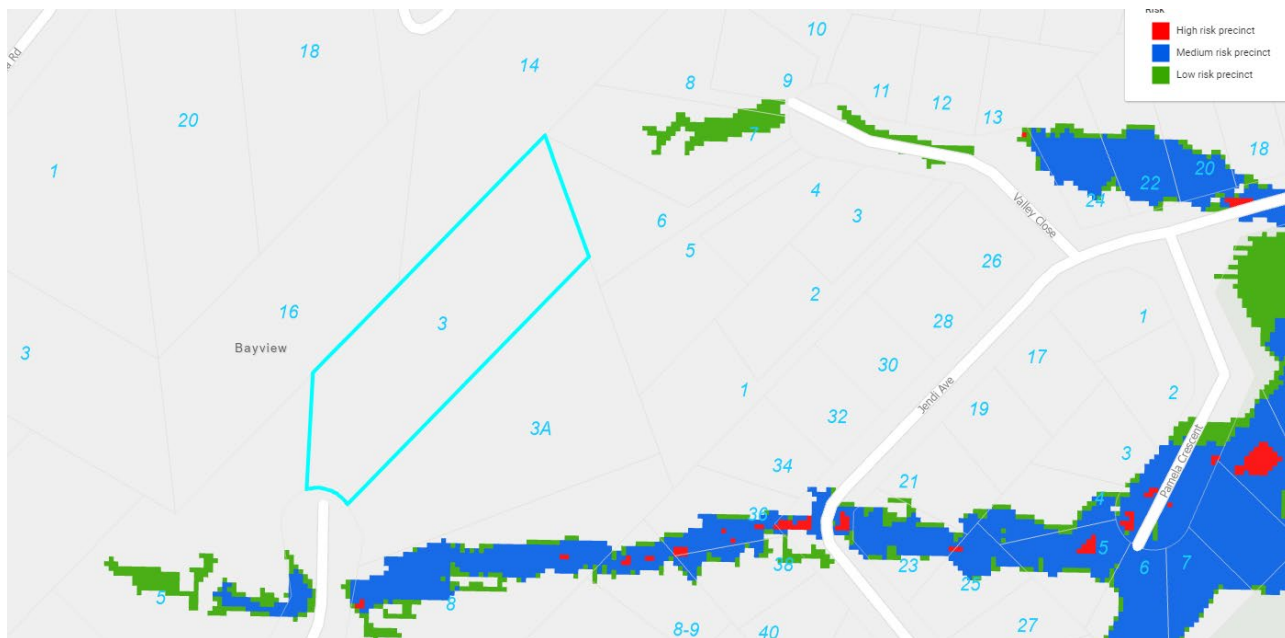


Figure 31 Flood Hazard Map (Source: Northern Beaches Council)



## 5.4 Built Environment

### 5.4.1 Privacy and Overshadowing

The development as proposed does not cause the overshadowing of neighbouring properties. The bulk and massing of all extensions are contained within the approved slab footprint and do not include any additional projections that would impact any neighbours. Below, an impact assessment has been undertaken in relation to the relevant neighbouring properties.

#### 3A Clive Crescent

3A Clive Crescent is closest neighbour to the balcony and terrace areas, located approximately 8 metres eastwards at the closest point. The proposals do not raise any privacy concerns or cause overshadowing impacts- a minor glimpse of the roof is visible, with the remainder of the dwelling entirely screened by the densely vegetated boundary and topographic changes. The images below show the relationship between the second-floor balcony and terrace extensions and the neighbouring property at 3A Clive Crescent.

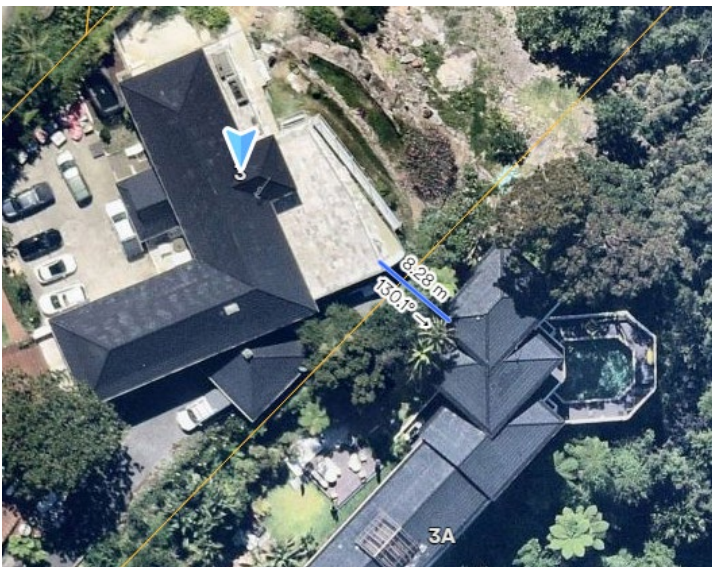


Figure 32 Relationship between the second storey balcony extensions 3A Clive Crescent (source: Gyde)



Figure 33 View from the second-floor balcony looking eastwards towards 3A Clive Crescent (source: Gyde)

## 16 Illya Avenue

16 Illya Avenue lies approximately 25m to the west of pool house at the closest, however this is believed to be an ancillary building within the plot, with the main dwelling approximately 28m to the north. The topographic changes and dense vegetation screen the majority of the pool house. A minor glimpse is visible through small gaps in the vegetation, although this results in two blank elevations facing one another at a distance of at least 25m. Given this distance and the absence of glazing, no adverse impacts privacy or overshadowing arise. The images below show the relationship between the pool house and the neighbouring property at 16 Illya Avenue. The works to the main house cannot be seen from 16 Illya Avenue due to the orientation of the dwelling, with the exception of one corner of the balcony. However, this from an obscure angle and does not affect views or privacy of the adjoining dwelling.

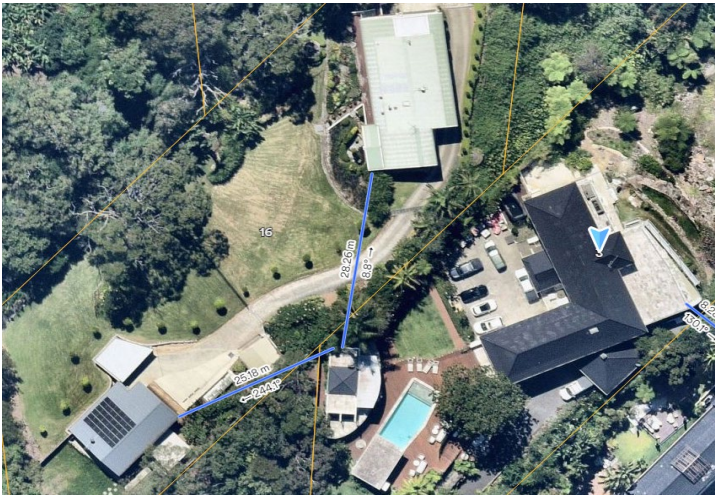


Figure 34 Relationship between the second storey balcony extensions 3A Clive Crescent (source: Gyde)



Figure 35 View from the pool house to the blank elevation 25m away at 16 Illya Avenue (source: Gyde)

## 6 Valley Close

6 Valley Close is located approximately 55 metres north of the to the balcony and terrace areas, at the closest point. The proposal does not raise any privacy concerns or cause overshadowing impacts by virtue of the separation distance and the vegetation. A minor glimpse of the dwelling is visible through a gap in the vegetation; however, this is miniscule and does not present any concerns. The images below show the relationship between the second-floor balcony and terrace extensions and the neighbouring property at 6 Valley Close.





Figure 36 Relationship between the second storey balcony extensions and 6 Valley Close (source: Gyde)



Figure 37 View from the second-floor balcony looking northwards towards 6 Valley Close (source: Gyde)

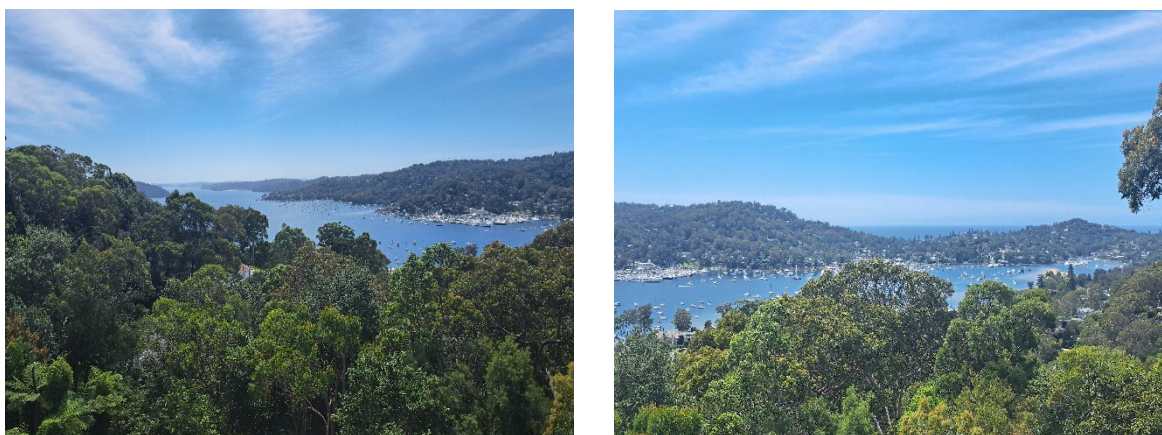
#### 5.4.2 View Loss

The building works cause no issue of view loss to neighbouring properties. The height of the main building has not been increased from the approved 11.68m. As with the privacy and overshadowing impacts analysis above, the separation distances and vegetation surrounding the site provide natural screening and do not raise any concerns.

#### 5.4.3 Visual impacts

The development site is screened from public view due to the dense vegetation that exist both within and adjacent to the boundary. Although the water can be seen from the dwelling, these are far reaching glimpses and when viewed from any wider public vantage point the dwelling assimilates into the landscape, primarily due to the colour palette and significant distances. Figure 38 below shows the extent of vegetation that screens the dwelling on the northern boundary and obscures any visual impacts on the landscape.

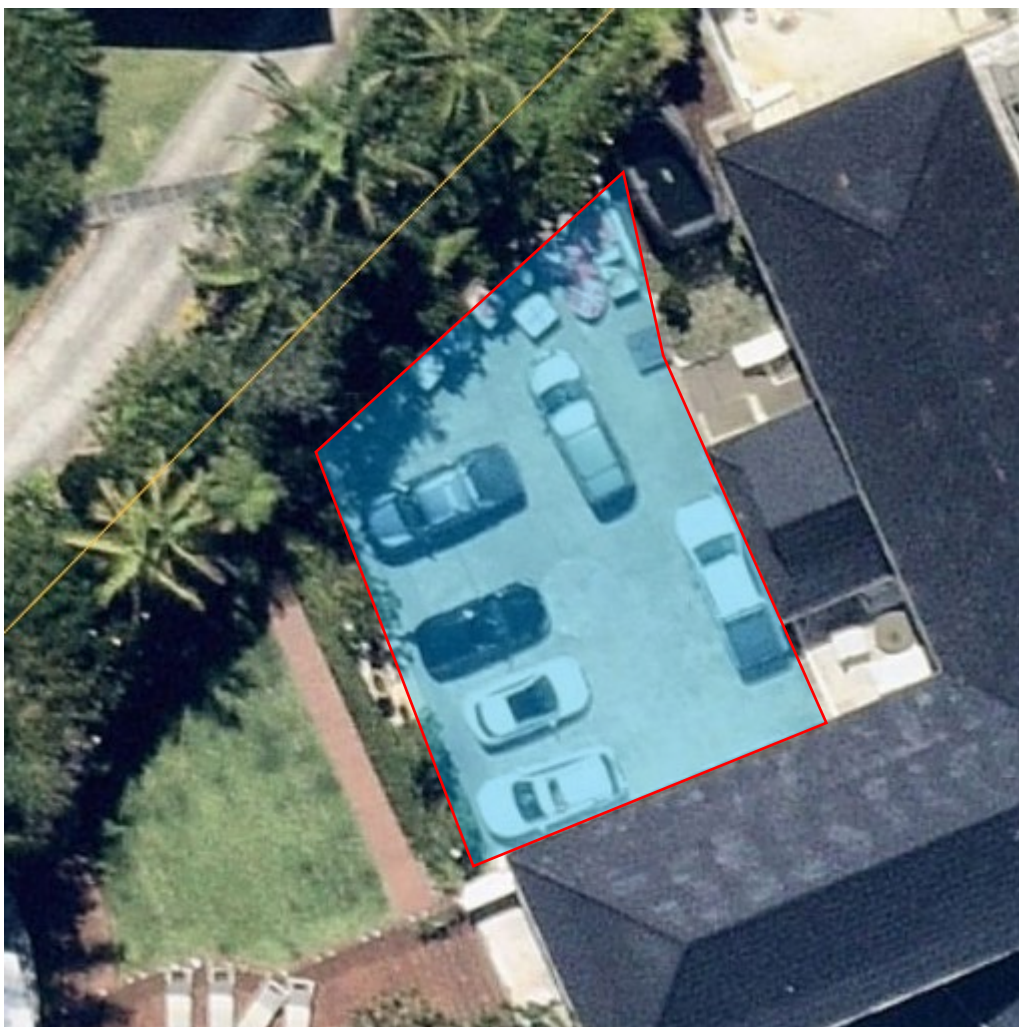




**Figure 38** View from the second floor balcony looking north with dense vegetation shown that screens the dwelling from wider vantage points (Source: Northern Beaches Council)

#### 5.4.4 Traffic and Parking

The proposal does not alter the existing traffic and parking arrangements, nor does it increase the required parking capacity of the site. The approved large parking area can comfortably accommodate multiple vehicles as shown in the Figure 39 below.



**Figure 39** Aerial image of the approved driveway and parking area identified in blue (Source: NearMap)

#### 5.4.5 Internal amenity

The unauthorised works include an increase of approximately 20m<sup>2</sup> to the internal living space, with full-height floor to ceiling glazed doors and windows. These features allow for an improved flooding of natural light into the living space of the first floor. This change therefore represents an improvement on the existing internal amenity space as the occupants present and future can benefit from improved access to natural light.

#### 5.4.6 Impacts on the public domain

The development proposed cannot be seen from the public realm due to its location within the site. Therefore, there are no adverse impacts on the public domain.

#### 5.4.7 Noise and vibration

The residential use and separation distances from the adjacent neighbouring properties means there are no adverse noise or vibration impacts arising from the proposed development. Operational works do not present any issues, given that the development proposed has already been constructed.

### 5.5 Site Suitability

#### 5.5.1 Geotechnical

There are no identified geotechnical constraints which would make the site unsuitable for the proposed development.

#### 5.5.2 Services and Utilities

The site has featured a dwelling for more than 50 years and has adequate water, sewerage, power and other utility services.

#### 5.5.3 Conclusion

The suitability of the land to accommodate a building of this type and scale was established by the analysis completed by Council through the preparation of PLEP. The subject site is not affected by any policy that restricts development because of the likelihood of land slip, bush fire, tidal inundation, subsidence, acid sulphate soils or any other risk.

### 5.6 Social and Economic Impacts

#### 5.6.1 5.4.1. Crime and Safety

Crime Prevention through Environmental Design (CPTED) is a recognised model which provides that if development is appropriately designed it can reduce the likelihood of crimes being committed. This includes the following principles:

**Surveillance:** This principle provides that crime targets can be reduced by effective surveillance, both natural and technical.

**Access Control:** This principle provides that barriers to attract/restrict the movement of people minimises opportunities for crime and increases the effort required to commit crime.

**Territorial Reinforcement:** This principle provides that well-used places reduce opportunities for crime and increase risk to criminals.

**Space Management:** This principle provides that space which is appropriately utilised and well cared for reduces the risk of crime and antisocial behaviour.

The proposal has been designed in accordance with the above principle and the enclosure of terrace spaces will arguably make for a more secured dwelling.

## 5.7 Public interest

According to Brown C in *Ex Gratia Pty Limited v Dungog Shire Council [2005] NSWLEC 148*, a development proposal is in the public interest when the public advantages of the proposal outweigh the public disadvantages.

Pursuant to case law of *Ex Gratia P/L v Dungog Council (NSWLEC 148)*, the question that needs to be answered is "Whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development". There are no unreasonable impacts that will result from the proposed development. The proposal helps to rectify poor construction quality that was posing a risk to the structural integrity of the main dwelling. If the building had failed, then the consequences may have caused significant damage to nearby neighbouring properties. Therefore, the benefits of ensuring the building integrity was restored outweighs any disadvantage and as such the proposed development will have an overall public benefit.

## 6. Conclusion

This Building Information Certificate addresses the unauthorised works consisting of additions, extensions and alterations to the main dwelling at 3 Clive Crescent, together with the erection of an additional storey on the approved pool house, a small cabana and decking.

This SEE has undertaken an environmental assessment of the proposal and has concluded that the additional elements are consistent and compatible with the desired future character of the site and the surrounding locality and has no detrimental impacts on the immediate vicinity.

In summary, the proposal is considered to:

- Be an appropriate response to the context, setting, planning instruments and development guidelines and other considerations outlined in Section 4.15(1) of the Environmental Planning and Assessment Act, 1979;
- Permissible with development consent in the R5 Large Lot Residential zone, consistent with the zone objectives and of appropriate content of the site and surrounding area;

The unauthorised works as such, have no impact on adjoining residents, public domain, nor character of the area and are considered acceptable in the circumstances of the site.



# **Appendix A**

## Survey Plan

Prepared by ESA Consultants

# GYDE

# Appendix B

## GIPA

