

STATEMENT OF ENVIRONMENTAL EFFECTS

Alterations and
additions to an existing
dwelling house and
new boatshed and
swimming pool

60 Hudson Parade
Clareville

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Suite 1, 9 Narabang Way Belrose NSW 2085

Phone: (02) 9986 2535 | Fax: (02) 9986 3050 |

www.bbfplanners.com.au

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60 Hudson Parade, Clareville



Greg Boston
Boston Blyth Fleming Pty Ltd
(ACN 121 577 768)

Suite 1/9 Narabang Way
Belrose NSW 2085

Tel: (02) 99862535

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TABLE OF CONTENTS

1	Introduction	4
2	Alterations and Additions/New Dwelling Planning Principle	5
3	Site Analysis.....	9
3.1	Site Description and Location	9
3.1.1	The Site	9
3.1.2	The Locality	10
3.1.3	Zoning and Key Environmental Considerations.....	11
4	Description of Proposed Development.....	12
4.1	Details of the Proposed Development.....	12
5	Statutory Planning Framework	14
5.1	Pittwater Local Environmental Plan 2014	14
5.1.1	Zoning and Permissibility	14
5.1.2	Height of Buildings	14
5.1.3	Acid Sulfate Soils (Clause 7.1).....	17
5.1.4	Earthworks (Clause 7.2).....	18
5.1.5	Biodiversity (Clause 7.6)	18
5.1.6	Geotechnical Hazards (Clause 7.7)	18
5.1.7	Limited Development on Foreshore Area (Clause 7.8).....	18
5.2	Pittwater Development Control Plan 2014	21
5.2.1	Avalon Beach Locality.....	21
5.2.2	Pittwater 21 Development Control Plan Compliance Table	23
5.3	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.....	36
5.4	State Environmental Planning Policy (Hazards & Resilience) 2021	36
5.5	Matters for Consideration Pursuant to Section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended.....	38
6	Conclusion	43

1 Introduction

This document forms a component of a development application proposing extensive alterations and additions to the existing dwelling house and the construction of ancillary garage, boat storage and a new swimming pool on the subject allotment. The application represents legitimate alterations and additions to the existing dwelling house when assessed against the planning principle established by the Land and Environment Court in the matter of *Coorey v Municipality of Hunters Hill* [2013] NSWLEC 1187.

The project architect has responded to the client brief to provide for the reconfiguration and augmentation of floor space to significantly enhance the amenity, design quality and liveability of the residential accommodation on the site in a contemporary and environmentally sensitive manner. The design brief also included a desire to undertake pre-lodgement discussions with both immediately adjoining property owners with such discussions informing the final design outcome proposed.

The design brief has been achieved through the adoption of a pavilion style building topology which steps down the site in response to topography whilst maintaining appropriate spatial separation and associated amenity to surrounding development. Site disturbance has been minimised through the retention of the established dwelling footprint and significant structural elements were located adjacent to the foreshore with tree loss appropriately compensated for through the implementation of the proposed integrated landscape regime.

The environmental and sustainability credentials of the development are established through the provision of a significant number of PV panels and green roof elements above the proposed boat shed and on the single storey roof elements of the street facing building pavilion.

In preparation of this document consideration has been given to the following:

- The Environmental Planning and Assessment Act, 1979 as amended (the Act).
- Pittwater Local Environmental Plan 2014 (the LEP).
- Pittwater 21 Development Control Plan (the DCP).
- State Environmental Planning Policy (Hazard & Resilience) 2021
- Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

In addition to the architectural plans the application is also accompanied by a site survey, landscape plan, Geotechnical Assessment, arborist report, Stormwater Management Plans, schedule of finishes and BASIX certificate.

This report demonstrates that the proposed works are permissible with consent and consistent with the legislative framework as it relates to this form of development on this particular site. The completed dwelling will contribute positively to the built form quality of the housing stock established within the locality.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The application has considered and satisfies the various relevant planning controls applicable to the proposed use and associated works have regard to the objectives of the standards/ controls and the applicable variation provisions/ considerations.
- The site is assessed as suitable for the proposal, having regard to the relevant land use and planning requirements.
- The proposal will not give rise to any unacceptable streetscape or residential amenity impacts.
- The variations to the front setback, side boundary setback, building envelope and boatshed design provisions contained within Pittwater 21 Development Control Plan have been acknowledged and appropriately justified having regard to the objectives of the controls. Strict compliance has been found to be both unreasonable and unnecessary given that the application represents legitimate alterations and additions to an existing dwelling house and the consistency of the proposal with the objectives of the applicable controls.
- The variations to the clause 4.3 height of buildings standard contained within Pittwater Local Environmental Plan 2014 (PLEP) has been acknowledged and found to succeed on merit when assessed against the clause 4.6 variation provisions. Such variation request is well founded.

2 Alterations and Additions/New Dwelling Planning Principle

The planning principle established by the Land and Environment Court of NSW in the matter *Coorey v Municipality of Hunters Hill* [2013] NSWLEC 1187 determines whether a development application involving alterations and additions to an existing dwelling should be assessed as such against the applicable controls or whether the extent of retained fabric renders the application appropriately dealt assessed as a new dwelling house involving the retention of existing building fabric were all structures are assessed on merit against the applicable controls.

The planning principle establishes that both a qualitative and quantitative analysis of the proposed development, including the extent of retained fabric, is required to determine the appropriate assessment criteria. Such analysis is as follows:

Qualitative issues

How is the appearance of the existing building to be changed when viewed from public places?

The appearance of the dwelling will change to a more contemporary style and split between 2 pavilions. The appearance from the street will change with the new front pavilion to face the street. The building will continue to have the appearance of a dwelling house as viewed from the public domain with the general form and massing of the dwelling as viewed from Pittwater waterway generally maintained being a 3 storey building form with slightly raised pitched roof.

To what extent, if any, will existing landscaping be removed and how will that affect the setting of the building when viewed from public places?

An arborist report has been provided detailing the trees to be removed to facilitate the works. A landscape plan has been provided detailing the landscaping treatments and tree replacement to go on site. A compliant level of landscaping is maintained with the dwelling house continuing to sit within a landscaped setting.

To what extent, if any, will the proposal impact on a heritage item, the curtilage of a heritage item or a heritage conservation area?

N/A

What additional structures, if any, in the curtilage of the existing building will be demolished or altered if the proposal is approved?

The western portion of the existing dwelling, facing the waterfront, will be largely retained with the associated roof form maintained although slightly increased in height to enhance internal amenity. The eastern portion of the existing dwelling will be demolished.

What is the extent, if any, of any proposed change to the use of the building?

No change is proposed to the use of the existing building as a dwelling house.

To what extent, if any, will the proposed development result in any change to the streetscape in which the building is located?

The established streetscape has a range of dwelling styles from a range of periods. The resultant dwelling house sits down into the site, predominantly below the level of Hudson Parade, with significant landscape elements retained within the street facing setback providing for the retention of a heavily vegetated street facing yard. The streetscape appearance of the development will be complimentary and compatible with that established by surrounding development and development generally within the site's visual catchment.

To what extent, if any, are the existing access arrangements for the building proposed to be altered?

The existing crossover is retained. A new driveway provides access to the proposed garage accommodation and a new at-grade entry from the street kerb is proposed to the house to replace the existing steep access via the driveway..

To what extent, if any, will the outlook from within the existing building be altered as a consequence the proposed development?

The dwelling will continue to be orientated towards Pittwater and its immediate environs.

Is the proposed demolition so extensive to cause that which remains to lose the characteristics of the form of the existing structure?

The preservation of the western edge of the dwelling retains its current character as viewed from Pittwater waterway.

Quantitative Issues

To what extent are any existing non-compliances with numerical controls either increased or diminished by the proposal?

Existing non-compliances are not increased with the proposed works. In this regard, the existing building slightly breaches the 8.5 metre building height standard with compliant levels of landscaping/building footprint maintained.

To what extent is the building envelope proposed to be changed?

The building envelope established by the retained building elements is generally maintained with the majority of additional building elements located on the higher portion of the site adjacent to Hudson Parade.

To what extent are boundary setbacks proposed to be changed?

The side and rear boundary setbacks established by the existing/retained building elements are maintained with the proposed new works generally compliant with the boundary setback provisions other than the setback to the irregular splayed boundary to Hudson Parade where a variation is sought to facilitate safe and convenient car parking and a new entry to the dwelling.

To what extent will the present numerical degree of landscaping on the site be changed?

The proposed works will result in a minor reduction in landscaped area as defined although the landscape quality of the site is maintained through the implementation of the integrated site landscape regime.

To what extent will the existing floor space ratio be altered?

No FSR standard applies.

To what extent will there be changes in the roof form?

The roof over the retained building elements will be lifted approximate 360mm to enhance internal amenity. The new roof elements either extend the form of the existing roof or are designed to complement the existing structure.

To what extent will there be alterations to car parking/garaging on the site and/or within the building?

New garage proposed. Existing metal carport to be demolished.

To what extent is the existing landform proposed to be changed by cut and/or fill to give effect to the proposed development?

The landform is sloping with some additional areas of excavation required to facilitate the works. Careful consideration of the retention and protection of the large site trees were a key driver in the planning and design of the proposal and the associated excavation.

What relationship does the proportion of the retained building bear to the proposed new development?

The roof over the retained portion of the dwelling is increased in height by 360mm however its general geometry is maintained. The new roof elements either extend the form of the existing roof or are designed to complement the existing structure.

It is considered, based on the analysis provided against the planning principle outlined above, that the proposed development is appropriately assessed as alterations and additions to an existing dwelling.

3 Site Analysis

3.1 Site Description and Location

3.1.1 The Site

The application relates to Lot 56 in DP 7794, 60 Hudson Parade, Clareville. A location map is included as **Figure 1**.



Figure 1: Site Location (Source: SIX Maps)

Number 60 Hudson Parade is a generally rectangular shaped allotment comprising a total site area of 1239m², with a splayed primary frontage of 28.2m to Hudson Parade and a depth of between 70.675m 87.175m down to the mean high watermark. The site is currently occupied by a single dwelling house with detached carport accommodation accessed via a driveway from Hudson Parade as depicted in Figure 2 over page.

The topography of the site slopes down from street level to the waters edge. A number of trees and vegetation are located on or adjacent to the site. Development along the low side of Hudson Parade typically consists of residential dwellings that step down the slope with more contemporary dwellings being multi storey. Boat sheds are also common along the waterfront.



Figure 2: Site as viewed from Hudson Parade (Source: Google Earth)

3.1.2 The Locality

The subject site is located within the Avalon Beach Locality. The locality is characterised by low density residential development with dwellings built along the valley floor, slopes and ridges. Development in this locality is predominantly two storey detached dwellings on 600 – 1000 square metre allotments, with up to 8000sqm in Ruskin Rowe. The residential areas are of a diverse style and architecture, a common thread being landscaped, treed frontages and subdued external finishes. The dominant feature of the Avalon Beach locality is houses setback from the street with low and no front fencing and vegetation used extensively to delineate boundary lines. Medium-density housing is located around the Avalon Beach Commercial Centre and neighbourhood retail centres.

Development along Hudson Parade consists of primarily residential dwelling with informal landscaping. Topography of the area is sloping resulting in dwellings being 2 and 3 storeys typically depending on the slope of the land.

3.1.3 Zoning and Key Environmental Considerations

The site is zoned C4 Environmental Living pursuant to the Pittwater Local Environmental Plan 2014. The key environmental considerations of the site are identified as follows:

- Acid Sulfate Soils, Class 1 & 5;
- Land identified on the Terrestrial Biodiversity Map
- Foreshore Building Line
- Geotechnical Hazard Area
- Site is located within Area 1 of the Landscape Area Map

All the above environmental considerations are discussed in the following sections of this report and addressed in the documentation accompanying this Development Application.

4 Description of Proposed Development

4.1 Details of the Proposed Development

This application proposes extensive alterations and additions to the existing dwelling house and the construction of ancillary garage, boat storage and a new swimming pool on the subject allotment as depicted on the accompanying architectural plans prepared by Bennett Murada Architects.

The project architect has responded to the client brief to provide for the reconfiguration and augmentation of floor space to significantly enhance the amenity, design quality and liveability of the residential accommodation on the site in a contemporary and environmentally sensitive manner. The design brief has been achieved through the adoption of a pavilion style building topology which steps down the site in response to topography whilst maintaining appropriate spatial separation and associated amenity to surrounding development. Site disturbance has been minimised through the retention of the established dwelling footprint and significant structural elements were located adjacent to the foreshore.

Specifically, the works provide for the following floor plate outcomes:

Lower Ground Floor:

- Addition to include laundry and kitchenette
- New boat shed with green roof
- New internal access stair and lower courtyard

Ground Floor:

- Addition of 2 bedrooms
- Bathroom and powder room
- New ensuite and walk-in-robe to the master bedroom
- Garage with storage spaces, games room and bathroom.
- New internal stair.

First Floor:

- Addition to include new pantry, powder room and music room.
- Gallery hallway connection to the front garage pavilion
- Bedroom, living area with bathroom and mudroom.
- Entry from the street is provided at this level.

A swimming pool is proposed to be situated along the northern boundary.

The application proposes the removal of a number of trees as detailed within the accompanying arborist report prepared by Martin Peacock Tree Care with such tree loss appropriately compensated for through the implementation of the integrated site landscape

regime as depicted on the accompanying landscape plans prepared by Arcadia with both at-grade and roof top plantings proposed.

The acceptability of the proposed excavation is addressed in the accompanying geotechnical report prepared by Douglas Partners with stormwater directed to Pittwater Waterway as depicted on the accompanying stormwater drainage plans prepared by NB Consulting.

5 Statutory Planning Framework

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 as amended. Those matters which are required to be addressed are outlined, and any steps to mitigate against any potential adverse environmental impacts are discussed below.

5.1 Pittwater Local Environmental Plan 2014

The Pittwater Local Environmental Plan 2014 is the principal local planning instrument applicable to the land. The relevant provisions of the LEP and the manner in which they relate to the site and the proposed development are assessed below.

5.1.1 Zoning and Permissibility

As previously noted the site is zoned C4 Environmental Living pursuant to the provisions of the Pittwater Local Environmental Plan 2014.

Dwelling Houses are permissible with consent in the C4 zone. The specific objectives of the zone are identified as follows:

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

The application relates to alterations and additions to an existing dwelling. We have formed the considered opinion that the development is permissible in the zone and consistent with the zone objectives as outlined above. Accordingly, there is no statutory impediment to the granting of consent.

5.1.2 Height of Buildings

Pursuant to Clause 4.3 of the PLEP, the site is identified on the height of buildings map as having a maximum permissible height of 8.5 metres. The stated objectives of such control are as follows:

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

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

Building height is defined as follows:

building height (or **height of building**) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like

Ground level existing is defined as follows:

ground level (existing) means the existing level of a site at any point.

We note that Council has adopted the interpretation of ground level (existing) as that established in the matter of *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582 where at paragraphs 73 and 74 O'Neill C found:

73. *The existing level of the site at a point beneath the existing building is the level of the land at that point. I agree with Mr McIntyre that the ground level (existing) within the footprint of the existing building is the extant excavated ground level on the site and the proposal exceeds the height of buildings development standard in those locations where the vertical distance, measured from the excavated ground level within the footprint of the existing building, to the highest point of the proposal directly above, is greater than 10.5m. The maximum exceedance is 2.01m at the north-eastern corner of the Level 3 balcony awning.*

74. *The prior excavation of the site within the footprint of the existing building, which distorts the height of buildings development standard plane overlaid above the site when compared to the topography of the hill, can properly be described as an environmental planning ground within the meaning of cl 4.6(3)(b) of LEP 2014.*

It has been determined that a portion of the raised western pitched roof form and chimney breach the height of buildings standard by 967mm or 22.3% as measured above ground level (existing) as depicted in Figures 3 and 4 over page. We note that the existing roof form located over this retained portion of building footprint is being raised 360mm to provide for an increase in ceiling height and associated amenity.

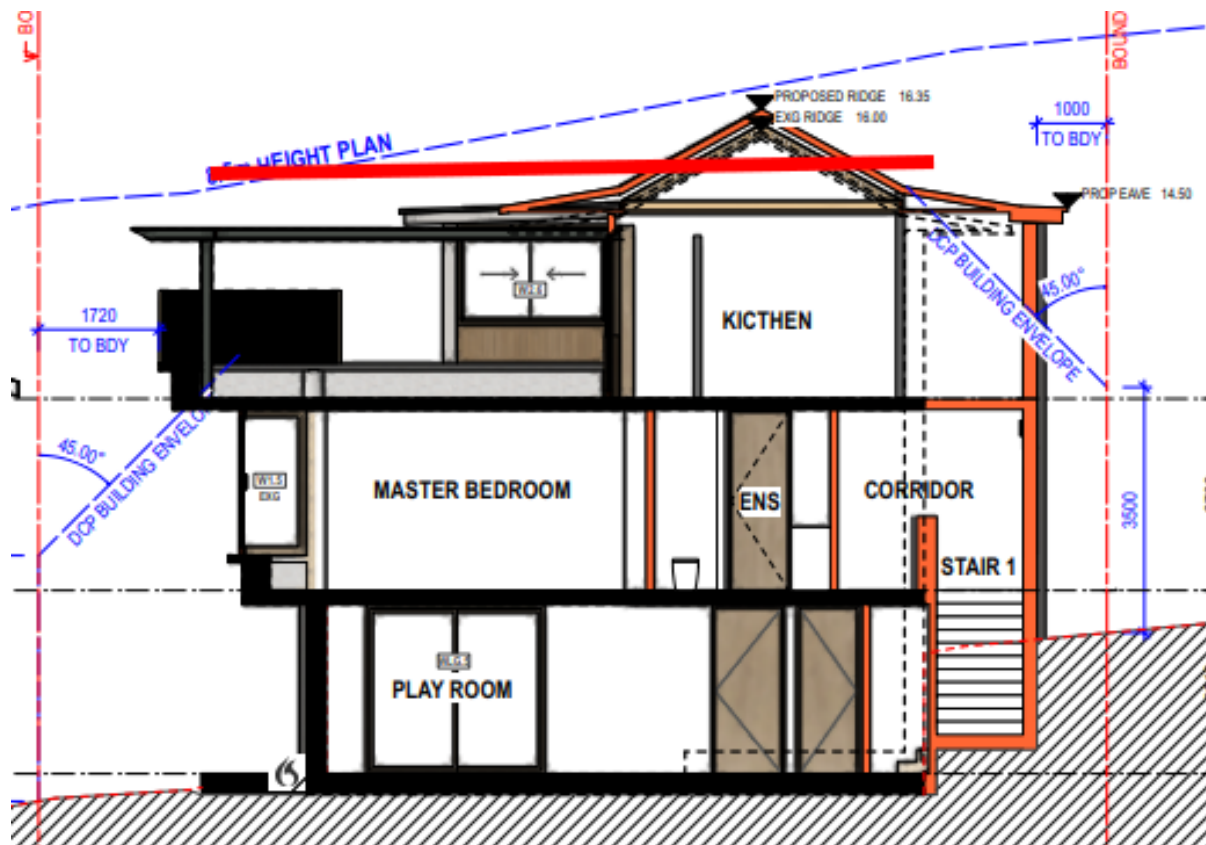


Figure 3: Section extract showing the 8.5m building height plane (in red) as measured above ground level existing as determined in accordance with *Merman Investments Pty Limited* and the non-compliant portion of the raised pitched roof form. This plan also shows the interpolated undisturbed natural ground level 8.5m building height plane (in blue) demonstrating compliance with the 8.5m building height standard.

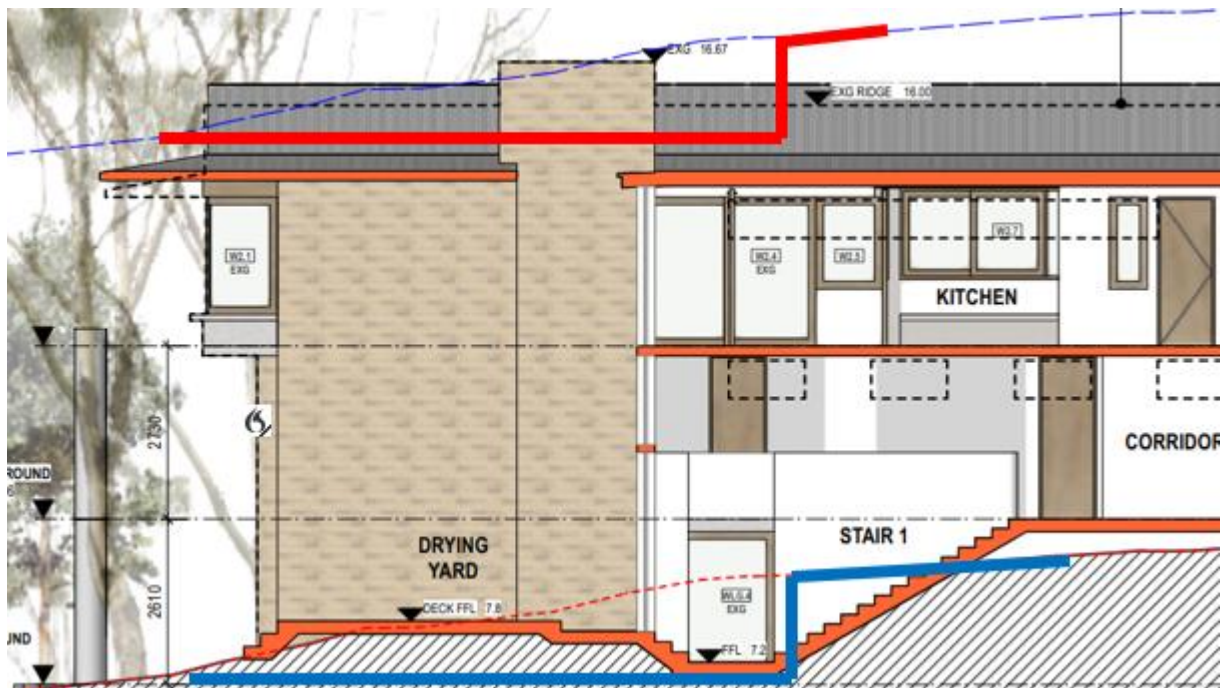


Figure 4: Plan extract showing the 8.5m building height plane (in red) as measured above ground level (existing) as shown by solid blue line in accordance with *Merman Investments Pty Limited* and the non-compliant portion of the raised pitched roof form and chimney. This plan also shows the interpolated undisturbed natural ground level 8.5m building height plane (in blue) demonstrating compliance with the 8.5m building height standard.

We note all habitable floor space continues to sit below the 8.5m building height standard regardless of the method of calculation.

Clause 4.6 of PLEP 2014 provides a mechanism by which a development standard can be varied and to that extent this application is accompanied by a clause 4.6 variation request at Attachment 1.

Such request demonstrates that the development is consistent with the objectives of the zone, consistent with the objectives of the building height standard and as such strict compliance is both unreasonable and unnecessary. Further, sufficient environmental planning grounds exist to justify the variation sought. The 4.6 variation request is well founded.

5.1.3 Acid Sulfate Soils (Clause 7.1)

Pursuant to Clause 7.1 of the LEP the site is identified as being class 1 & 5 acid sulfate soils. The majority of the site is class 5 with only a small section by the water classified as class 1. The accompanying geotechnical report prepared by Douglas Partners contains the following commentary at section 5.8 in relation to acid sulfate soil (ASS) considerations:

Reference to the Hornsby/Mona Vale Acid Sulphate Soil Risk Map (Department of Land and Water Conservation - Edition 2, dated December 1997) indicates the local area to have a “low risk” of ASS. All bulk and detailed footing excavations proposed on the site will be located upslope (east) of the existing seawall and it is not expected that they will intersect any estuarine soils along the Pittwater foreshore.

Furthermore, field screening and laboratory analysis of the soil samples collected at a similar level on the hillside during an ASS assessment on the adjacent site to south (56 Hudson Parade) did not indicate the presence of any ASS.

It is therefore considered that preparation of an Acid Sulphate Management plan is not required for the proposed development.

5.1.4 Earthworks (Clause 7.2)

Pursuant to clause 7.2 the objective states that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

A geotechnical report prepared by Douglas Partners has been provided and it is anticipated that the recommendations within that report will form part of the development consent to ensure that no detrimental impacts arise during construction.

5.1.5 Biodiversity (Clause 7.6)

The site is mapped with the LEP as being a terrestrial biodiversity area. The subject site includes a number of prescribed trees which will be required to be removed to facilitate the orderly and economic use of the site.

The application proposes the removal of a number of trees as detailed within the accompanying arborist report prepared by Martin Peacock Tree Care with such tree loss appropriately compensated for through the implementation of the integrated site landscape regime as depicted on the accompanying landscape plans prepared by Arcadia with both at-grade and roof top plantings proposed.

5.1.6 Geotechnical Hazards (Clause 7.7)

The site is identified as a geotechnical hazard area. A geotechnical report prepared by Douglas Partners has been provided and it is anticipated that the recommendations within that report will form part of the development consent to ensure that no detrimental impacts arise during construction.

5.1.7 Limited Development on Foreshore Area (Clause 7.8)

The subject site includes a foreshore building line which limits certain development within the foreshore area with an extract of the foreshore building line at Figure 5 over page.



Figure 5: Foreshore building line extract PLEP 2014 (site shown with blue star)

Development consent should not be granted for development on land in the foreshore area except for the following:

- (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, but only if the development will not result in the footprint of the building extending further into the foreshore area,
- (b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).

We confirm that all proposed works, with the exception of the proposed boat shed, are located outside the foreshore building line with boat sheds permissible encroachments pursuant to these provisions. This is depicted in Figure 6 over page.

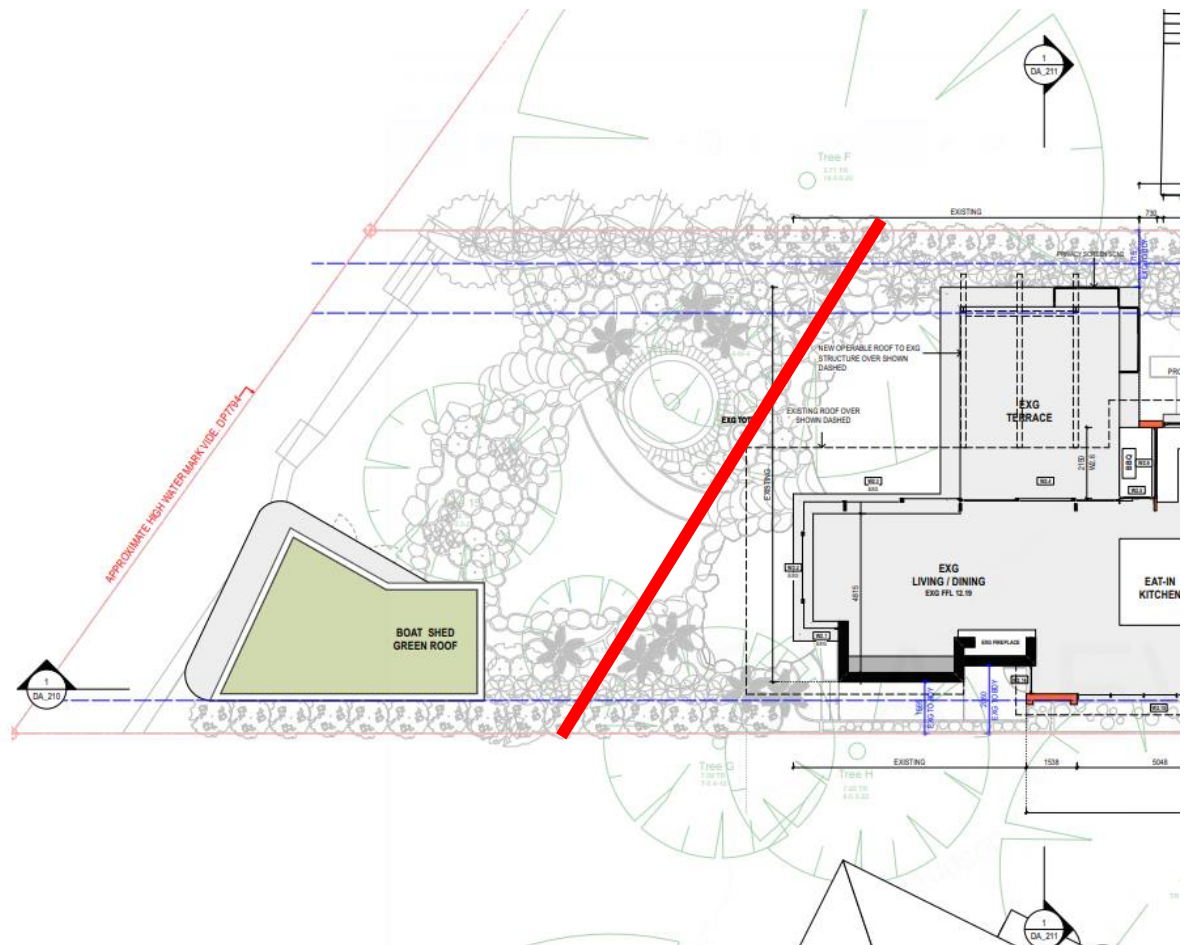


Figure 6: Plan extract showing foreshore building line (in red) relative to built form structures

5.2 Pittwater Development Control Plan 2014

This policy document came into effect on 1 February 2004. P21 DCP contains development controls for the design and construction of buildings and the development of land in Pittwater. The proposed development has been assessed against the relevant provisions of P21 DCP as outlined in the following sections of this report.

5.2.1 Avalon Beach Locality

The property is located within the Avalon Beach Locality. The desired future character of the Avalon Beach Locality will remain primarily a low-density residential area. The key objectives for the desired future character are identified as follows:

“The most important desired future character is that Avalon Beach will continue to provide an informal relaxed casual seaside environment. The locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations.

Any dual occupancies will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity, fewer hazards and other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, commercial, community and recreational facilities will serve the community.

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.

Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with development. The objective is that there will be houses amongst the trees and not trees amongst the houses.

Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.

Most houses are set back from the street with low or no fencing and vegetation is used extensively to delineate boundary lines. Special front building line setbacks have been implemented along Avalon Parade to maintain the unique character of this street. This, coupled with the extensive street planting of canopy trees, gives the locality a leafy character that should be maintained and enhanced.

The design, scale and treatment of future development within the Avalon Beach Village will reflect the 'seaside-village' character of older buildings within the centre, and reflect principles of good urban design. External materials and finishes shall be natural with smooth shiny surfaces avoided. Landscaping will be incorporated into building design. Outdoor cafe seating will be encouraged.

A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors"

The project architect has responded to the client brief to provide for the reconfiguration and augmentation of floor space to significantly enhance the amenity, design quality and liveability of the residential accommodation on the site in a contemporary and environmentally sensitive manner. The design brief has been achieved through the adoption of a pavilion style building topology which steps down the site in response to topography whilst maintaining appropriate spatial separation and associated amenity to surrounding development. Site disturbance has been minimised through the retention of the established dwelling footprint and significant structural elements were located adjacent to the foreshore with tree loss appropriately compensated for through the implementation of the proposed integrated landscape regime.

The design, scale and treatment of the proposed development is compatible with dwellings within the immediate setting. External materials and finishes will be consistent with the colours and materials of surrounding dwellings and will enable the development to blend into the vegetated escarpment which forms a backdrop to the site. In this regard the development responds positively to the desired future character of the locality and will contribute to the visual amenity of the streetscape.

5.2.2 Pittwater 21 Development Control Plan Compliance Table

A table demonstrating compliance with the relevant numerical provisions of the Pittwater 21 DCP 2014 is detailed as follows:

Control	Requirement	Proposed	Compliance
General Controls			
Landslip Risk B3.1	Protection of people. Protection of the natural environment. Protection of private and public infrastructure and assets	A geotechnical report has been provided with this application.	Yes
B4 Controls Relating to the Natural Environment	The long-term viability of locally native flora and fauna and their habitats and the retention and enhancement of wildlife corridors in the Pittwater LGA.	This application is accompanied with an arborist report detailing the trees to be removed and those to be protected during construction. A detailed landscape plan include new native tree plantings and range of native shrubs and vegetation. The landscaping proposed is an enhancement to the biodiversity value of the local environment.	Yes
B4.22 Preservation of Trees and Bushland Vegetation	To protect and enhance the urban forest of the Northern Beaches. To effectively manage the risks that come with an	This application is supported by an arborist report. The report details the trees to be removed and tree protection measures to be in place to ensure retained trees are protected during construction.	Yes

Control	Requirement	Proposed	Compliance
	<p>established urban forest through professional management of trees.</p> <p>To minimise soil erosion and to improve air quality, water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.</p> <p>To protect, enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.</p> <p>To promote the retention and planting of trees which will help enable plant and animal communities to survive in the long-term.</p> <p>To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.</p>		

Control	Requirement	Proposed	Compliance
B5.15 Stormwater	The stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.	Stormwater Management Plans prepared by NB Consulting have been provided with this application.	Yes
B6.3 Off-street Parking Requirements	2 spaces	The proposal provides for 3 car spaces within the proposed garage.	Yes
B8 Site works Management	<p>Site disturbance is minimised. (En)</p> <p>Excavation, landfill and construction not to have an adverse impact. (En)</p> <p>Excavation and landfill operations not to cause damage on the development or adjoining property.</p>	<p>In accordance with the control appropriate measures are to be undertaken to address the issues of construction and demolition impacts, erosion and sedimentation management, waste minimisation, site fencing and security, works in the public domain and traffic management where required.</p> <p>Normal site management practices will be adopted to prevent public access during demolition and construction and to prevent erosion and sedimentation. As the site is of adequate size, it is envisaged that all construction materials will be stored on site</p>	Yes

Control	Requirement	Proposed	Compliance
		<p>throughout the construction processes.</p> <p>A waste management plan has been provided with this application.</p>	
Development Type Controls			
C1.1 Landscaping	<p>A built form softened and complemented by landscaping. (En)</p> <p>Landscaping reflects the scale and form of development. (En)</p> <p>Retention of canopy trees by encouraging the use of pier and beam footings. (En)</p> <p>Development results in retention of existing native vegetation. (En)</p> <p>Landscaping results in the long-term retention of Pittwater's locally native tree canopy. (En)</p> <p>Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species (En)</p>	<p>A landscape plan is provided with this application.</p> <p>The landscape plan utilises a range of native trees, shrubs and plants to complement the dwelling and enhance the biodiversity value of this sensitive locality.</p> <p>The landscaping and proposed and existing trees will ensure the dwelling will be secondary to the landscape character of the local area. The landscaping will continue to soften and screen the development when viewed from the public domain.</p> <p>A schedule of plants and trees is shown on the landscape plan and utilises a range of native species to enhance the biodiversity on site.</p>	Yes

Control	Requirement	Proposed	Compliance
	<p>Landscaping enhances habitat and amenity value. (En, S)</p> <p>Landscaping results in reduced risk of landslip. (En, Ec)</p> <p>Landscaping results in low watering requirement. (En)</p>		
C1.3 View Sharing	<p>The proposal must demonstrate that view sharing is achieved through the application of the Land and Environment Court's planning principles for view sharing.</p>	<p>It is indicated in clause C1.3 that building lines and height are to be sympathetic to the topography of the site and to maintain a reasonable sharing of views available from surrounding and nearby properties, and those available to the public from nearby public domain areas.</p> <p>Given the topography of the site and juxtaposition of the works relative to adjoining development we have formed the considered opinion that there will be no view affectation as a consequence of the works proposed having regard to the view sharing principles established in the matter of Tenacity Consulting Pty Ltd v Pittwater Council [2004].</p> <p>All properties in this locality are oriented to the west to</p>	Yes

Control	Requirement	Proposed	Compliance
		capture the water views and those westerly views will not be impacted. Some views across side boundaries will be impacted from adjoining properties however it is considered that retaining these views cannot be reasonably anticipated in this instance.	
Solar Access Clause C1.4	Main private open space of the dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st. Windows to the principal living areas of the proposal and windows to the principal living area of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st to at least 50% of the glazed area.	<p>The application is accompanied by shadow diagrams.</p> <p>The works will facilitate a reduction in overshadowing in some areas and increased in others. The works are consistent with the provision of solar access to the adjoining property.</p>	Yes
C1.5 Visual Privacy	Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)	The development has been carefully designed through detailed site analysis to ensure that appropriate levels of visual privacy are maintained between	Yes

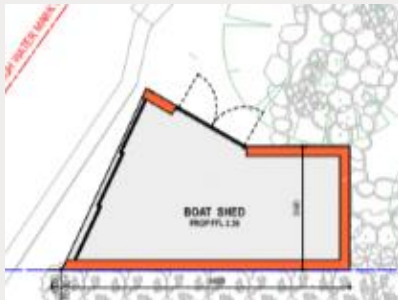
Control	Requirement	Proposed	Compliance
	A sense of territory and safety is provided for residents	<p>properties. Privacy screens are provided where appropriate with landscaping treatments providing additional screening. Perimeter planting around the pool and boundaries contribute to the landscape character while providing privacy screening.</p> <p>Window treatments have been minimised to side facing walls with balconies and windows including privacy attenuation measures where appropriate.</p>	
C1.6 Acoustic Privacy	<p>Noise is substantially contained within each dwelling and noise from any communal or private open space areas are limited. (S)</p> <p>Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or private open space areas</p>	<p>Appropriate levels of acoustic privacy will be retained with the proposal. No unreasonable noise concerns are anticipated outside that which occurs with a family home.</p>	Yes
Private Open Space Clause C1.7	<p>Minimum area of 80sqm of private open space per dwelling at ground level, with no dimension less than 3 metres. No more</p>	>80m ²	Yes

Control	Requirement	Proposed	Compliance
	than 75% of this private open space is to be provided in the front yard		
C1.17 Swimming Pool Safety	Swimming pool fencing and warning notices (resuscitation chart) shall be manufactured, designed, constructed, located and maintained in accordance with the Swimming Pools Act 1992 and regulations. The fencing and warning notices (resuscitation chart) shall be permanent structures.	Can be achieved	Yes
Avalon Beach Locality Specific Development Controls			
D1.5 Building Colours and Material	<p>The development enhances the visual quality and identity of the streetscape.</p> <p>To provide attractive building facades which establish identity and contribute to the streetscape.</p>	<p>A range of colours and finishes are proposed and detailed on the architectural plans provided.</p> <p>Natural local Sydney Sandstone Cladding will be utilised to match the natural bedrock on site mixed with a natural dark slate grey textured cladding to blend into the landscape. The Garage facade will all be Sydney</p>	Yes

Control	Requirement	Proposed	Compliance
		Sandstone blended with timber architectural slats.	
Front Building Line D1.8	Development is to maintain a front building line of 6.5 metres or the established building line, whichever is greater.	<p>The front boundary setback is proposed at 3.89m.</p> <p>The front boundary run parallel to the road which results in an angled front boundary. The front boundary setback varies in that regard.</p> <p>Development along the foreshore in this location does include structures built closer to the front boundary due to the topography and foreshore restrictions. The sites drops down from street level which will reduce the visual impact to the street. Existing and proposed landscaping will further soften and screen the development from the street. It is considered that the site constraints and established development on neighbouring lots has guided the reasonableness of the front setback proposed with this application.</p>	No – worthy on merit
Side and Rear Building Line	Development is to maintain a minimum side building line of	Northern side boundary setback: Largely compliant and well in excess of the	No - minor breach to

Control	Requirement	Proposed	Compliance
D1.9	<p>2.5 metres to one side and 1 metre to the other side.</p> <p>6.5 metre rear building line.</p>	<p>2.5m requirement. 1m setback proposed to the games room northern wall.</p> <p>Southern Side Boundary setback: Varies – 1m setback at its closest point.</p> <p>Foreshore building line applies – no work proposed within the foreshore building line other than a boat shed which is permissible with consent within the foreshore building line.</p> <p>The southern boundary is compliant with the 1m control.</p> <p>The northern boundary setback provides generous setbacks with the pavilion style development breaking up the massing along the boundary.</p> <p>The minor breach of the games room wall at the ground floor level is reasonable and does not give rise to any adverse amenity or visual impacts. Landscaping treatments are included within the side setback to provide some relief. The terrace above has been setback to meet the 2.5m control and also includes planter boxes.</p>	northern boundary.

Control	Requirement	Proposed	Compliance
Building Envelope D1.11	<p>Projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries to the maximum building height.</p>	<p>Due to the topography it is considered that strict compliance with the building envelope control is unreasonable in this instance. The building will continue to sit below surrounding tree canopy level and predominantly below the level of the road and provide for the sharing of both public and private views.</p> <p>The bulk and scale of the development is comparable with more contemporary development along the low side of Hudson Parade. The proposal responds to the topography of the site to limit the amount of excavation required to protect the environmental value of the area. The breaches occur to towards the rear of the property as the land falls away down to the waterfront. The breach occurs to the southern elevation.</p> <p>The southern elevation has varying compliant setbacks to provide high levels of articulation coupled with the use of a range of materials, finishes and native landscaping used to break up the side facing walls. It is considered that this design will not result in an unreasonable visual impact</p>	<p>*No minor variation required</p>

Control	Requirement	Proposed	Compliance
		<p>when viewed from the adjoining properties.</p> <p>Such variation succeeds pursuant to section 4.15 of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development. Accordingly, Council can be satisfied that the proposed works comply with the outcomes associated with the building envelope control and accordingly strict compliance is both unreasonable and unnecessary under the circumstances.</p>	
Landscaped Area Environmentally Sensitive Land D12.10	Total Landscaped Area is 60% of the total site area.	60%	Yes
Waterfront Development D15.15	<p>Part C of this control relates to boat sheds and details the requirements.</p> <p>Boatsheds shall be one storey and no greater than 4.5 metres in building height above the platform on which it is</p>	<p>A boat shed is proposed which will have the following dimensions, shown below:</p> 	No – worthy on merit

Control	Requirement	Proposed	Compliance
	<p>built, 4.0 metres in width and 6.0 metres in length, as illustrated in Diagram 4. The use of lofts or similar design concepts shall not be permitted.</p> <p>Boatsheds cannot be used for any other purpose than the storage of small boats and/or boating equipment. The incorporation of any internal kitchen facilities, habitable rooms, shower or toilet facilities shall not be permitted. Roof areas of boatsheds shall not be used for recreational or observational purposes.</p> <p>Boatsheds shall be able to be entirely enclosed. Boatsheds which either partially or wholly do not incorporate appropriate wall cladding shall not be permitted, as such structures tend to become visually obtrusive when</p>	<p>While not in strict accordance with the dimension it is considered reasonable in this instance. Its presentation and visual impact is minimised by it being set into the slope. The ensures the structure will be less obtrusive when viewed from neighbouring properties or the waterways.</p> <p>The boat shed will be able to be fully enclosed. Large rear facing doors will accommodate storage of a watercraft.</p> <p>The architecturally designed boat shed is considered appropriate in this instance and consistent with the scale of boat shed developments along the foreshore.</p>	

Control	Requirement	Proposed	Compliance
	viewed from the waterway.		

5.3 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the residential component of the development and aims to encourage sustainable residential development.

A BASIX certificate accompanies the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

5.4 State Environmental Planning Policy (Hazards & Resilience) 2021

The site is identified on the SEPP Coastal Management map as being within the Coastal Environmental Area Map and Coastal Use Area Map.

Part 2.2, division 3, of the SEPP, coastal environmental area, states the following:

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

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

(g) the use of the surf zone.

The site is situated on the developed foreshore area surrounding Pittwater. The proposed development will have no impact on the natural coastal processes and environment, marine flora and fauna, public access to the beach and is not within the surf zone.

Division 4 of the SEPP, Coastal Use Area, states the following:

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

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

(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,

(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,

(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,

(iv) Aboriginal cultural heritage, practices and places,

(v) cultural and built environment heritage, and

(b) is satisfied that:

(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or

(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and

(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

The proposed dwelling is to integrate with the existing development along the low side of Hudson Parade and set within an enhanced landscaped setting. The dwelling will incorporate significant landscaping treatments to ensure the landscape character remains the dominant feature of the area and when viewed from the water. In this regard, in any adverse amenity impacts in terms of visual impact or scenic quality are minimised. The proposal will have no impact on the coastal environment and its processes.

Clause 15 of the SEPP states:

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

The consent authority can be satisfied that proposed works will not risk coastal hazards on the site or in the local area. This application is accompanied by a geotechnical report which states the risk associated with the development is acceptable.

5.5 Matters for Consideration Pursuant to Section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended

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

(i) The provision of any planning instrument

The proposal is permissible and generally in conformity with the General, Development Type and Locality Specific Controls contained within Pittwater 21 Development Control Plan.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent.

(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

N/A

(iii) Any development control plan

Pittwater DCP applies

(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

N/A

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

N/A

(v) Any Coastal Zone Management Plan (within the meaning of the Coastal Protection Act 1979)

N/A

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

N/A

Context and Setting

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

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

The proposed works are entirely commensurate with that established by adjoining development and development generally within the sites visual catchment with no adverse residential amenity impacts in terms of views, privacy or overshadowing.

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

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

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

Access, transport and traffic:

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

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

The proposal will result in an improved driveway arrangement to ensure the safe access and egress of cars from the site.

Public Domain

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

Utilities

Existing utility services will continue to service the dwelling house.

Flora and Fauna

The application is accompanied by a landscape plan and arborist report

Waste Collection

Normal domestic waste collection applies to the existing dwelling house.

Natural hazards

The application is accompanied by a geotechnical report.

Economic Impact in the locality

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

Site Design and Internal Design

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

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

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

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

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

The proposed development will comply with the provisions of the Building Code of Australia as required by Clause 98 of the Environmental Planning and Assessment Regulation 2000. There will be no detrimental effects on the occupants through the building design which will achieve the relevant standards pertaining to health and safety.

Construction

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

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

The development will be carried out in accordance with the provisions of the Protection of the Environment Operations Act 1997. Normal site safety measures and procedures will ensure that no site safety or environmental impacts will arise during construction.

(c) The suitability of the site for the development

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development prohibitive*

- *Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*
- *Are utilities and services available to the site adequate for the development*
- *Are the site attributes conducive to development*

The site is located in an established residential area. The adjacent development does not impose any unusual or impossible development constraints. The proposed development will not cause excessive or unmanageable levels of transport demand.

The site being of moderate grade, adequate area, and having no special physical or engineering constraints is suitable for the proposed works.

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

It is envisaged that Council will appropriately consider any submissions received during the notification period.

(e) The public interest

The architect has responded to the client brief to provide for a dwelling of design merit that provides a high level of amenity for the future occupants whilst appropriately addressing the sites setting and maintaining the amenity of the nearby residential properties. The development will provide a quality built form outcome on the site.

6 Conclusion

The application represents legitimate alterations and additions to the existing dwelling house when assessed against the planning principle established by the Land and Environment Court in the matter of *Coorey v Municipality of Hunters Hill* [2013] NSWLEC 1187.

The project architect has responded to the client brief to provide for the reconfiguration and augmentation of floor space to significantly enhance the amenity, design quality and liveability of the residential accommodation on the site in a contemporary and environmentally sensitive manner. The design brief has been achieved through the adoption of a pavilion style building topology which steps down the site in response to topography whilst maintaining appropriate spatial separation and associated amenity to surrounding development. Site disturbance has been minimised through the retention of the established dwelling footprint and significant structural elements were located adjacent to the foreshore with tree loss appropriately compensated for through the implementation of the proposed integrated landscape regime.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The application has considered and satisfies the various relevant planning controls applicable to the proposed use and associated works have regard to the objectives of the standards/ controls and the applicable variation provisions/ considerations.
- The site is assessed as suitable for the proposal, having regard to the relevant land use and planning requirements.
- The proposal will not give rise to any unacceptable streetscape or residential amenity impacts.
- The variations to the front setback, side boundary setback, building envelope and boatshed design provisions contained within Pittwater 21 Development Control Plan have been acknowledged and appropriately justified having regard to the objectives of the controls. Strict compliance has been found to be both unreasonable and unnecessary given that the application represents legitimate alterations and additions to an existing dwelling house and the consistency of the proposal with the objectives of the applicable controls.
- The variations to the clause 4.3 height of buildings standard contained within Pittwater Local Environmental Plan 2014 (PLEP) has been acknowledged and found to succeed on merit when assessed against the clause 4.6 variation provisions. Such variation request is well founded.