

Alterations and additions to the existing dwelling and the construction of a swimming pool



1.0 SITE DETAILS

The site is legally identified as Lot 60 in Deposited Plan 7593, and is commonly referred to as 41 Alleyne Avenue, North Narrabeen. The site is irregular in shape, with a 17.02m wide frontage to Alleyne Avenue to the west, a maximum depth of 59.13m and a total area of 875.5m².

A split level one and two storey dwelling is situated towards the front of the site, with an existing hardstand parking area located immediately adjacent to the front boundary. With the exception of one existing canopy tree, the site is generally free of any significant vegetation. A number of minor outbuildings are located across the site.

The existing dwelling comprises two distinct forms; being the northern pavilion and the southern pavilion. The two storey northern pavilion comprises 4 bedrooms and 2 bathrooms, spread equally on both levels. The single storey southern pavilion comprises an open plan kitchen, living and dining area and an elevated balcony.

Vehicular access is gained via a shared access driveway located within the road reserve, which commences in front of 29 Alleyne Avenue and runs at a lower level, adjacent to the main public roadway.

The site is comparably steep, with a fall in excess of 16.25m from the upper front boundary down towards the rear, and a slope of approximately 31%. There is also a notable change in levels between the main roadway and the frontage of the site, such that the existing dwelling is screened from view as seen from the street.

The elevated position of the dwelling affords its occupants significant coastal and district views in a northerly to south-easterly direction.

The site is surrounded by low density residential development of varying age, architectural style and character.

2.0 PROPOSED DEVELOPMENT

The applicant seeks consent for alterations and additions to the existing dwelling, as follows:

- Construction of a new driveway and double garage, with an office/storeroom below,
- Alterations and additions to the existing upper floor of the northern pavilion, including:
 - The replacement of the existing flat roof with a hipped roof,
 - The installation of a new high-level window on the northern (side) elevation of Bedroom 2,
 - The installation of additional cupboard space along the southern (side) elevation of Bedroom 1,
- Alterations and additions to the existing ground floor of the southern pavilion, including:
 - The replacement of the existing flat roof with a skillion/butterfly roof,
 - The installation of skylights,
 - The easterly extension of the living room,
 - The provision of an enlarged balcony to the east of the living room,
- The construction of a new lower ground floor to the southern pavilion, including:
 - An additional bedroom,
 - A new combined bathroom and laundry,
 - A secondary lounge room,
 - A new deck extending to the east of the lounge room,
- Alterations to the rear yard to facilitate a level terrace area to the north of the proposed lower floor lounge room,
- The construction of a swimming pool,
- Landscaping, and
- Stormwater infrastructure.

3.0 LEGISLATION, PLANS AND POLICIES

The site is zoned E4 Environmental Living under the provisions of Pittwater Local Environmental Plan 2014. Pursuant to the land use table in Part 2 of this instrument, dwelling houses (and alterations and additions thereto) are permissible with consent.

The following relevant state and local policies are applicable to the proposal:

- Environmental Planning and Assessment Act 1979 (**EP&A Act**)
- Environmental Planning and Assessment Regulation 2000 (**EP&A Regulations**)
- State Environmental Planning Policy No. 55 – Remediation of Land (**SEPP 55**)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (**SEPP BASIX**)
- State Environmental Planning Policy (Coastal Management) 2018 (**CM SEPP**)
 - Proximity Area for Coastal Wetlands
- Pittwater Local Environmental Plan 2014 (**PLEP 2014**);
 - Acid Sulphate Soils Map: Class 5
 - Zoning Map: E4 Environmental Living
 - Lot Size Map: 550m²
 - Biodiversity Map
 - Height of Buildings Map: 8.5m
 - Geotechnical Hazard Map: H1
- Pittwater 21 Development Control Plan (**P21 DCP**);
 - North Narrabeen Locality
 - Landscaped Area 1

4.0 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The matters prescribed by section 4.15 of the EP&A Act are considered, as follows:

(a)	<i>the provisions of— i. any environmental planning instrument, and ii. any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and iii. any development control plan, and iv. (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and v. the regulations (to the extent that they prescribe matters for the purposes of this paragraph), vi. (Repealed) vii. that apply to the land to which the development application relates,</i>	The proposal has been considered with respect to all relevant plans and policies, being those identified Part 3.0 above.
(b)	<i>the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</i>	The proposal will not result in any unreasonable environmental, social or economic impacts.
(c)	<i>the suitability of the site for the development,</i>	The site is suitable for the development proposed.
(d)	<i>any submissions made in accordance with this Act or the regulations,</i>	Subject to Council notification and assessment.
(e)	<i>the public interest.</i>	The proposal is a suitable design solution for the site, that is consistent with the objectives and outcomes of relevant planning instruments and policies. As such, there proposal is considered to be in the public's interest.

5.0 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

Clause 7(1)(a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. The subject site is used for residential purposes with no evident prior land uses. The site does not pose any risk of contamination and therefore, no further consideration is required under clause 7(1)(b) and (c) of SEPP 55. The land is considered to be suitable for the continuation of the residential land use proposed.

6.0 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The application involves 'BASIX affected development', as defined by the EP&A Regulations and is accompanied by a Basix Certificate.

7.0 STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018

The entirety of the subject site is identified as being located within the Coastal Environmental Area as identified by the CM SEPP, and a portion of the rear of the site is identified as being within the Coastal Wetlands Proximity Area. The consent authority can be satisfied of the following:

- the proposal does not involve any works within the land within the Coastal Wetlands Proximity Area, and as such, the provisions of clause 11 are not applicable,
- the proposal is not likely to cause an adverse impact upon the matters listed in clause 13(1) of the CM SEPP,
- the proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 13(1) of the CM SEPP,
- the proposal is not likely to cause increased risk of coastal hazards on the site or other land.

As such, the proposal is consistent with the provisions of the CM SEPP, including the matters prescribed by clauses 13 and 15 of this policy.

8.0 PITTWATER LOCAL ENVIRONMENTAL PLAN 2014

Control	Standard	Proposal	Compliance
Zone E4 Environmental Living			Yes
4.3 Height of buildings	8.5m	8.17m	Yes See discussion.
7.1 Acid sulphate soils			Yes
7.2 Earthworks			Yes
7.6 Biodiversity			Yes
7.7 Geotechnical hazards			Yes See discussion.
7.10 Essential services			Yes

- **Clause 4.3 Height of buildings**

The application proposes the replacement of all existing roof forms. The maximum height of the proposed works is 8.17m, which occurs at the north-eastern corner of the new roof of the northern pavilion. The majority of the proposed works are maintained well below the maximum height development standard.

- **Clause 7.7 Geotechnical hazards**

The application is supported by a Geotechnical Risk Hazard Report, confirming that the proposal will result in an acceptable level of risk.

9.0 PITTWATER 21 DEVELOPMENT CONTROL PLAN

Control	Standard	Proposal	Compliance
A1.7 Considerations before consent is granted			Yes
A4.11 North Narrabeen Locality			Yes See discussion.
B1.3 Heritage Conservation - General			Yes
B1.4 Aboriginal Heritage Significance			Yes
B3.1 Landslip Hazard			Yes

Control	Standard	Proposal	Compliance
B3.6 Contaminated land and potentially contaminated land			Yes
B4.6 Wildlife Corridors			Yes
B5.15 Stormwater			Yes See discussion.
B6.1 Access driveways and works in the public road reserve			Yes
B6.2 Internal Driveways - Low Density Residential			Yes
B6.3 Off-street Vehicle Parking Requirements - Low Density Residential	2 spaces	2 spaces	Yes
B8.1 Construction and Demolition - Excavation and Landfill			Yes
B8.2 Construction and Demolition - Erosion and Sediment Management			Yes
B8.3 Construction and Demolition – Waste Minimisation			Yes
B8.4 Construction and Demolition – Site Fencing and Security			Yes
B8.5 Construction and Demolition - Works in the Public Domain			Yes
C1.1 Landscaping			Yes
C1.2 Safety and Security			Yes
C1.3 ViewSharing			Yes See discussion.
C1.4 Solar Access			Yes See discussion.
C1.5 Visual Privacy			Yes See discussion.
C1.6 AcousticPrivacy			Yes
C1.7 Private OpenSpace			Yes
C1.12 Waste and Recycling Facilities			Yes
C1.13 Pollution Control			Yes
C1.14 Separately Accessible Structures			Yes See discussion.
C1.17 Swimming Pool Safety			Yes
C1.23 Eaves			Yes
C1.24 Public Road Reserve -Landscaping and Infrastructure			Yes
D11.1 Character as viewed from a public place			Yes See discussion.
D11.3 Building colours and materials			Yes See discussion.
D11.6 Front building line	6.5m	1.8m - 4.8m	No See discussion.
D11.7 Side and Rear Building lines	1m and 2.5m	Garage: 1.0m & 7.8m Dwelling: 1.4m & 0.97m (existing)	No See discussion.

Control	Standard	Proposal	Compliance
D11.9 Building envelope			No See discussion.
D11.11 Landscaped Area – Environmentally sensitive locations	60% minimum	65%	Yes See discussion.
D11.12 Fences – General			Yes
D11.14 Construction, Retaining walls, terracing and undercroft areas			Yes See discussion.
D11.15 Scenic Protection Category One Areas			Yes

- **Clause A4.11 North Narrabeen Locality**

The proposal results in a low-density residential dwelling house, which has a maximum height of two storeys in any one place. The application is supported by a Landscape Plan which demonstrates that the resultant development is integrated with existing and proposed landscaping, to soften the visual impact of the development as seen from down slope.

The dwelling will be maintained below the height of surrounding canopy trees, and below the 8.5m maximum building height prescribed by clause 4.3 of PLEP 2014. Further, the dwelling has been designed to step down the slope of the site, with appropriate articulation and modulation to break down the apparent size of the development.

As such, the proposed development is consistent with the desired future character of the North Narrabeen Locality.

- **Clause B5.15 Stormwater**

The application is supported by a Stormwater Management Plan, demonstrating the appropriate management of stormwater on the site. As a connection to stormwater infrastructure downslope in Garden Street was not available or feasible, on-site detention and on-site dispersion is proposed. The proposed stormwater solution is endorsed by suitably qualified Stormwater and Geotechnical Engineers as being the most appropriate solution for the subject site that will result in an improvement compared to current conditions.

- **Clause C1.3 View sharing**

Significant ocean and district views are available from and over the subject site. The proposal has been designed to minimise any potential obstruction of these views, as follows:

- The pitch of the proposed roof forms is minimal (5 degrees),
- The proposal does not seek to increase ceiling heights at the upper most floor,
- The ground floor balcony does not project any further than the alignment of the existing dwelling to the south at 43 Alleyne Avenue,
- The lower ground deck which projects forward of the alignment of the existing dwelling to the south at 43 Alleyne Avenue is at a considerably lower level than that of the adjoining property,
- The additional floor space is located on the south of the site to maintain south-easterly view corridors from the property to the north at 39 Alleyne Avenue.

Overall, the proposal will not result in any unreasonable impacts upon views from nearby or adjoining properties.

- **Clause C1.4 Solar access**

The proposed development includes a new lower ground lounge room and deck, which will receive in excess of 3 hours of direct sunlight between 9am and 3pm in midwinter.

Whilst the proposal will result in additional overshadowing of the adjoining dwelling at 43 Alleyne Avenue, the proposal will not increase overshadowing to windows associated with living rooms or the principal area of private open space. See solar access diagrams provided.

As such, the proposal is compliant with the requirements of this clause.

- **Clause C1.5 Visual privacy**

The application proposes a new balcony on the ground floor and a new deck on the lower ground floor, both of which are located within 9m of decks at the rear of the adjoining dwelling to the south at 43 Alleyne Avenue.

The incorporation of any additional screening devices is not considered to be warranted in the circumstances of this site, as follows:

- The ground floor balcony is setback behind the alignment of the balconies of the adjoining property,
- The lower ground floor deck is at a lower level than the balconies of the adjoining property,
- Significant views are obtainable in a south-easterly direction, and
- The principal area of private open space of the dwelling at 43 Alleyne Avenue is located to the southern side of the site, more than 9m from the proposed balcony and deck.

Nonetheless, should Council deem the inclusion of screens to be essential, conditions of consent could be imposed to require the screens to be incorporated into the proposal prior to the issue of the construction certificate.

- **Clause C1.14 Separately accessible structures**

The application seeks consent for a separately accessible office/store beneath the proposed double garage. The proposed space will not be separately inhabited and will not contain cooking facilities. As such, the proposed office/store is consistent with the requirements of this clause.

- **Clause D11.1 Character as viewed from a public place**

The proposed development is inconsistent with the provisions of this clause that require parking structures to be located behind the front building line. However, the proposed development simply seeks to enclose the existing hardstand area that is located in the same location. Furthermore, the siting of the garage is consistent with a permitted variation nominated in clause D11.6 of P21 DCP, which provides that parking structures are permitted forward of the front building line on sloping sites, such as the subject site.

The siting of the garage is constrained by the location of the existing dwelling to be retained and is consistent with the location of other parking structures on adjoining sites.

The site is accessed from a shared access driveway within the road reserve and is largely screened from view from the main roadway of Alleyne Avenue. As such, the proposed garage will not give rise to adverse visual impacts upon from the primary public domain.

Despite non-compliance with the 6.5m front setback prescribed, the siting of the proposed garage is considered supportable on merit, as the outcomes of the clause are otherwise achieved.

- **Clause D11.6 Front building line**

As above, the proposed garage is sited forward of the 6.5m front building line prescribed by this control, and the variation relating to sloping sites is considered to be appropriately applied in this instance. The garage has been sited to enable vehicles to enter and exit along the common shared access driveway in a forward direction, and for visitors or delivery vehicles to pull off the shared driveway and park on the site, when the garage doors are closed.

The application also seeks consent for an office and storage area below the proposed garage, which is also located partially forward of the minimum setback prescribed. Whilst there is no expressed variation in this clause, the inclusion of usable floor space below the proposed garage is considered to be an appropriate design response, noting that the eastern side of the proposed garage is elevated above ground, and a retaining wall of the same height would otherwise be required to support the structure above. The proposed office is simply filling the area below the garage, which also actively avoids site disturbance and addition bulk elsewhere on the site.

The visual impact of the resultant structure is generally screened from view from the public domain and will be softened by landscaping as seen from adjoining dwelling. The use of the space as an office and storage will not give rise to unreasonable impacts upon the amenity of the adjoining property. As such, the proposal is considered to be supportable on merit, as the objectives of the control are otherwise achieved.

- **Clause D11.7 Side and rear building line**

The proposed development seeks to maintain the alignment of the southern side of the existing dwelling, with a resultant side setback of 970mm, just shy of the 1m minimum prescribed. The minor 30mm non-compliance is not considered to detract from consistency with the outcomes of this control, and the variation relating to the maintenance of non-compliant setbacks is considered to be reasonable applied.

The proposed garage is sited with a 1m side setback to the northern side boundary. Whilst it is appreciated that the 2.5m minimum setback should be applied in relation to the northern side setback, the adoption of the 1m side setback is considered to be reasonable in this instance, as follows:

- The garage is a detached structure, which in isolation achieves compliance with the 1m and 2.5m side setbacks prescribed,
- The 1m side setback allows for the incorporation of 2 off-street parking spaces within the proposed garage in accordance with clause B6.3 of P21 DCP, whilst also minimising site disturbance at the frontage of the site,
- The 1m setback does not give rise to any unreasonable impacts upon the amenity of the dwelling to the north.

- **Clause D11.9 Building envelope**

Minor portions of the proposed development extend beyond the building envelope prescribed by this control. Despite non-compliance, the proposal is supportable on merit, as follows:

- The non-compliant elements do not attribute to excessive bulk and scale or any unreasonable impacts associated with overshadowing or view sharing,

- The apparent size and scale of the proposed development is consistent with that of surrounding dwellings in the visual catchment of the site, particularly when seen from downslope.
- The resultant split-level home has been designed to follow the slope of the land, with no more than two storeys in any one place.
- The protrusions of the building envelope on the southern elevation of the dwelling are associated with an open balcony structure that provides articulation and shadowing to the eastern façade. In particular, the roof that projects upwards towards the rear of the site has been designed to provide shade in summer and maximise low sunlight in winter (consistent with the expressed variation of this clause).

With this in mind, permitted variations relating to the slope of the land (in excess of 30%) and shading elements are considered to be applicable and warranted in this instance.

- **Clause D11.11 Landscaped area**

The proposal provides a total landscaped area calculation of 568m² or 64.9% of the total site area, excluding permitted variations (pathways less than 1m in width). The proposal will result in the enhancement of the landscape treatment of the site, consistent with the outcomes of this control.

- **Clause D11.14 Construction, retaining walls, terracing and undercroft areas**

The application seeks consent for a new terrace to the north of the proposed lower ground lounge room. The terrace will provide a level area of lawn for outdoor play, on what is otherwise a steeply sloping block with little usable outdoor area.

The application proposes an above ground swimming pool adjacent to the levelled lawn terrace, the coping of which sits a maximum of 5m above existing ground level. The area of the proposed swimming pool has been minimised and has been designed to allow for direct interaction with the adjacent deck and terrace. The siting of the proposed pool at the same level of the adjacent outdoor areas maximises surveillance of the pool area, noting that any change in level will result in blind spots along the western edge of the pool.

Whilst elevated above ground, the proposed swimming pool will not result in any unreasonable impacts upon the amenity of the adjoining dwelling to the north, which is situated at higher levels on the site and will ultimately look over the proposed pool area to the view beyond.

The proposed swimming pool is located in a position where built form is reasonably anticipated, and the siting of the pool in close proximity to the dwelling allows for the rear of the site to remain undisturbed.

Whilst this control preferences the use of sandstone for retaining walls and terracing visible from a public place, the pool structure will be finished in a dark tone to minimise the visual impact of the structure and to allow for the landscaping downslope of the pool to be prominent feature of the site.

The proposed development is not inconsistent with the character of the area, noting that terracing, retaining walls and elevated pools are a common feature of properties along Alleyne Avenue and other properties on sloping sites throughout the wider LGA. It is considered that the proposal achieves an appropriate balance between the retention of the natural state of the site and the reasonable development of the land.

10.0 CONCLUSION

The proposal is an reasonable solution for the site, which has appropriate regard for the amenity of adjoining properties, the slope of the site, and the constrained access arrangement. The proposal will not result in any unreasonable impacts upon adjoining properties or the surrounding natural environment and is generally consistent with the technical requirements of relevant plans and polices. Overall, the resultant development will adequately reflect the desired future character of the North Narrabeen Locality.

