

**STATEMENT OF ENVIRONMENTAL EFFECTS**

**FOR THE PROPOSED CONSTRUCTION OF A SWIMMING POOL &  
ASSOCIATED LANDSCAPING**

**LOCATED AT**

**60 CABARITA ROAD, AVALON BEACH**

**FOR**

**GEOFF SMITH**



**Prepared  
January 2025**

## **Table of Contents**

1.0	Introduction .....	3
2.0	Property Description .....	4
3.0	Site Description .....	4
4.0	The Surrounding Environment .....	8
5.0	Proposed Development .....	12
6.0	Zoning and Development Controls.....	13
6.1	State Environmental Planning Policy (Biodiversity and Conservation) 2021 .....	13
6.2	State Environmental Planning Policy (Resilience and Hazards) 2021.....	13
6.3	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 .....	17
6.4	Pittwater Local Environmental Plan 2014 .....	17
6.5	Pittwater 21 Development Control Plan 2014.....	23
6.5.1	Shaping Development – Desired Character.....	23
6.5.2	Section B General Controls.....	24
6.5.3	Section C Development Type Controls.....	29
6.5.4	Section D Locality Specific Development Controls.....	33
7.0	Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979	38
7.1	The provisions of any environmental planning instrument.....	38
7.2	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. .....	38
7.3	Any development control plan .....	38
7.4	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.....	39
7.5	The regulations (to the extent that they prescribe matters for the purposes of this paragraph),.....	39
7.6	The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.....	39
7.7	The suitability of the site for the development .....	39
7.8	Any submissions made in accordance with this Act or the regulations .....	39
7.9	The public interest .....	39
8.0	Conclusion .....	40

## 1.0 Introduction

This Statement of Environmental Effects accompanies architectural plans prepared on behalf of Geoff Smith by Stephen Crosby & Assoc. Pty Ltd, Project No. 2064, Drawings No's. 1-4, Issue A dated 30 August 2024 to detail the proposed construction of a new swimming pool and associated landscaping and pool fencing at **60 Cabarita Road, Avalon Beach**.

This Statement describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. As a result of this assessment it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

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

- *The Environmental Planning and Assessment Act, 1979 as amended (EP&A Act)*
- *The Environmental Planning and Assessment Regulation 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *Pittwater Local Environmental Plan 2014*
- *Pittwater 21 Development Control Plan 2014*

Development Application No. 2024/1036 was submitted to Council on 2 August 2024 and refused on 18 September 2024, for a number of reasons, including the encroachment of the proposed swimming pool on the mean high water mark.

The correct location of the Mean High Water Mark has been accurately determined in the revised Details and Levels Survey prepared by Waterview Surveying Services, Project No 1915, Sheets 1 & 2 dated 28 June 2024.

The revised survey confirms that the existing concrete pad and the associated retaining walls and footings, access pathway and stairs which were constructed adjacent to the waterfront boundary and which were the subject of the issue of a recent Building Information Certificate under BC2024/0308, dated 15 January 2025, stand wholly within the subject land.

The proposed swimming pool is to be constructed within the footprint of the approved concrete pad and therefore the opportunity arises for all of the works which are included within this application, being the construction of the small swimming pool and associated fencing, screening retaining structures and landscaping, to be carried out within the boundaries of the private property.

## **2.0 Property Description**

The subject allotment is described as 60 Cabarita Road, Avalon Beach, being Lot 1 within Deposited Plan 208499. The property is zoned C4 Environmental Living under the Pittwater Local Environmental Plan 2014.

The site has been identified by Council as being affected by affected by Estuarine Hazard on Council's Mapping. These issues are addressed further within this submission.

The site is affected by the Foreshore Building Line. This will be discussed further within this submission.

The site is noted as Geotechnical Hazard H1. A Geotechnical Assessment has been prepared by AscentGeo, Reference No. AG 24287, dated 7 February 2025 and accompanies this submission.

The site is noted as being within the Class 5 Acid Sulfate Soils areas. This will be discussed further within this submission.

The site is also noted as being potentially affected by estuarine hazards. This issue will be discussed further within this submission.

No other hazards have been identified.

## **3.0 Site Description**

The property is an irregular-shaped battleaxe allotment with an area of 860m<sup>2</sup>. The property extends from Cabarita Road to the mean high-water mark adjoining the Pittwater waterway.

The site is currently developed with an existing three storey rendered and clad dwelling with a metal roof.

The site is orientated to the easterly water views are available towards Careel Bay and towards Palm Beach.

This water front property is accessed by a driveway handle from Cabarita Road. The existing dwelling house is located on the upper area of the site. From the waterfront to the uphill side of the house, the slope rises to the street, will a total rise of 26.7m over its length (including the access handle).

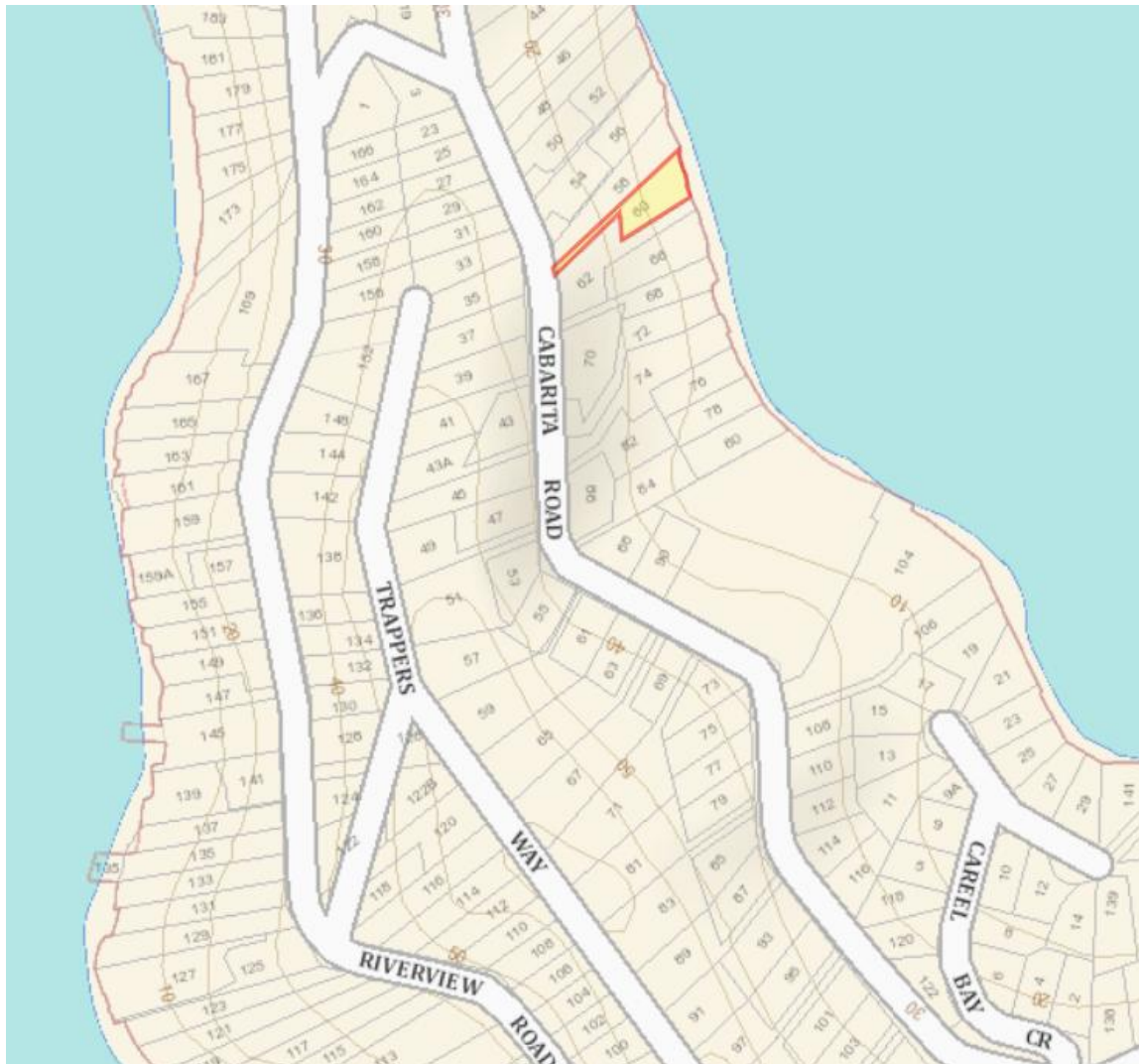
A series of low sandstone block retaining walls support stepped gardens within the foreshore area with an excess pathway and stairs to the waterfront and the existing boat shed.

A low sandstone sea wall supports a level lawn area forward of the mean high water mark.

Stormwater from the site drains towards the Pittwater waterway.

The site has minimal vegetation and trees within the north-eastern area of the site to maintain significant view lines.

The details of the site are included on the survey plan prepared by Waterview Surveying Services, Reference No. 1915, dated 26 June 2024, which accompanies the DA submission.



**Fig 1: Location of subject site**  
(Source: Six Maps)





**Fig 2: View of the driveway entrance to the subject site, looking north-east from Cabarita Road**



**Fig 3: View of the streetscape adjacent to the site, looking north along Cabarita Road  
(subject site RHS of view)**





**Fig 4: View looking north-east down the access driveway**



**Fig 5: View of the existing dwelling and driveway and turning area, looking east**





**Fig 6: View of the subject site and waterfront area, looking south from the jetty and waterfront area**

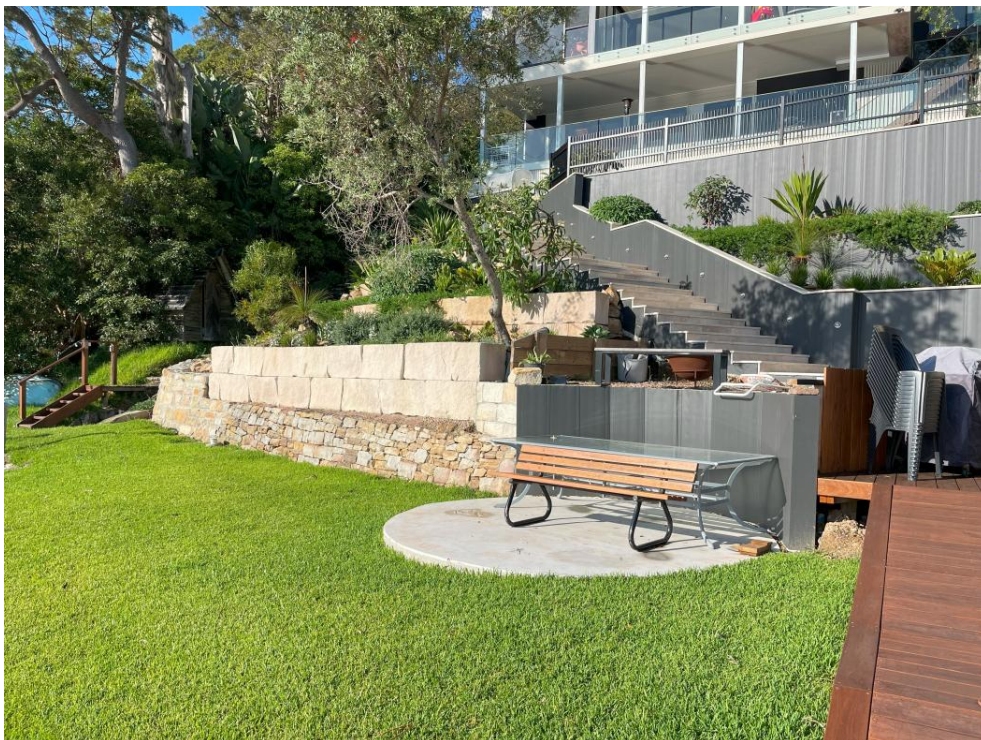


**Fig 7: View of the neighbouring development to the south of the site, including elevated swimming pools in close proximity to the waterway (No 66 Cabarita Road)**





**Fig 8: View of existing waterfront conditions to the north-west of the site**



**Fig 9: View of the location of the proposed swimming pool on existing concrete pad, looking south**





**Fig 10: View of the location of the proposed swimming pool on the existing concrete pad, looking north-west**

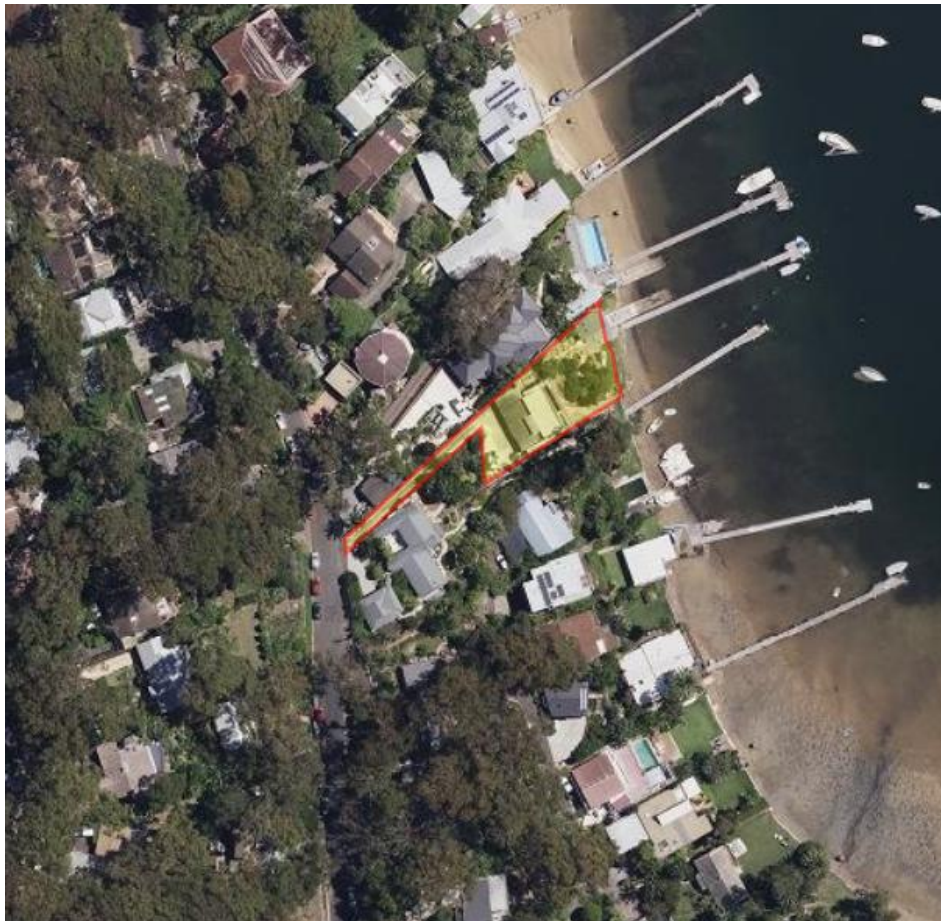


#### **4.0 The Surrounding Environment**

The general vicinity of the site is characterised by low density residential development generally between one and three storeys, with the level of the dwelling houses often a direct result of the steep topography of the waterfront area.

Current dwellings in the area are positioned on the to take advantage of the Pittwater Waterway. Structures including boatsheds and jetties are built into the Pittwater waterway, along the waterfront immediate area. There are built structures within the foreshore building line area including retaining walls and swimming pools.

The site and surrounding properties have views towards Pittwater waterway. With all surrounding dwelling houses surrounded by a natural bushland setting.



**Fig 11: Aerial view of locality**  
(Source: Six Maps)

## 5.0 Proposed Development

The new works will provide for the construction of a proposed small swimming pool with associated fencing and landscape screening. The proposed pool will be located on an existing concrete pad adjacent to the waterfront boundary of the site.

As recently confirmed by the re-subdivision of the site prepared by Waterview Surveying Services, the location of the pool and all proposed works will stand wholly within the subject site.

The proposed new works will comprise:

- Proposed new circular, metal tank swimming pool
- Timber deck to the south western side of the pool to provide access from the existing pathway to the waterfront
- Base sandstone wall as a plinth to the pool to partially screened the pool and mirror the existing sandstone retaining wall treatment to the boundary area facing waterfront
- Pool fence and gate
- New landscape plantings

The proposed modest ancillary works represent a high-quality architectural design solution that will provide a significant enhancement to the amenity and usability of the site.

The design and materials of the new swimming pool will ensure that the works are effectively integrated into the landform and landscaped appearance of the site.

The proposed minor works provide appropriately for spatial separation, deep soil landscape opportunity, privacy and solar access.

No trees or vegetation shall be removed as a result of proposed works which is supported by the submitted plans.

The proposal results in the following indices:

<b>Site Area:</b>	860m <sup>2</sup>
<b>Required Building Height:</b>	8.5m
<b>Proposed Building Height:</b>	Approx. 2m to top of pool fencing
<b>Required soft landscaped area:</b>	60% or 516m <sup>2</sup>
<b>Existing soft landscaped area:</b>	33.9% or 292m <sup>2</sup>
<b>Proposed soft landscaped area:</b>	33.3% or 286.6m <sup>2</sup> (excluding any permissible 6% variation)



## **6.0 Zoning and Development Controls**

### **6.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021**

Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the Biodiversity & Conservation SEPP) contains planning controls for the removal of vegetation on the land within non-rural areas of the State. The policy aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and to preserve the amenity of nonrural areas of the State through the preservation of trees and other vegetation. No vegetation is proposed to be removed as part of the proposed development.

Part 7 of the *Biodiversity Conservation Act 2016 (BC Act)*, identifies the subject site as being located within the Biodiversity Values (BV) Map, meaning the site has high biodiversity value that is particularly sensitive to impacts from development and clearing.

The map forms part of the Biodiversity Offsets Scheme threshold, which is one of the entry requirements for determining whether the Biodiversity Offset Scheme (BOS) applies to a clearing or development proposal.

The application does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values, meaning the BOS does not apply to this application.

### **6.2 State Environmental Planning Policy (Resilience and Hazards) 2021**

#### **Chapter 2 – Coastal Management**

The subject site is identified as being within the coastal environment area on the Coastal Environment Area Map and within the Coastal Use area on the Coastal Use Area Map and therefore the provisions of Chapter 2 of SEPP (Resilience and Hazards) are applicable to the proposed development.

Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021 (the Resilience & Hazards SEPP) aims to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016 .

The stated Aim of this Chapter as outlined in clause 2.1 is to:

*The aim of this Chapter is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the [Coastal Management Act 2016](#), including the management objectives for each coastal management area, by:*

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the [Coastal Management Act 2016](#).*

The objects set out in Clause 3 of the Coastal Management Act 2016 are:

- (a) *to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and*
- (b) *to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and*
- (c) *to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and*
- (d) *to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and*
- (e) *to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*
- (f) *to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and*
- (g) *to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and*
- (h) *to promote integrated and co-ordinated coastal planning, management and reporting, and*
- (i) *to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and*
- (j) *to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and*
- (k) *to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and*
- (l) *to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and*
- (m) *to support the objects of the [Marine Estate Management Act 2016](#).*

It is submitted that the proposal, as considered in this Statement of Environmental Effects, is consistent with the objects of the SEPP (Resilience and Hazards), as set out in Clause 3 of the Coastal Management Act 2016. The relevant provisions of this Chapter are addressed as follows:

### **Division 3**

#### **2.10 Development on land within the coastal environment area**

Coastal Environment Area under Chapter 2 of the Resilience & Hazards SEPP outlines control provisions that limit all proposed development risk of environmental impact and ensure safe access to the foreshore area.

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



- (a) *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—*
- (i) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - (ii) coastal environmental values and natural coastal processes,*
  - (iii) 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,*
  - (iv) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
  - (v) 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,*
  - (vi) Aboriginal cultural heritage, practices and places,*
  - (vii) the use of the surf zone.*
- (b) *Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that—*
- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), 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.*
- (c) *This section does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

Comment

The proposed works are modest in extent and are wholly contained within the site, with the works to be carried out in a way that minimises potential adverse effects to the coastal environment.

The minor works are not considered to impact any Aboriginal cultural heritage or places.

The proposed swimming pool is located outside of the mean high water mark; thereby maintaining public access to the foreshore area.

**Division 4**

**2.11 Development on land within the coastal use area**

Coastal Use Area under Chapter 2 of the Resilience & Hazards SEPP outlines control provisions that limit all proposed development risk of coastal hazard and likelihood to cause adverse impact on coastal and marine environment.

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 funneling 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.*

Comment

The modest bulk and scale of the built form of the new swimming pool is commensurate with the established built environment along this waterfront area. The proposed works do not require significant or unreasonable disturbance to the site and are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

The works will be carried out in accordance with the recommendations of the consulting Structural Engineers, and stormwater runoff from the site will be suitably managed.

The proposed works are contained within an existing disturbed area of the site. The available soft landscaped area remains largely unchanged, and the new works will not require the removal of any significant vegetation.

The proposed will reasonably maintain existing views to and from the foreshore area.

The proposal will not result in any overshadowing of the foreshore area.

***Division 5 General***

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

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

Comment: The application is supported by a Geotechnical Report to address the landslip hazard that affects the site. The proposed new works are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

***Section 2.13***

*Development in coastal zone generally—coastal management programs to be considered Development consent must not be granted to development on land within the coastal zone unless the consent*

authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

No coastal management programs have been identified.

Remediation of Land

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

Overall, the proposed development is consistent with the relevant provisions of SEPP (Resilience and Hazards).

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

The proposal meets water, thermal and energy standards required by BASIX. A BASIX certificate has been submitted with the development application.

### 6.4 Pittwater Local Environmental Plan 2014

The subject site is zoned C4 Environmental Living under the Pittwater LEP 2014.

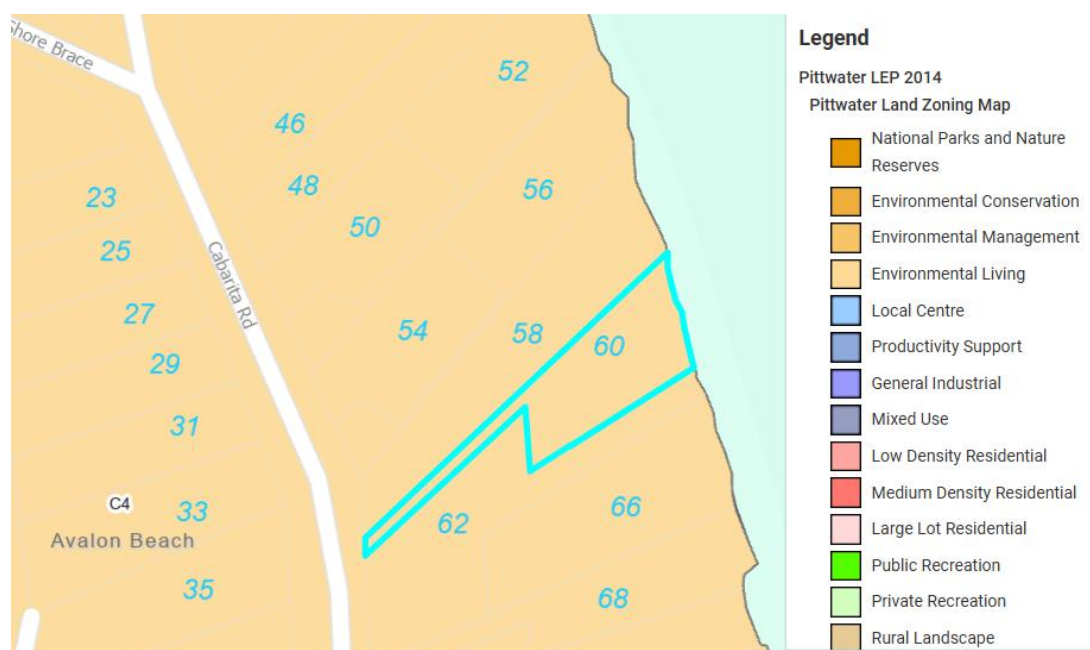


Fig 12: Extract of Pittwater Local Environmental Plan 2014 Zoning Map



The development of and use of the land for residential purposes within the C4 Environmental Living Zone is consistent with the zone objectives, which are noted as:

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

It is considered that the proposed new swimming pool will be consistent with the desired future character of the surrounding locality for the following reasons:

- The proposal will be consistent with and complement the existing detached style housing within the locality.
- The proposed development respects the scale and form of other new development in the vicinity and therefore complements the locality.
- The proposal provides for the construction of a modest swimming pool and associated decking and landscaping, which will not have any substantial impact to the neighbouring properties.
- The setbacks are compatible with the existing surrounding development.
- The proposal does not have any impact on long distance views.

#### **Clause 4.3 – Height of Buildings**

The maximum building height in this portion of Avalon Beach is 8.5m.

The maximum height of the proposed new works (pool fencing) is approximately 2m above the natural ground level which will comply with the height requirement stipulated by the LEP.

**Clause 5.21** relates to flood planning.

The site is not identified as Flood Prone Land.

**Clause 7.1** relates to acid sulfate soils. The site has been identified as Class 5. The proposal will not see substantial excavation of the site and as such, it is not anticipated that any acid sulfate soils will be disturbed.

**Clause 7.2** relates to earthworks. The proposal will not require any significant excavation of the site and the proposal therefore complies with this control.

#### **Clause 7.6 – Biodiversity protection**

The land is noted within Council's Biodiversity mapped area.

- (1) *The objective of this clause is to maintain terrestrial, riparian and aquatic biodiversity by:*
- (a) *protecting native fauna and flora, and*
  - (b) *protecting the ecological processes necessary for their continued existence, and*

*(c) encouraging the conservation and recovery of native fauna and flora and their habitats.*

The proposal will not require the removal of any trees to accommodate the new works.

The existing area of soft landscaping will not be substantially altered.

As the works will not have an adverse impact on the terrain of the site nor introduce any new works to the seabed of Pittwater, the Objectives of Clause 7.6 will be achieved.

#### **Clause 7.7 – Geotechnical Hazards**

The site is identified as being within Geotechnical Hazard H1 on Council's Geotechnical Hazard Map. Accordingly, a Geotechnical Assessment has been prepared by AscentGeo, Reference No. AG 24287, dated 7 February 2025 and accompanies this submission.

The report concludes the following:

*The proposed development is considered to be suitable for the site. The existing conditions and proposed development are considered to constitute an '**ACCEPTABLE**' risk to life and a '**LOW**' risk to property **provided that the recommendations outlined in Table 6 are adhered to during design and construction.***

The proposal will be carried out in accordance with the recommendations of the submitted Geotechnical Investigation and will therefore satisfy the provisions of this clause.

#### **Clause 7.8 – Limited development on foreshore area**

The site is noted as being affected by Council's Foreshore Building Line Map.

The foreshore area is defined as:

*foreshore area means the land between the foreshore building line and the mean high-water mark of the nearest natural waterbody shown on the Foreshore Building Line Map.*

#### Clause 7.8 notes as its Objectives:

(1) The objectives of this clause are as follows:

- (a) to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,*
- (b) to ensure continuous public access along the foreshore area and to the waterway.*

Clause 7.8 (2) notes that development consent can only be granted for certain development within the foreshore area, including:

- a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,*

- (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).

In this instance, the works involve the construction of a new swimming pool which is to be located within the foreshore building line area in accordance with Clause 7.8(2)(b), the pool is works which are an exception to the foreshore area and permissible, subject to Council being satisfied that the development is the criteria outlined below.

While the proposed pool is a very minor new encroachment into the foreshore area, it is a logically and appropriate response in order to provide recreational areas directly from the rear of the dwelling (see Figure over).

The aerial photo of the area (as shown in Figure 11) notes a range of existing structures within the foreshore building line area. Given the location, modest height and open form of the works within the foreshore area, the proposal is considered to be reasonable in this instance.

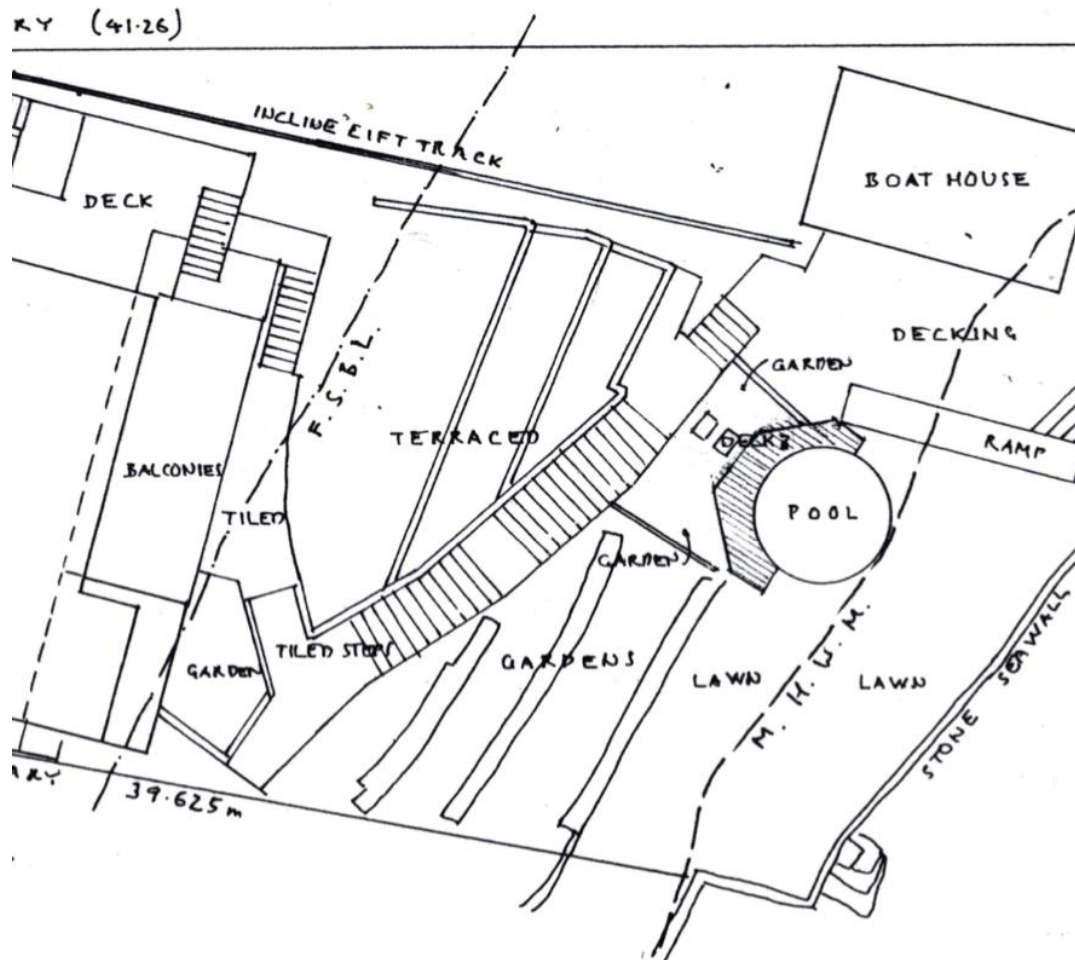


Fig. 13: Rear portion of the site, which is largely within the foreshore area



Clause 7.8 (2) notes the following matters to be addressed to the satisfaction of the consent authority to permit the issue of development consent:

Clause 7.8 (3) notes the following matters to be addressed to the satisfaction of the consent authority to permit the issue of development consent:

(3) *Development consent must not be granted under this clause unless the consent authority is satisfied that:*

(a) *the development will contribute to achieving the objectives for the zone in which the land is located, and*

**Comment:**

As discussed in this Statement, the proposed new dwelling will achieve the Objectives of the C4 Environmental Living Zone.

(b) *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*

**Comment:**

Notwithstanding the non-compliance with the maximum foreshore building line control the new works will provide an attractive addition to the existing dwelling and is compatible with the style and form of the surrounding waterfront properties.

The proposed new pool will not see any adverse impacts on the views enjoyed by neighbouring properties. The works in the foreshore area will not see any adverse impacts on the solar access enjoyed by the adjoining dwellings with the proposal to retain suitable solar access to both the subject and neighbouring properties, in accordance with Council's DCP requirements.

The general bulk and scale of the dwelling as viewed from the waterways and from the surrounding private properties will be largely maintained.

(c) *the development will not cause environmental harm such as:*

(i) *pollution or siltation of the waterway, or*

(ii) *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*

(iii) *an adverse effect on drainage patterns, or*

(iv) *the removal or disturbance of remnant riparian vegetation, and*

**Comment:**

The proposed new swimming pool is not considered to result in any adverse impacts on the ecological, scientific or aesthetic values of the locality. The proposed works will not result in any additional adverse stormwater runoff or movement of sedimentation.

(d) *the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*

**Comment:**

The proposal will not see any change to the public's opportunity to access the waterfront.

- (e) *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*

**Comment:**

The new modest structure will not provide any constraint to future access to the public foreshore area.

- (f) *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*

**Comment:**

The works will have no impact on the historical, cultural, social, archaeological or architectural or aesthetic features of significance in the vicinity.

The waterfront locality and the natural setting are considered to be significant contributors to the local character and as the works are wholly within the private land, these features are adequately protected.

Given the modest nature of the works, the proposal is considered to achieve these specific objectives.

- (g) *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*

**Comment:**

The proposed works will not see any substantial impact on the amenity and aesthetic appearance of the foreshore.

- (h) *sea level rise, coastal erosion and recession, or change of flooding patterns as a result of climate change, have been considered.*

**Comment:**

The potential impacts of coastal forces have been considered in this submission, where they have relevance to the proposal. The site is not identified as Flood Prone Land.

While the proposed new pool is a departure from the foreshore building line standard, it is considered to only be a very minor addition within the foreshore area.

The proposed development does not adversely impact the Pittwater waterway or neighbouring properties and will substantially improve the amenity of the existing dwelling.

The unique site constraints provide sufficient environmental planning grounds to justify contravening the development standard.

**Clause 7.10 – Essential Services**

All essential services will be maintained to the site.

There are no other clauses of the PLEP 2014 that are considered to be relevant to the proposed development.

## **6.5 Pittwater 21 Development Control Plan 2014**

Council's Pittwater 21 DCP Section B (General Controls), Section C (Development Type Controls) and Section D Avalon Beach Locality Statement provides a range of outcomes and controls which form the primary criteria for the control for development within the subject locality.

### **6.5.1 Shaping Development – Desired Character**

The desired outcomes for the Avalon Beach Locality, in which this site falls, are as follows:

#### **A4.1 Avalon Beach Locality**

*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. Vehicular and pedestrian access into and through the locality is good. Pedestrian links, joining the major areas of open space (Angophora Reserve, Stapleton Park and Hitchcock Park) and along the foreshores, should be enhanced and upgraded. Similarly, cycle routes need to be provided through the locality. Carparking should be provided on site and where possible integrally designed into the building.*

*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 natural landscape of Careel Bay, including seagrasses and mangroves, will be conserved. Heritage items and conservation areas indicative of early settlement in the locality will be conserved, including the early subdivision pattern of Ruskin Rowe.*

*Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.*

It is considered that the proposal is consistent with the desired character of the locality by providing for minor alterations and additions to the dwelling, which are consistent with the scale and style of the newer development in the vicinity.

The proposal will not have any impact on the existing tree canopy and will not substantially alter the available area of soft landscaping.

The proposal has been designed to reflect the existing setbacks provided to all boundaries existing in the immediate area.

The building materials and colours will harmonise with the natural environment and will not detract from the existing waterfront locality.

#### **6.5.2 Section B General Controls**

The General Controls applicable to the proposed additions and alterations are summarised as:

##### ***B3.7 Estuarine Hazard – Low density residential***

The controls seek to achieve the outcomes:

*Protection of people. (S)*

*Protection of the natural environment. (En)*

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

The site is also noted as being potentially affected by estuarine hazards. The assessment report prepared for the previous application by Council provides the following in relation to Estuarine Risk Management:

*The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7 Estuarine Hazard Controls will apply to any proposed development of the site.*

*On internal assessment, all proposed works are above the ELP for this dwelling which sits at 2.57m AHD. The pump box will sit below the EPL but will be electrically isolated above the EPL to avoid wave action.*

The proposed new swimming pool is sited at a higher level within the site (3.58m AHD). Accordingly, no further investigation is deemed necessary in this instance.

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

The controls seek to achieve the outcomes:

*Conservation of intact Pittwater Spotted Gum Forest EEC. (En)*  
*Regeneration and/or restoration of fragmented and / or degraded Pittwater Spotted Gum Forest EEC. (En)*  
*Reinstatement of Pittwater Spotted Gum Forest to link remnants. (En)*  
*Long-term viability of locally native flora and fauna and their habitats through conservation, enhancement and/or creation of habitats and wildlife corridors. (En)*

The proposal will not result in any impacts to the existing tree canopy. The site will continue to accommodate a number of canopy trees, and the existing area of soft landscaping will be largely maintained.

The proposal is not considered to impact on the Pittwater Spotted Gum Forest Ecological Community and meets the objectives of this clause.

#### **B4.16 Seagrass Conservation**

The controls seek to achieve the outcomes:

*The conservation of seagrass beds in Pittwater. (En)*  
*The replacement of lost/damaged seagrass beds. (En)*

The new works are wholly contained within the subject site, with suitable stormwater and sediment control measures to be carried out in order to minimise potential impacts on the Pittwater waterway.

The proposal is not considered to impact on the seagrass beds and meets the objectives of this clause.

#### **B4.19 Estuarine Habitat**

The controls seek to achieve the outcomes:

*To protect and enhance the mangroves, saltmarsh, seagrasses, intertidal sand/mud flats and other foreshore habitats that comprise the estuarine habitat of Pittwater. (En)*  
*Development in the catchment of estuarine habitat is to result in estuarine habitat being retained or enhanced with respect to that development. (En)*  
*The physical, chemical and biological processes of estuarine habitats in Pittwater are improved, maintained or restored. (En)*  
*The social and cultural values of estuarine habitats are conserved and enhanced. (S)*  
*Biodiversity, ecological processes and other estuarine habitat values are conserved. (En)*

The new works are wholly contained within the subject site, with suitable stormwater and sediment control measures to be carried out in order to minimise potential impacts on the Pittwater waterway.

The proposal is not considered to impact on the estuarine locality and meets the objectives of this clause.

#### **B5.13 Development on Waterfront Land**

The controls seek to achieve the outcomes:

*Protection of waterways and improved riparian health (En)*  
*Stormwater and creek flows are safely managed. (S)*  
*Appropriate setback between waterways and development (En)*

The proposed new works will maintain the stability and stormwater flows of the site. The proposal will therefore comply with this control.

#### **B5.15 Stormwater**

The controls seek to achieve the outcomes:

*Improve the quality of water discharged to our natural areas to protect and improve the ecological and recreational condition of our beaches, waterways, riparian areas and bushland;*  
*Minimise the risk to public health and safety;*  
*Reduce the risk to life and property from any flooding and groundwater damage;*  
*Integrate Water Sensitive Urban Design measures in new developments to address stormwater and floodplain management issues, maximise liveability and reduce the impacts of climate change.*  
*Mimic natural stormwater flows by minimising impervious areas, reusing rainwater and stormwater and providing treatment measures that replicate the natural water cycle*  
*Reduce the consumption of potable water by encouraging water efficiency, the reuse of water and use of alternative water sources*



*Protect Council's stormwater drainage assets during development works and to ensure Council's drainage rights are not compromised by development activities.*

Roofwater from the new roof areas will be connected to the existing system and as there is no substantial change to the runoff characteristics of the site, the retention of the existing arrangements is reasonable in this instance.

#### **B6.1 Access driveways and works on the Public Road Reserve**

The controls seek to achieve the outcomes:

*Safe and convenient access. (S)*  
*Adverse visual impact of driveways is reduced. (En)*  
*Pedestrian safety. (S)*  
*An effective road drainage system. (En, S)*  
*Maximise the retention of trees and native vegetation in the road reserve. (En, S)*

The current ROW driveway crossing arrangements will continue to provide suitable access to the property in accordance with these controls.

#### **B6.3 Internal Driveways**

The controls seek to achieve the outcomes:

*Safe and convenient access. (S)*  
*Reduce visual impact of driveways. (S)*  
*Pedestrian safety. (S)*  
*An effective road drainage system. (En, S)*  
*Maximise the retention of trees and native vegetation.*  
*Reduce contaminate run-off from driveways.*

The existing ROW access driveway will be retained and provides suitable access to the proposed carport.

#### **B6.3 Off-street Vehicle Parking Requirements**

The controls seek to achieve the outcomes:

*Safe and convenient parking (En, S)*

The controls require a minimum of 2 parking spaces for a dwelling with 2 bedrooms or more. The site will retain the existing two off street parking spaces, which will satisfy the control.

**B8.1 Construction & Demolition – Excavation and Landfill**

The controls seek to achieve the outcomes:

*Site disturbance is minimised. (En)*

*Excavation and construction not to have an adverse impact. (En)*

*Excavation operations not to cause damage on the development or adjoining property. (S)*

There will not be any substantial excavation of the site with the exception of the minor works to accommodate the new swimming pool and meets the objectives of this provision.

**B8.2 Construction & Demolition – Erosion and Sediment Management**

The controls seek to achieve the outcomes:

*Waterways, coastal areas, watercourses, drainage systems and the public domain are protected from the transportation of sedimentation from development sites. (En)*

*Reduction of waste throughout all phases of development. (En)*

*Public safety is ensured. (S)*

*Protection of the public domain. (S, En)*

As required, appropriate sedimentation controls will be implemented throughout construction to prevent transportation of sediment to adjoining properties and Pittwater.

**B8.3 Construction & Demolition – Waste Minimisation**

The controls seek to achieve the outcomes:

*Reduction management of demolition, excavation and construction works is to be minimised by reuse on-site, recycling, or disposal at an appropriate waste facility. (En)*

As required, appropriate waste management controls will be implemented throughout construction.

### 6.5.3 Section C Development Type Controls

The Development Type Controls applicable to the proposed development and are summarised as:

#### **C1.1 Landscaping**

The controls seek to achieve the outcome:

- A built form softened and complemented by landscaping. (En)*
- Landscaping reflects the scale and form of development. (En)*
- Retention of canopy trees by encouraging the use of pier and beam footings. (En)*
- Development results in retention of existing native vegetation. (En)*
- Landscaping results in the long-term retention of Pittwater's locally native tree canopy. (En)*
- Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species (En)*
- Landscaping enhances habitat and amenity value. (En, S)*
- Landscaping results in reduced risk of landslip. (En, Ec)*
- Landscaping results in low watering requirement. (En)*

The proposal will see only a minor reduction in the available area of soft landscaping. The proposal will not require the removal of any significant vegetation.

The site will maintain its contribution to the landscaped character of the locality and is in keeping with the desired outcomes of this control.

#### **C1.2 Safety and Security**

The controls seek to achieve the outcomes:

- On-going safety and security of the Pittwater community. (S)*
- Opportunities for vandalism are minimised. (S, Ec)*
- Inform applicants of Council's requirements for crime and safety management for new development. (S)*
- Improve community awareness in relation to Crime Prevention through Environmental Design (CPTED), its principle strategies and legislative requirements (S)*
- Identify crime and safety priority areas in Pittwater LGA (S, Ec)*
- Improve community safety and reduce the fear of crime in the Pittwater LGA (S)*
- Develop and sustain partnerships with key stakeholders in the local area who are involved in community safety. (S)*

The site will retain the opportunity to view the driveway and street area with casual surveillance of the immediate area available.

### **C1.3 View Sharing**

The controls seek to achieve the outcomes:

*A reasonable sharing of views amongst dwellings. (S)*  
*Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced. (S)*  
*Canopy trees take priority over views. (En, S)*

The subject and adjoining properties currently enjoy a substantial outlook to Pittwater to the east.

The proposed works strategic positioning within the lower portions of the site combined with the compliant building height ensure reasonable view sharing for uphill neighbouring properties are maintained.

### **C1.4 Solar Access**

The controls seek to achieve the outcomes:

*Residential development is sited and designed to maximise solar access during mid-winter. (En)*  
*A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En)*  
*Reduce usage and/dependence for artificial lighting. (En)*

The required controls to achieve the outcomes are to ensure that private open spaces of the subject and adjoining dwellings maintain a minimum of 3 hours of solar access in mid-winter.

Given the location of the pool at the lower end of the site and being well below the adjacent living areas and dwellings the neighbouring property is, no adverse solar access impacts will result from the modest structure to any neighbouring properties.

### **C1.5 Visual Privacy**

The controls seek to achieve the outcomes:

*Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)*  
*A sense of territory and safety is provided for residents. (S)*

The required controls to achieve the outcomes are to ensure that the private open space, recreation areas and living rooms within 9m of a development are suitably protected to limit the effects of direct overlooking.

The proposed new pool and decking is modest in size and located well below location of neighbouring dwellings and given the separation of the structure from neighbouring properties, no adverse privacy impacts are anticipated.



The new works to the dwelling will not unreasonably overlook the neighbours, with the existing levels of amenity enjoyed by the neighbours to be largely maintained.

#### **C1.6 Acoustic Privacy**

The controls seek to achieve the outcomes:

*Noise is substantially contained within each dwelling and noise from any communal or recreation areas are limited. (S)*

*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 recreation areas (S)*

The required controls to achieve the outcomes are to ensure that noise sensitive living areas and bedrooms are located away from major noise sources.

Given the residential nature of the works, there will not be any significant impact on the surrounding locality in terms of acoustic privacy. The proposed pool equipment will be contained within a soundproof enclosure and is well set back from adjoining properties, thereby maintaining existing levels of acoustic privacy.

#### **C1.7 Private Open Space**

The controls seek to achieve the outcomes:

*Dwellings are provided with a private, usable and well-located area of private open space for the use and enjoyment of the occupants. (S)*

*Private open space is integrated with, and directly accessible from, the living areas of dwellings. (S)*

*Private open space receives sufficient solar access and privacy (En, S).*

The required controls to achieve the outcomes are to ensure that dwellings are provided suitable private open space with an area and at a grade which will facilitate outdoor private recreation.

The proposal improves the provision of private open space by providing a new pool which is easily accessible from the dwelling and increases the function and usability of the rear yard. This private open space areas take advantage of the spectacular view lines to Pittwater waterway and retains good solar access.

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

The controls seek to achieve the outcomes:

*Waste facilities are accessible and convenient, and integrate with the development. (En)*

*Waste facilities are located such that they do not adversely impact upon amenity of the land adjoining development or natural environment. (En, S)*

The required controls to achieve the outcomes are to ensure that adequate area remains for the

storage of waste and recyclable materials.

There is sufficient area on the site for on-site storage of waste and recyclables is maintained, with the waste removed by Council contractors via the household garbage service.

**C1.17     *Swimming Pool Safety***

The controls seek to achieve the outcomes:

*The promotion of personal safety. (S)*

*Compliance with Swimming Pools Act 1992 and Regulations (En, S)*

Swimming pool fencing and warning notices are provided in accordance with the Swimming Pools Act 1992 and regulations.

#### 6.5.4 Section D Locality Specific Development Controls

The **D1 Avalon Beach Locality Statement** contains a number of outcomes for development. The proposal has been assessed in regard to the Locality Statement and is summarised in the following table.

In support of the proposal, it is considered that this proposal is well designed, comprehensive and consistent with the community's vision for development in Pittwater in that it is:

- Proposing a form of development which is compatible with the existing residential character of the area by maintaining an appropriate development scale which is compatible with the vicinity.
- The proposal maintains existing views and amenity to adjoining properties.
- The proposal will not result in additional run-off to adjoining properties or public spaces.
- The development will not place additional demands on local infrastructure or on the sewage disposal system for the site.

A summary of the DCP controls for the **D1 Avalon Beach Locality** is provided below:

##### **D1.1 Character as Viewed from A Public Place**

The control seeks to achieve the outcomes:

*To achieve the desired future character of the Locality.*

*To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment. (En, S, Ec)*

*To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*

*The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation. (En, S, Ec)*

*High quality buildings designed and built for the natural context and any natural hazards. (En, S)*

*Buildings do not dominate the streetscape and are at 'human scale'.*

*To preserve and enhance district and local views which reinforce and protect the Pittwater's natural context.*

The required controls to achieve the outcomes are to ensure that the building maintains a compatibility with the locality through appropriate open design relief including roof forms textures, spatial separation, landscaping etc.

The proposal will provide for the construction of a new swimming pool which is modest in bulk and scale and well set back from neighbouring properties.

Views over and to the side of the dwelling will be retained for the neighbouring dwellings which are located uphill of the proposal. There is no impact to the existing view lines of the neighbouring dwellings to the north-west or south-east.

The proposed modest ancillary works to the dwelling are considered to be consistent in terms of bulk and scale to the existing surrounding development, which generally comprises one and two storey dwellings that are orientated towards Pittwater with similar ancillary uses. The setbacks provided reflect the setbacks of the adjoining properties.

The proposed new works provide visual interest and reduce bulk when viewed from Pittwater. In addition, the existing landscaping will ensure that the proposed works will be interspersed with the natural landscape setting.

#### **D1.5 Building Colours, Materials and Construction**

The controls seek to achieve the outcomes:

*Achieve the desired future character of the Locality.*

*The development enhances the visual quality and identity of the streetscape. (S)*

*To provide attractive building facades which establish identity and contribute to the streetscape.*

*To ensure building colours and materials compliments and enhances the visual character and its location with the natural landscapes of Pittwater.*

*The colours and materials of the development harmonise with the natural environment. (En, S)*

*The visual prominence of the development is minimised. (S)*

*Damage to existing native vegetation and habitat is minimised. (En)*

*An informal beachside appearance of the Avalon Beach Village. (S, Ec)*

The required controls to achieve the outcomes are to ensure that the external colours and materials shall be dark and earthy tones as indicated within the DCP.

It is considered that the development is appropriate as the proposal will utilise finishes and colours which are compatible with the DCP, existing building finish and the surrounding properties.



#### **D1.8 Front Building Line**

The controls seek to achieve the outcomes:

*Achieve the desired future character of the Locality. (S)*  
*The amenity of residential development adjoining a main road is maintained. (S)*  
*Vegetation is retained and enhanced to visually reduce the built form. (En)*  
*Vehicle maneuvering in a forward direction is facilitated. (S)*  
*To encourage attractive street frontages and improve pedestrian amenity.*  
*To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment*

The control to achieve this outcome is to provide a setback of 6.5m, or the established building line to the street frontage.

There is no change to the front setback of the dwelling house.

#### **D1.9 Side and rear building line**

The controls seek to achieve the outcomes:

*To achieve the desired future character of the Locality. (S)*  
*The bulk and scale of the built form is minimised. (En, S)*  
*Equitable preservation of views and vistas to and/or from public/private places. (S)*  
*To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*  
*To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)*  
*Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)*  
*Flexibility in the siting of buildings and access. (En, S)*  
*Vegetation is retained and enhanced to visually reduce the built form. (En)*  
*To ensure a landscaped buffer between commercial and residential zones is established. (En, S)*

The relevant controls to achieve this outcome are to maintain a minimum side boundary setback of 2.5m for at least one side and a minimum of 1.0m setback for the other side.

The proposed new works will stand 8.9m and 7.15m from the north-western and south-eastern side setbacks respectively and therefore readily comply with this control.

The pool will stand adjacent to the mean high water mark however it is wholly within the subject land and given the minor nature of the works and substantial separation from surrounding property is, the reduced setback in this instance is considered to be appropriate.

The proposed pool is not considered to result in any unreasonable adverse impacts on the privacy, solar access, views or general amenity for neighbouring properties.

The available landscaped area is not substantially altered, and no significant vegetation is to be removed.

The proposal is in keeping with the desired outcomes of this clause and the proposed rear setback is considered worthy of support in this instance.

**D1.14      Landscaped Area – Environmentally Sensitive Land**

The controls seek to achieve the outcomes:

- Achieve the desired future character of the Locality. (S)*
- The bulk and scale of the built form is minimised. (En, S)*
- A reasonable level of amenity and solar access is provided and maintained. (En, S)*
- Vegetation is retained and enhanced to visually reduce the built form. (En)*
- Conservation of natural vegetation and biodiversity. (En)*
- Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)*
- To preserve and enhance the rural and bushland character of the area. (En, S)*
- Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management. (En, S)*

The required controls to achieve the outcomes are to limit residential development in order to maintain a minimum landscaped area of 60% of the site area.

The existing landscaped area of 33.9% of the site area presents an existing variation to this control, and the proposal will see a minor further reduction to 33.3% of the site area, through the inclusion of the small deck beyond the footprint of the existing concrete pad.

The new works enhance the private open space area within the site, and will not require the loss of any significant vegetation.

The proposal ensures adequate landscaping to be provided on the site and to a degree that is commensurate with surrounding and nearby properties, given the site constraints and location and extent of existing development.

The proposed treatment of the pool façade through a recessive darker colour (Monument) together with the use of sandstone plinth walls to continue the existing sandstone retaining wall appearance of the waterfront works and the landscape planting screening will ensure that the pool does not present as a visually prominent element in the view of the site from the adjacent waterway.

Council can be satisfied that the bulk and scale of the development does not give rise to any unreasonable impacts upon the amenity of adjoining properties or contribute to any detrimental impacts upon the natural environment with regard to impacts to trees and stormwater management.

The landscaped area maintained ensures the development will sit within a landscaped setting and is consistent with the desired future character of the Avalon Locality.

As such, the proposed development is considered to be consistent with the outcomes of this clause.

**D1.20 Scenic Protection Category One Areas**

The controls seek to achieve the outcomes:

*To achieve the desired future character of the Locality.*

*Achieve the desired future character of the Locality. (En, S)*

*To preserve and enhance the visual significance of district and local views of Pittwater's natural topographical features such as, ridges, upper slopes and the waterfront. (En, S).*

*Maintenance and enhancement of the tree canopy. (En, S)*

*Colours and materials recede into a well vegetated natural environment. (En, S)*

*To maintain and enhance the natural environment of Pittwater as the predominant feature of the landscape with built form being a secondary component (En, S)*

*To preserve and enhance district and local views which reinforce and protect the Pittwater's bushland landscape and urban form to enhance legibility.*

*To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.*

*To ensure sites are designed in scale with Pittwater's bushland setting and encourages visual integration and connectivity to natural environment.*

*Development shall minimise visual impacts on the natural environment when viewed from any waterway, road or public reserve.*

The proposal will not require the removal of any significant vegetation, and maintains the dominance of landscaping over the built form.

As discussed, the use of natural materials and dark recessive colours with an escape planting will assist in blending the pool with the existing waterfront features and result in the proposal which is not visually dominant to the waterway.

The proposed new works are modest in bulk and scale and will maintain consistency with the extent and character of existing surrounding foreshore development.

The proposed development is considered appropriate within the scenic protection area.

## **7.0 Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979**

### **7.1 The provisions of any environmental planning instrument**

The proposal is subject to the provisions of the Pittwater Local Environmental Plan 2014 and the relevant supporting Council policies. It is considered that the provisions of this environmental planning instrument have been satisfactorily addressed within this report and that the proposal achieves compliance with its provisions.

There are no other environmental planning instruments applying to the site.

### **7.2 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**

There are no draft instruments applying to the land.

### **7.3 Any development control plan**

The development has been designed to comply with the requirements of Council's Pittwater 21 Development Control Plan 2014.

It is considered that the proposed design respects the aims and objectives of the DCP however we note that the Environmental Planning and Assessment Amendment Act 2012 No 93 (Amendment Act) which received assent on 21 November 2012 commenced on 1 March 2013.

Key amongst the amendments are requirements to interpret DCPs flexibly and to allow reasonable alternative solutions to achieve the objectives of DCP standards.

The new section 3.42 provides that the 'principal purpose' of DCPs is to 'provide guidance' on:-

- giving effect to the aims of any applicable environmental planning instrument
- facilitating permissible development
- achieving the objectives of the relevant land zones.

The key amendment is the insertion of section 4.15(3A) which:

- prevents the consent authority requiring more onerous standards than a DCP provides,
- requires the consent authority to be 'flexible' and allow 'reasonable alternative solutions' in applying DCP provisions with which a development application does not comply,
- limits the consent authority's consideration of the DCP to the development application (preventing consideration of previous or future applications of the DCP).

It is considered that the proposed design respects the desired character objectives of the DCP in that it reinforces the existing residential character of the area and is compatible with the existing uses in the vicinity.



**7.4 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**

No matters of relevance are raised in regard to the proposed development.

**7.5 The regulations (to the extent that they prescribe matters for the purposes of this paragraph),**

No matters of relevance are raised in regard to the proposed development.

**7.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.**

It is considered that the proposal, which seeks consent for the construction of a new swimming pool, will not unreasonably impact upon the amenity of adjoining properties or upon the character of the surrounding area. It is considered that the resultant development is compatible with and will complement the residential character of the area.

The proposal is considered to be well designed having regard to the relevant provisions of the Council's PLEP 2014 and Council's Codes and Policies, in particular the Pittwater 21 DCP 2014 and the Avalon Beach Locality Statement.

**7.7 The suitability of the site for the development**

The subject land is currently zoned C4 Environmental Living under the Pittwater Local Environmental Plan 2014 and is considered suitable for the proposed development.

**7.8 Any submissions made in accordance with this Act or the regulations**

This is a matter for Council in the consideration of this proposal.

**7.9 The public interest**

The proposal will not impact upon the environment, the character of the locality or upon the amenity of adjoining properties and is therefore considered to be within the public interest.

## **8.0 Conclusion**

The principal objective of this development is to provide for the construction of a new swimming pool which will respect and complement the site's location.

The proposed swimming pool is modest in its extent, and will be effectively integrated into the landform which assists with minimising the visual bulk of the development.

The proposed swimming pool is a permitted exception for works within the foreshore area under clause 7.8 (2)(b) of the Pittwater LEP. On this basis, strict compliance with the foreshore building line control would be unreasonable and unnecessary in the circumstances of this case.

It is considered that the proposed works satisfy the stated objectives of Council's Development Controls. By maintaining neighbour's amenity and by complementing the existing style and character of the surrounding locality, the stated objectives have been satisfied.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the view lines and amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

### **VAUGHAN MILLIGAN**

Town Planner

Grad. Dip. Urban and Regional Planning (UNE)