



northern  
beaches  
council

**Application No:** PLM2018/0084

**Meeting Date:** 10/05/2018 11:00:00 AM

**Property Address:** 96 Cabarita Road AVALON BEACH

**Proposal:** Subdivision of Subdivision of 4 lots into 11 lots and construction of dwellings on each lot

**Attendees for Council:** Angela Manahan (Principal Planner)  
Kevin Short (Planner)  
Ruby Ardren (Project Leader – Water Management)  
Brendan Smith (Team Leader – Biodiversity and Planning)  
Joseph Di Cristo (Senior Development Engineer)  
Paul Hardie (Principal Officer – Coast and Estuary)

**Attendees for applicant:** Mark Hurcum (Architect)  
Martin Tran (Architect)  
Katrina Bignasca (Meraki)  
Peter Higgins (Owner)

#### General Comments/Limitations of these Notes

These notes have been prepared by Council on the basis of information provided by the applicant and a consultation meeting with Council staff. Council provides this service for guidance purposes only. These notes are an account of the specific issues discussed and conclusions reached at the pre-lodgement meeting. These notes are not a complete set of planning and related comments for the proposed development. Matters discussed and comments offered by Council will in no way fetter Council's discretion as the Consent Authority. A determination can only be made following the lodgement and full assessment of the development application.

In addition to the comments made within these notes, it is a requirement of the applicant to address ALL relevant pieces of legislation including (but not limited to) any SEPP and any applicable clauses of Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control Plan within the supporting documentation of a development application including the Statement of Environmental Effects.

You are advised to carefully review these notes. If there is an area of concern or non-compliance that cannot be supported by Council, you are strongly advised to review and reconsider the appropriateness of the design of your development for your site and the adverse impacts that may arise as a result of your development prior to the lodgement of any development application.



## SPECIFIC ISSUES RAISED BY APPLICANT FOR DISCUSSION

Issue/s Raised	Council Response
<p><b>Issue</b></p> <p>Density</p> <p><u>Relevant PLEP Clauses</u></p> <ul style="list-style-type: none"> <li>• Clause 4.1 Minimum subdivision lot size</li> <li>• E4 Environmental Living zone</li> </ul> <p><u>Relevant P21 DCP Clauses</u></p> <ul style="list-style-type: none"> <li>• A4.1 Avalon Beach Locality</li> <li>• B2.2 Subdivision – Low Density Residential Areas</li> <li>• C4.7 Subdivision – Amenity and Design</li> <li>• D1 - Avalon Beach Locality controls</li> </ul>	<p>Refer to detailed comments regarding PLEP 2014 P21 DCP below.</p>
<p><b>Issue</b></p> <p>Ecology and Tree Removal</p> <p><u>Relevant PLEP Clauses</u></p> <ul style="list-style-type: none"> <li>• Clause 4.1 Minimum subdivision lot size</li> <li>• Clause 7.6 Biodiversity</li> <li>• E4 Environmental Living zone</li> </ul> <p><u>Relevant P21 DCP Clauses</u></p> <ul style="list-style-type: none"> <li>• A4.1 Avalon Beach Locality</li> <li>• B2.2 Subdivision – Low Density Residential Areas</li> <li>• B4.7 Pittwater Spotted Gum Forest Endangered Ecological Community</li> <li>• B4.3 Flora and Fauna Habitat Enhancement Category 2 Land</li> <li>• C4.7 Subdivision – Amenity and Design</li> </ul>	<p>Refer to detailed comments regarding PLEP 2014, Part B of P21 DCP and detailed specialist comments below.</p>
<p><b>Issue</b></p> <p>Traffic and Vehicle Access</p> <p><u>Relevant PLEP Clauses</u></p> <ul style="list-style-type: none"> <li>• Clause 7.10 Essential Services</li> </ul> <p><u>Relevant P21 DCP Clauses</u></p> <ul style="list-style-type: none"> <li>• B6.1 Access driveways and Works</li> </ul>	<p>Refer to detailed comments regarding Part B of P21 DCP and detailed specialist comments below.</p>



<ul style="list-style-type: none"> <li>on the Public Road Reserve</li> <li>• B6.2 Internal Driveways</li> <li>• B6.3 Off-Street Vehicle Parking Requirements</li> <li>• B6.7 Transport and Traffic Management</li> <li>• C4.3 Subdivision – Transport and Traffic Management</li> </ul>	
<p><b>Issue</b></p> <p>Stormwater and Infrastructure</p> <p><u>Relevant P21 DCP Clauses</u></p> <ul style="list-style-type: none"> <li>• B5 – Water Management</li> </ul>	<p>Refer to detailed comments regarding Part B of P21 DCP and detailed specialist comments below.</p>
<p><b>Issue</b></p> <p>Bulk and Scale impacts</p> <p><u>Relevant PLEP Clauses</u></p> <ul style="list-style-type: none"> <li>• E4 Environmental Living zone</li> </ul> <p><u>Relevant P21 DCP Clauses</u></p> <ul style="list-style-type: none"> <li>• A4.1 Avalon Beach Locality</li> <li>• C4.7 Subdivision – Amenity and Design</li> <li>• D1 – Avalon Beach Locality controls</li> </ul>	<p>Refer to detailed comments regarding Part C and Part D of P21 DCP.</p>

<b>Proposed Subdivision</b>
<p><b>Comment</b></p> <p>The provision of the internal access road being a combination of community titled and right of ways is not supported. It is considered that the proposed community lot be extended to include all the proposed access road, access along the northern boundary and any common infrastructure such as water management, which would allow appropriate on-going maintenance of infrastructure.</p> <p>It is also recommended that consideration be given to a strip of land along the foreshore being included within the community lot to permit access for all lots to the foreshore and ensure that these areas are maintained and not altered in the future. In this instance, it would be recommended that the existing jetty and boatsheds be incorporated in this lot to permit use of these structures for all owners of the subdivision. See also further comments in relation to this relating to the Coastal Management Act 2016 further in this report.</p> <p>A draft Management Statement is to be provided with the Development Application addressing the community land, and including all the other by-laws required.</p> <p>The application must be undertaken in accordance with the Community Land Management Act 1989.</p>



## PITTWATER LOCAL ENVIRONMENTAL PLAN 2014 (PLEP 2014)

**Note:** PLEP 2014 can be viewed at the [NSW Government Legislation Website](http://www.nsw.gov.au/legislation/online/index.html)

Zoning and Permissibility	
<b>Definition of proposed development:</b> (ref. PLEP 2014 Dictionary)	Subdivision of land, associated infrastructure works and construction of new dwellings on resultant lots
<b>Zone:</b>	Zone E4 Environmental Living
<b>Permitted with Consent or Prohibited:</b>	Permitted with consent

Principal Development Standards:
<b>Clause 4.1 Minimum Subdivision Lot Size</b>
<b>Standard</b>
<p>Minimum lot size 700m<sup>2</sup>, pursuant to Clause 4.1(2) of PLEP 2014.</p> <p><b>Objectives:</b></p> <p>(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,</p> <p>(b) to provide for subdivision where all resulting lots are capable of providing for the construction of a building that is safe from hazards,</p> <p>(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,</p> <p>(d) to provide for subdivision that does not adversely affect the heritage significance of any heritage item or heritage conservation area,</p> <p>(e) to provide for subdivision where all resulting lots can be provided with adequate and safe access and services,</p> <p>(f) to maintain the existing function and character of rural areas and minimise fragmentation of rural land,</p> <p>(g) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.</p> <p><b>Note:</b> 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.</p>
<b>Comment</b>
<p>The proposal is technically compliant with the minimum required lot size for each proposed allotment, pursuant to Clause 4.1(2) of PLEP 2014. However, concern is raised regarding the ability for the proposed subdivision to satisfy the objectives of clause 4.1 as stated above.</p> <p>The current subdivision pattern for the area is varied with no predominant pattern apparent. The Avalon Beach locality statement identifies that residential allotments are generally 600-1000m<sup>2</sup>, increasing to 950-1600m<sup>2</sup> on the plateau and slopes, and it is noted that the existing allotments within the surrounding area of the subject sites are primarily in excess of the 700m<sup>2</sup> minimum lot size, being in the 950m<sup>2</sup> and above range. Notably, the smaller lots in the surrounding area occur on the flatter areas of land with less vegetation.</p>



<b>Principal Development Standards:</b>
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<b>Clause 4.1 Minimum Subdivision Lot Size</b>
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<b>Standard</b>
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As discussed further in the report, the proposal as submitted is considered to have an unacceptable impact upon the natural environment and further consideration is required with regards to the retention of existing trees and replacement plantings. Furthermore, concern is also raised with regards to the overall visual impact of the resultant development, particularly as viewed from the waterway, and consistency with the E4 zoning of the site and relevant development controls which requires dwellings to be within a landscaped setting.

In view of the above and based on the constraints of slope and vegetation of the land some of the lots proposed are not large enough to allow appropriate environmental outcomes in the E4 zone.

Noting that the subdivision lot size is a minimum amount, it is designed to achieve a range of subdivision sizes in excess of that size. Consideration should be given to a reduction in the total number of allotments to ensure the resultant lots are consistent with the objectives of clause 4.1, and the provisions of PLEP 2014 and P21 DCP. It is recommended that as a minimum, the lot yield be reduced to 9 lots. Further detailed analysis may require further reductions again.

There is particular concern regarding Lots 3 and 4 being undersized noting the slope and vegetation constraints they are burdened by and it is recommended that lots 2, 3, 4, are reduced to 2 lots of greater size to allow for retention of existing canopy and to allow greater buffer areas for any excavation.

As discussed further in this report, Lots 9, 10 and contain significant tree assets and potential heritage values which warrant greater sensitivity. These lots should be reduced from three to two lots.

See clause 7.6 and Part B for further details.

<b>Principal Development Standards:</b>
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<b>Clause 4.3 Height of Buildings</b>
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<b>Standard</b>
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8.5m

<b>Comment</b>
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The prelodgement documentation indicates that the proposed development would be technically compliant with the maximum height development standard. Strict compliance with the maximum height requirement should be adhered to.

<b>Principal Development Standards:</b>
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<b>Clause 7.6 Biodiversity</b>
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<b>Standard</b>
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Principal Development Standards:
Clause 7.6 Biodiversity
Standard
<p><i>Before determining a development application for development on land to which this clause applies, the consent authority must consider:</i></p> <p>(a) <i>whether the development is likely to have:</i></p> <ul style="list-style-type: none"> <li>(i) <i>any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and</i></li> <li>(ii) <i>any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and</i></li> <li>(iii) <i>any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and</i></li> <li>(iv) <i>any adverse impact on the habitat elements providing connectivity on the land, and</i></li> </ul> <p>(b) <i>any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i></p> <p><i>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</i></p> <p>(a) <i>the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</i></p> <p>(b) <i>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</i></p> <p>(c) <i>if that impact cannot be minimised—the development will be managed to mitigate that impact.</i></p>
Comment
<p>Council's Natural Environment Department provided the following comments:</p> <p><i>The draft pre-lodgement plans do not meet the requirements of this provision. The proposal does not avoid significant adverse environmental impacts. The submitted plans underestimate the number of trees which would require removal. Several trees identified for retention on the plans are located too close to the development envelopes (house footprints and driveways) and are unlikely to be retained.</i></p> <p><i>In particular, proposed Lots 9 and 10 include significant large trees which should be retained. The nominated development footprints are too close these trees. It is recommended that the applicant consider consolidating Lots 9 and 10 and redesigning the development footprint such that these trees are safely retained. Tree to the rear of Lots 2 – 5 should be retained and protected to the maximum extent possible.</i></p>

Principal Development Standards:
Clause 7.8 Limited development on foreshore area
Comment
<p>It appears that the proposed development would be consistent with the provisions of clause 7.8(2) noting that no development is proposed to extend forward of the foreshore building line.</p> <p>Council's Coastal Department have raised concerns with regards to the extent of future foreshore development as a result of the proposed subdivision and resultant allotments. Clause 7.8 requires that continuous public access to and along the foreshore is to be retained and development within the foreshore is limited. In addition to the subdivision infrastructure being</p>



Principal Development Standards:
Clause 7.8 Limited development on foreshore area
<p>community titled, consideration should be given to retaining a portion of the foreshore area as community land to maintain the natural and aesthetic significance of the land and ensure public foreshore access is retained.</p> <p>It is noted that there are two (2) existing boatsheds within the foreshore area of the subject site. In accordance with clause D15.15, boatsheds are only to be used for the storage of boats and boating equipment. Should any works be undertaken to the existing boatsheds under the future development application, the provisions of clause 7.8 of PLEP 2014 and clause D15.15 of P21 DCP would be applicable.</p>

Principal Development Standards:
Clause 7.10 Essential Services
<p><b>Comment</b></p> <p>The Applicant is required to demonstrate that the following essential services are available to the resultant lots, or cable of being available:</p> <ol style="list-style-type: none"> <li><i>the supply of water,</i></li> <li><i>the supply of electricity,</i></li> <li><i>the disposal and management of sewage,</i></li> <li><i>stormwater drainage or on-site conservation,</i></li> <li><i>suitable vehicular access</i></li> </ol> <p>All public utility services serving the development site are to be provided below ground.</p>

## PITTWATER 21 DEVELOPMENT CONTROL PLAN (P21 DCP)

**Note:** P21 DCP can be accessed via [Council's website](#)

Section A: Shaping Development in Pittwater
A4.1 Avalon Beach Locality
<p><b>Comment</b></p> <p>The following desired character requirements as prescribed by A4.1 of the P21 DCP are applicable to the proposed works:</p> <ul style="list-style-type: none"> <li>Continue to provide an informal relaxed casual seaside environment;</li> <li>Remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting;</li> <li>Maintenance and enhancement of the leafy character through extensive street plantings and large setbacks from the street;</li> <li>Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale;</li> <li>Existing and new native vegetation, including canopy trees, will be integrated with the development;</li> <li>Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance;</li> <li>Development will be designed to be safe from hazards including landslip and bushfire;</li> <li>Locally native tree canopy and vegetation will be retained and enhanced.</li> </ul>

**Comment**

The prelodgement documentation provided concept built form proposals with regards to individual dwellings, however no detailed dwelling designed were provided at this stage. The concept plans identify that the proposed dwellings shall be three (3) storeys in any one place and shall have a visual appearance as being three and four storey dwellings as viewed from the waterway. Combined with the removal of existing vegetation, concern is raised with regards to the future dwellings being “within a landscaped setting”. Of particular concern is the north-eastern allotments fronting the waterway given that there is limited vegetation within the foreshore area to screen the development and ensuring that dwellings will be integrated with the landscape. It is recommended that landscaping in the foreshore area and on the individual sites is substantially enhanced to ensure that the proposed development is consistent with the desired future character of the Avalon Beach locality.

As discussed further in the report, under Part B, concern is also raised with regards to the impact upon the natural environment.





Section B: General Controls	
B2 Density Controls	
Control/Requirement	
<ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>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).</li> <li>The minimum area for building shall be 175m<sup>2</sup>.</li> </ul>	
<b>Comment</b>	<p>The proposed allotments appear to be consistent with the minimum dimensions stipulated by clause B2.2. It is noted that the subject site experiences a significant slope from south-west to north-east. Clause B2.2 states that a person shall not subdivide land if the resultant allotments shall have a slope in excess of 30%. Any future development application should demonstrate that the resultant allotments shall not have a slope in excess of 30% in accordance with clause B2.2. Reduction in yield and increase in lot sizes may assist in overcoming this issue.</p> <p>As discussed further in the report, the proposal shall have an unacceptable impact upon the natural environment, requiring the removal of numerous trees without adequate replacement planting. As such, the proposed subdivision will be unable to comply with the requirements stipulated in clause B2.2, and would be inconsistent with the outcomes of the control, particularly achieving the desired character of the locality, the maintenance of the existing environment and ensuring that the built form does not dominate the natural setting.</p>
B3 Hazard Controls	
Control/Requirement	
<p>The following sections of the DCP would be applicable to the proposal:</p> <p>B3.1 Landslip Hazard</p> <p>B3.11 Flood Prone Land</p>	
<b>Comment</b>	<p>The site is affected by a geotechnical hazard. Any future development application on the site would need to satisfy the relevant hazard controls and provide relevant documentation.</p> <p>The site is affected by low and medium flood hazard, however this is limited to the north-eastern portion of the site. Any future development application should address clause B3.11 of P21 DCP.</p>
B3.7 Estuarine Hazard – Low Density Residential	
<b>Comment</b>	<p>Council's Principal Officer – Coast and Estuary provided the following comments with regards to</p>



the proposed development:

*The following comments relate to the proposal presented at the pre-lodgement meeting held on 10/05/2018 and do not consider integrated development requirements for activities proposed below MHW.*

***Estuarine Hazards and Estuarine Planning Level (EPL)***

*The property at [96-104 Cabarita Road, Avalon](#) has been identified as being affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. The Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3 Estuarine Hazard Controls will apply to any proposed development of the site.*

*Based upon a preliminary desktop assessment and the information provided, the foreshore edge treatment type appears to be a vertical seawall with a variable crest height up to approximately RL 1.75m AHD. As such, in accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), an **estuarine planning level (EPL) of RL 2.61m AHD** has been adopted by Council for the subject land. A reduction factor (RF) based upon the distance from the foreshore of proposed development may also apply at a rate of 0.05m reduction to the EPL for every 5.00m distance from the foreshore edge up to a maximum distance of 40.00m. No further reduction is applicable, however, below the local (still) water level (2050 sea level rise scenario) + 0.3m freeboard i.e. 2.22m AHD.*

*The EPL provided is indicative only and may be subject to revision based upon any additional information lodged in support of a development application for the site.*

*Please note: If development for a 'vulnerable use' purpose as defined in clause 7.4 (3) of Pittwater LEP 2014 is proposed, an EPL based upon the 2100 sea level rise scenario may be applied.*

*An estuarine risk management report prepared in accordance with the requirements of the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) by a specialist coastal engineer (as defined by the Policy) must be submitted in support of the DA if the existing boatshed/s are proposed to be redeveloped (including additions and alterations).*

*The report must address all risks associated with the relevant estuarine hazards affecting the site and make recommendations necessary to remove risks or at least reduce risks to life and property to an acceptable level for the design life of the proposed development. This is to ensure that wave action and tidal inundation processes (affecting development or likely to be affected by development) and taking into consideration projected sea level rise, are adequately investigated and documented.*

*Apart from the wave and water level forces on the boatshed structures (including doors and windows), the investigation should also consider potential inundation/wave impacts upon the existing beach and other structures at the foreshore for the design life of development. The impacts from and upon coastal processes as a consequence of existing utilities, services, electrical outlets, fittings and equipment as well as stored materials below Council's adopted EPL for the site (2.61m AHD) should not be overlooked.*

*Relevant controls under D15 Waterways Locality in Pittwater 21 DCP may also need to be considered if additional development is proposed at the foreshore.*



# **Coastal Management Act 2016 and State Environmental Planning Policy (Coastal Management) 2018**

The Coastal Management Act 2016 (CM Act) and State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) commenced on 3 April 2018. Under the CM SEPP a foreshore strip of the subject site has been mapped as 'Coastal Use Area' and an overlapping foreshore strip as well as the bed of Pittwater have also been mapped as 'Coastal Environment Area'. The relevant provisions of the CM SEPP as well as the development controls for the applicable coastal management areas (Part 2 of the CM SEPP) will also need to be addressed in support of the DA.

## **B4 Controls Relating to the Natural Environment**

### **B4.7 Pittwater Spotted Gum Forest Endangered Ecological Community**

#### **Control/Requirement**

- Development shall not have an adverse impact on Pittwater Spotted Gum Endangered Ecological Community.
- Development shall restore and/or regenerate Pittwater Spotted Gum Endangered Ecological Community and provide links between remnants.
- Development shall be in accordance with any Pittwater Spotted Gum Forest Recovery Plan.
- Development shall result in no significant onsite loss of canopy cover or a net loss in native canopy trees.
- Development shall retain and enhance habitat and wildlife corridors for locally native species, threatened species and endangered populations.
- Caretakers of domestic animals shall prevent them from entering wildlife habitat.
- Fencing shall allow the safe passage of native wildlife.
- Development shall ensure that at least 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community).
- Development shall ensure any landscaping works are outside areas of existing Pittwater Spotted Gum. Endangered Ecological Community and do not include Environmental Weeds.

#### **Comment**

Council's Natural Environment Department provided the following comments:

*The proposal is considered as likely to have an adverse impact on the EEC. The draft plans are likely to result in a significant onsite loss of canopy or net loss in canopy cover.*

*Refer to general comments and recommendations as above.*

Council's Senior Landscape Architect also raised concerns regarding the level of tree removal likely to occur as a result of the proposed development, and provided the following comments:

*On face value, I have reviewed the proposal in terms of existing trees location against proposed building envelopes and proposed driveways, and note that Map 2 (Tree Survey and Assessment) by GIS suggests 158 non-exempt trees will be retained. However many of these are located within 5m of the proposed development and may be impacted upon. My early estimate without detailed assessment is that 74 trees may be retained.*

*The resultant landscape will not achieve a development that is integrated with the landscape as is required by C1.1 Landscaping and D1.1 Character as viewed from a public place, where development is secondary to the landscape.*

Clause B4.7 requires that there shall be no net loss of native canopy as a result of the proposed development. The proposal should be amended to further reduce impacts upon existing tree assets. Replacement planting shall also be required on the resultant lots to compensate for the



removal of any native vegetation. Clause C1.1 of P21 DCP provides criteria for new landscaping, including appropriate soil depths and proximity of new trees to proposed development. This should be considered in any future landscape plan to ensure new plantings are suitable. Furthermore, as outlined under clause 7.6 above, it is strongly recommended that proposed lots 10 and 11 within the north-eastern corner of the site are consolidated into one allotment to allow for an area of highly significance trees to be retained on this site.

### **B4.3 Flora and Fauna Habitat Enhancement Category 2 Land**

#### **Control/Requirement**

##### **Outcomes**

- *Conservation, enhancement and/or creation of habitats for locally native flora and fauna to ensure the long-term viability of locally native flora and fauna and their habitats.*

##### **Controls**

- *Development shall retain and enhance habitat for threatened species, endangered populations, endangered ecological communities and other locally native species.*
- *Development shall provide flora and fauna habitat by active restoration, regeneration, and / or creation.*
- *Development shall not result in a significant onsite loss of canopy cover or a net loss in native canopy trees.*
- *Development shall ensure that at least 60% of any new planting incorporates native vegetation (as per species listed in Native Plants for Your Garden available on the Pittwater Council website). Landscaping is to be outside areas of core bushland and not include environmental weeds.*
- *Caretakers of domestic animals shall prevent them from entering bushland.*
- *Fencing, where permitted, shall be passable by native wildlife.*

##### **Comment**

Council's Natural Environment Department provided the following comments:

*The proposal is considered as likely to have an adverse impact native vegetation including the habitat of threatened species and endangered ecological communities. The draft plans are inconsistent with this outcomes and controls of this DCP requirement.*

*Refer to general comments and recommendations.*

### **B5 Water Management**

#### **Comment**

Council's Project Leader – Water Management provided the following comments in regards to the proposed development:

##### **Stormwater quality management**

*Northern Beaches Council aims to maintain or improve the water quality in the Pittwater Waterway, due to its significant environmental and recreational value.*

*The applicant should provide a water management plan that sets out the proposed management of roofwater, stormwater, groundwater (if present) and overland flows (including creeks, drainage, floodwaters etc). Supporting reports should be provided. Please refer to Pittwater 21 DCP Part B5.1 for more detail.*

*It is recommended that the stormwater concept design be modelled in MUSIC to demonstrate that there is no increase in pollutants being discharged to the Pittwater Waterway.*

*To comply with Pittwater 21 DCP B5.9 - Water Quality – Other than Low Density Residential for a lot greater than 1500 sqm, the applicant must install stormwater quality improvement*



measures to a tertiary treatment level as follows:

- Pre-screening of organic matter (eg. leaf litter) prior to the collection of rainwater in the rainwater tanks
- filtration of stormwater to capture organic matter and coarse sediments prior to discharge from the land
- retention of medium to fine sediments prior to discharge of stormwater from the land
- capture of the pollutants entrained in the sediment, including pathogens, nutrients and heavy metals.

Swales or bio-retention will allow capture of sediments and the pollutants entrained in the sediment. Design of the driveway could use Water Sensitive Urban Design techniques that are used to drain runoff directly to swales or bio-retention for treatment.

Natural water treatment methods are preferred by Northern Beaches Council due to the significant maintenance requirements and costs of assets such as filtration cartridges, which if not maintained every year and replaced every few years will contribute to pollution. It is considered that this subdivision has sufficient space to incorporate bio-retention or similar.

All water quality treatment facilities should be placed above the Estuary Planning Level (as described in advice from the Coastal officer).

Provision must be made for maintenance access.

#### **Landscaped area**

Your property is located in Area 1 of the Landscaped Area Map. The total landscaped area on your property shall be a minimum of 60% of the site area (Pittwater 21 DCP Part D1.14). Please provide in your application the area of proposed impervious surfaces; including roofs, footpaths, driveways, and swimming pools (which reduce the area of land into which water can infiltrate into the soil and groundwater).

Green roofs are welcomed as part of a treatment train solution to meeting water quality requirements, however unless the green roof has a metre soil depth it will not contribute to meeting landscaped area requirements.

#### **Water quantity management**

Please refer to advice from the Senior Development Engineer on requirements for on-site stormwater detention.

#### **Sediment controls**

Compliance with Pittwater 21 DCP B8.2 – Erosion and Sediment Management will be required and monitored throughout construction. Please provide an erosion and sediment control plan that shows how stormwater drainage lines/pits and the Pittwater Waterway will be protected. Controls should be erected prior to commencement of any site works.

#### **Ownership structure**

Due to the cost of maintenance and replacement of water management facilities it is recommended that they be incorporated in community titled land, with a fee retained each year to cover maintenance and the future cost of renewals/replacements.

In addition to the above comments provided, Council's Development Engineer provided the following additional comments:

Stormwater from the site is to be connected to the Council drainage line that burdens the site. On-site stormwater detention (OSD) is to be provided for each lot in accordance with the requirements of the DCP (Clause B5.7). It is considered that the OSD system be provided



*within the community lot for ease of future maintenance of the system. A positive covenant for the future maintenance and restriction as to user to ensure no alteration of the system will be required to be created on the title.*

*The proposed diversion of the Council drainage line has been reviewed by Council's Stormwater Assets Engineer. His comments are as follows:-*

- *Council will consider any proposal to divert the public drainage system within this property. It would need to be demonstrated that it is hydraulically feasible and meets the requirements of Council's DCP 21 – Part B5.12.*
  - *Council's preference is to have this section piped with RCRRJ pipes.*
  - *An easement would need to be created centrally over any new pipe alignment. Min width 3.0m.*
  - *Access to this easement would be required. Potentially a ROW.*
  - *If the applicant was proposing to alter the outlet into the Pittwater Harbour, the design would need to be in accordance with the DCP and subject to engineering review.*
- With respect to the above, the requirements of the DCP (Clause B5.10 and B5.11) must also be considered.*

## **B6 Access and Parking**

### **Comment**

Council's Development Engineer provided the following comments:

*The driveway access to the property is to be designed to accommodate access for all vehicles. The minimum width of the road is to be 5 metres to permit adequate passing for all vehicles. A turning head or cul de sac is to be provided at the end of the road to ensure a small rigid truck can turn and exit the site in a forward direction.*

*The longitudinal grade of the road is to not to exceed 1 in 4 with transition grades in accordance with AS/NZS2890.1:2004. It is considered that all access points to proposed garages must not exceed a gradient of 1 in 20.*

*The driveway crossing is to include a splay up to 6 metres wide at the kerb and the profile is to be in accordance with Council's Normal Low profile. Also a footpath 1.5 metres wide behind the existing kerb is to be provided along the entire frontage of the site.*

The proposed development should ensure that off-street parking is provided to each allotment in accordance with clause B6.3 of P21 DCP which requires a minimum of two (2) parking spaces per dwelling, for dwellings with two (2) or more bedrooms.

## **B8 Site Works Management**

### **Comment**

Any proposed development on the site would be required to satisfy the requirements of Part B8 of Pittwater 21 DCP.

## **Section C: Development Type Controls**

### **C1 Design Criteria for Residential Development**

#### **Comment**

No detailed dwelling designs were provided at this stage. Any future development application should address the provisions of Part C of P21 DCP, with particular regards to ensuring the proposed development shall not result in any unreasonable impacts upon the resultant lots and adjoining properties with regards to view loss, visual privacy and solar access. A view analysis





from surrounding properties should be undertaken where appropriate. It is noted that concept designs indicate three storey dwellings are proposed for most lots. This is not consistent with the desired future character and you are encouraged to revisit the designs to ensure they appear as a maximum of 2 storeys.

#### **C1.12 Waste and Recycling Facilities**

##### **Comment**

Council's Coordinator Waste Operations advised that a Bin Room and Bulk Storage area is to be provided on site. The Applicant is to comply with the Northern Beaches Waste Guidelines. Specifically, it is not acceptable for a garbage truck to utilise the right of carriageway or go into the property, as such a separate bin area will be required to be provided within a designed area on site. The Bin Room and bulk storage area is to be designed in accordance with the specifications provided in the Northern Beaches Council Waste Management Plan. Council's Coordinator Waste Operations has provided a plan identifying the location of the waste area on site which is attached to the report.

#### **C4 Design Criteria for Subdivision**

##### **Control/Requirement**

The following is a list of controls that would be applicable to your application:

- C4.1 Subdivision - Protection from Hazards
- C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities
- C4.3 Subdivision - Transport and Traffic Management
- C4.4 Subdivision - Public Roads, Footpath and Streetscape
- C4.5 Subdivision - Utility Services
- C4.6 Service and delivery vehicle access in subdivisions
- C4.7 Subdivision - Amenity and Design
- C4.8 Subdivision - Landscaping on the Existing and proposed public road reserve frontage to subdivision lots

##### **Comment**

##### Subdivision Design

Clause C4.7 of the DCP requires a site analysis to be carried out and identifies several characteristics to be considered as part of the subdivision design to ensure a level of amenity commensurate with the locality and an acceptable impact upon the environment. As discussed previously, concern is raised with regards to the adverse impact upon the natural environment.

Furthermore, the control requires an assessment of the buildings which will be erected as a result of the subdivision, ensuring that the requirements and outcomes of the controls within the DCP are complied with. As such concern is also raised with the ability to provide development on the resultant lots that is consistent with the planning controls stipulated for the site, with particular regards to the three storey nature of the dwellings and resultant visual impact. The site is zoned E4 and identified as environmentally sensitive. The locality statement aims to ensure that built form is secondary to landscaping, with development integrated with the landscape. The removal of existing vegetation and inadequate replacement plantings is likely to result in an excessive level of built form on the allotments, particularly as viewed from the waterway, inconsistent with the aims and objectives of the E4 zone and the built form controls within the DCP.

Additionally, it is noted that the site is likely to have heritage values relating to the original landholding as well as the boat shed, wharf and other remaining structures on the site. Established tree plantings may also be of significant from a heritage perspective. Council can



provide further feedback in this regard, however you are encouraged to investigate this aspect of the proposal at this stage and seek appropriate advice in relation to preserving any heritage significance that might be found on the site.

Section D: Locality Specific Development Controls	
D1.1 Avalon Beach Locality	
Control/Requirement	
D1.1 Character as viewed from a public place	
D1.20 Scenic Protection Category One Areas	
<b>Comment</b> Clause D1.1 and D1.20 of P21 DCP aim to ensure that the visual impact of development is minimised and that the natural environment is the predominant feature of the landscape with built form secondary to landscaping. As discussed previously, concern is raised with regards to the visual impact of the development as viewed from the public domain. Council strongly recommends that the number of resultant lots fronting the waterway are minimised to ensure that the built form does not dominate the landscape, and to minimise the visual impact of the resultant development.	
Control/Requirement	
D1.17 Construction, Retaining walls, terracing and undercroft areas	
<b>Comment</b> Clause D1.17 aims to ensure that buildings are designed to respond to the natural topography of the site and to minimise disturbance to the natural landform. Combined with the E4 Environmental Living zoning of the site, excavation should be minimising where possible and Council is unlikely to support any unnecessary excavation to ensure that the natural landform is maintained.	

Specialist Advice	
Referral Body	Comments
Team Leader – Biodiversity and Planning	<p><i>The proposed 12 Lot subdivision is located on land which has been subject to past disturbances resulting in a largely disturbed ground/shrub layer. Despite past disturbances, the property includes a significant stand of remnant canopy trees which form part of the Endangered Ecological Community, Pittwater Wagstaff Spotted Gum Ironbark Forest. Portions of each property (e.g. especially proposed Lots 9 and 10 and rear of lots 2 - 5) include remnant 'old growth' trees which are considered highly significant in the local landscape. It is also noted that the threatened plant species, Syzigium paniculatum has been recorded on site.</i></p> <p><i>Plans submitted for the pre-lodgement application under-estimate the number of trees which would require removal. Several trees identified for retention on the plans are located too close to the</i></p>





Specialist Advice	
	<p>development envelopes (house footprints and driveways) and are unlikely to be retained. Council's natural environment, biodiversity section considers that the draft plans would result in an unacceptable loss of significant tree canopy that is inconsistent with controls in the Pittwater LEP and DCP 2014. It is recommended that the plans be modified to avoid and minimise the degree of impacts prior to submission of the subdivision development application.</p> <p>The proposed development is subject to the provisions of the NSW Biodiversity Conservation Act 2017 (BC Act) and associated Biodiversity Conservation Regulation 2017. Council considers that the current plans will likely trigger a significant impact as determined under Part 7.3 of the BC Act. It is Council's understanding that calculation of the vegetation clearing area threshold prescribed in Part 7.2 of the regulation is based on the extant canopy cover irrespective of the understorey. A Biodiversity Development Assessment Report including application of the Biodiversity Assessment Methodology (BAM) will be required to accompany the proposal. As required by Part 6, Division 3, Section 6.12, (c) of the BC Act, the report must set out the measures proposed to avoid or minimise the impacts.</p>
Referral Body	Comments
Project Leader – Water Management	Refer to comments that discuss controls within Part B of Pittwater 21 DCP.
Referral Body	Comments
Senior Development Engineer	Refer to comments that discuss controls within Part B of Pittwater 21 DCP.
Referral Body	Comments
Principal Officer – Coast and Estuary	Refer to comments that discuss controls within Part B of Pittwater 21 DCP.

Relevant Council Policies
<p>You are advised that copies of the following (but not limited to all) Council's policies are available via Council's website (<a href="http://www.pittwater.nsw.gov.au">www.pittwater.nsw.gov.au</a>):</p> <ul style="list-style-type: none"> <li>• Pittwater 21 Development Control Plan</li> <li>• Geotechnical Risk Management Policy</li> <li>• Estuarine Risk Management Policy</li> </ul>

Documentation to accompany the Development Application
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### Documentation to accompany the Development Application

- Electronic copies (USB)
- Statement of Environmental Effects
- Request to vary a development standard (if applicable)
- Cost of works estimate/ Quote
- Site Plan
- Floor Plan
- Elevations and sections
- A4 Notification Plans
- Survey Plan
- Site Analysis Plan
- Demolition Plan
- Excavation and fill Plan
- Waste Management Plan (Construction & Demolition)
- Waste Management Plan Ongoing
- Certified Shadow Diagrams
- BASIX Certificate
- Energy Performance Report
- Schedule of colours and materials
- Landscape Plan and Landscape Design Statement
- Arboricultural Impact Assessment Report
- Photo Montage
- Model
- Subdivision Plan
- Road design Plan
- Erosion and Sediment Control Plan / Soil and Water Management Plan
- Stormwater Management Plan / Stormwater Plans and On-site Stormwater Detention (OSD) Checklist
- Stormwater Drainage Assets Plan
- Geotechnical Report
- Estuarine Hazard Assessment
- Biodiversity Development Assessment Report
- Traffic and Parking Report
- Construction Traffic Management Plan
- Construction Methodology Plan

*Please refer to Development Application Checklist for further detail.*

### Concluding Comments

These notes are in response to a pre-lodgement meeting held on 10 May 2018 to discuss subdivision of land to create 11 allotments, associated infrastructure and the construction of new dwellings on the resultant lots at 96-104 Cabarita Road, Avalon Beach. The notes reference preliminary plans prepared by Mark Harcum Design Practice dated March 2018.

The proposal is not acceptable in its current form and is considered to have an unreasonable impact upon the natural environment, in contradiction to several of Council's development standards and planning controls. It is strongly recommended that Lots 9, 10, and 11 are consolidated into 2 lots to enable the retention of a substantial number of existing significant trees. In addition, lots 2, 3, and 4 should be reduced to 2 lots. This would also assist in minimising the visual impact of the resultant development as viewed from the waterway.



### **Concluding Comments**

Furthermore, the individual dwelling designs should ensure consistency with the provisions of PLEP 2014, P21 DCP and the E4 zoning of the site, with particular regards to limiting the number of storeys, minimising excavation and disturbance to the natural landform, and the overall visual impact of the development ensuring that future development is within a landscaped setting, with the built form secondary to landscaping. As such landscaping, including replacement planting on site, shall be integral to any future development to ensure that the proposed dwellings are within a landscaped setting. Vegetation within the foreshore area should be enhanced in accordance with clause 7.8 of PLEP 2014.

Based upon the above comments you are advised to satisfactorily address the matters raised in these notes prior to lodging a development application.