



## 10 TAMINGA STREET BAYVIEW

STATEMENT OF ENVIRONMENTAL EFFECTS FOR A  
SECTION 4.55(2) MODIFICATION TO VARY  
DEVELOPMENT CONSENT 2021/0060



Report prepared for  
**Brett Jeffries**  
April 2025

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## 1.0 Introduction

- 1.1 This statement has been prepared in order to provide information and a planning assessment, in relation to an application under the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act 1979, to modify development consent 2021/0060.
- 1.2 DA 2021/0060 was granted consent by Northern Beaches Council by Notice dated 24/05/2021 and modified by MOD2023/0507 dated 23/10/2023 for *Alterations and additions to a dwelling house* at 10 Taminga Street, Bayview.
- 1.3 The proposed modification will allow for alterations and additions to the existing driveway and retaining walls. It is proposed that consent be altered to reflect the modified plans which provide revised driveway levels.
- 1.4 The works that are the subject of the modification have not commenced and are appropriate when considered in accordance with *Ku-ring-gai Council v Buyozo Pty Ltd [2021] NSWCA 177*.
- 1.5 In preparation of this submission, consideration has been given to the following:
- Section 4.55 of the Environmental Planning and Assessment Act, 1979 as amended,
  - Pittwater Local Environmental Plan 2014,
  - Pittwater Development Control Plan 2014,
  - The heads of consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).
- 1.7 This report has been prepared with reference to the following:
- Site visit,
  - Review of the original development application,
  - Review of original development consent and assessment report,
  - Review of modification documentation,
  - Driveway plans prepared by NB Consulting Engineers,
  - Retaining wall plans prepared by NB Consulting Engineers,
  - Stormwater plans prepared by NB Consulting Engineers,
  - Architectural Plans prepared by Action Plans,
  - Arborist report prepared by Hugh the Arborist,
  - Geotechnical report prepared by Soils Rock Engineering
- 1.8 This Modification application is being lodged concurrently with a Development application for no.9 Taminga Street, Bayview, the neighbour to the west. Both applications will work together to upgrade the shared driveway at the southern end of these properties.

## 2. The site and its locality

- 2.1** The subject site is located on the southern side of Taminga Street, approx. 100 metres west of its intersection with Ilya Avenue. It is legally described as Lot 10 DP 27133.
- 2.2** It is a generally rectangular shaped lot, with boundaries of 18.9 metres (north – Taminga Street frontage and south – rear boundary) and side boundaries of 36.525 metres (east and west).
- 2.3** The site comprises an area of 689.31m<sup>2</sup> and is occupied by a detached residential dwelling house and a shared driveway across the southern boundary (access provided via Ilya Avenue). It is located on a steeply sloping site, with water views across Pittwater to the north.
- 2.4** The site is surrounded by detached residential dwellings in all directions, with one strata subdivided property located to the north. It is located in close proximity to shops and services in Mona Vale to the south-east.



**Figure 1. The site and its immediate surrounds**



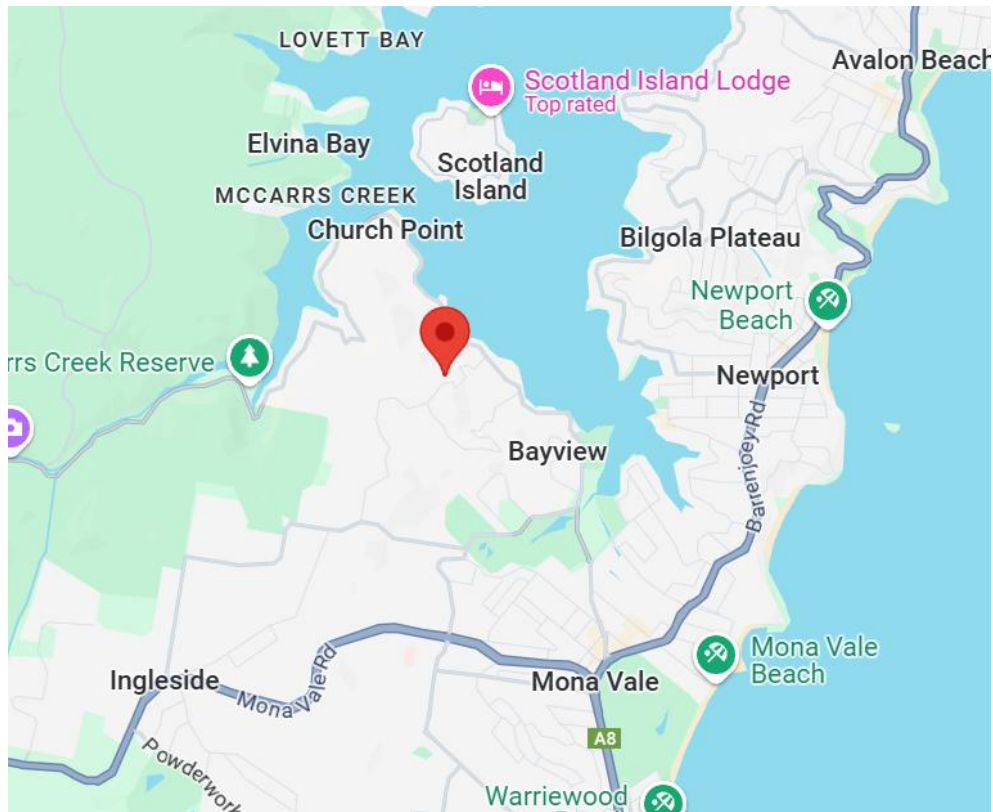


Figure 2. The site within the locality

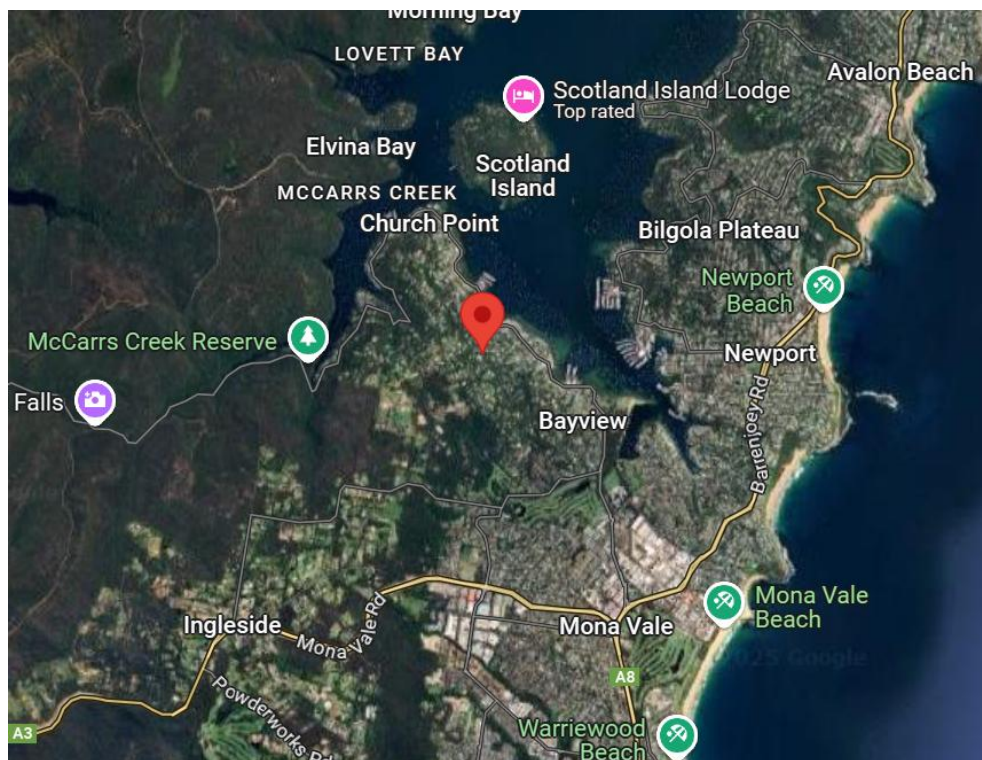


Figure 3. Aerial Image of the site within the locality



### 3. Site Photos



Figure 4. The subject site, looking south from Taminga Street.



Figure 5. The existing access driveway, looking west.





Figure 6. The existing access driveway, looking east to no.9.



Figure 7. The existing access driveway, looking east.

## 4. Proposed Development

4.1 This modification proposes to alter the driveway levels and construct new retaining walls and stormwater drainage infrastructure. This is required to allow appropriate access to the approved garage.

4.2 The modified proposal will be made up as follows:

### Site

- Alterations and additions to the approved driveway levels to improve access to the site,
- Construct new retaining walls,
- New stormwater drainage infrastructure.

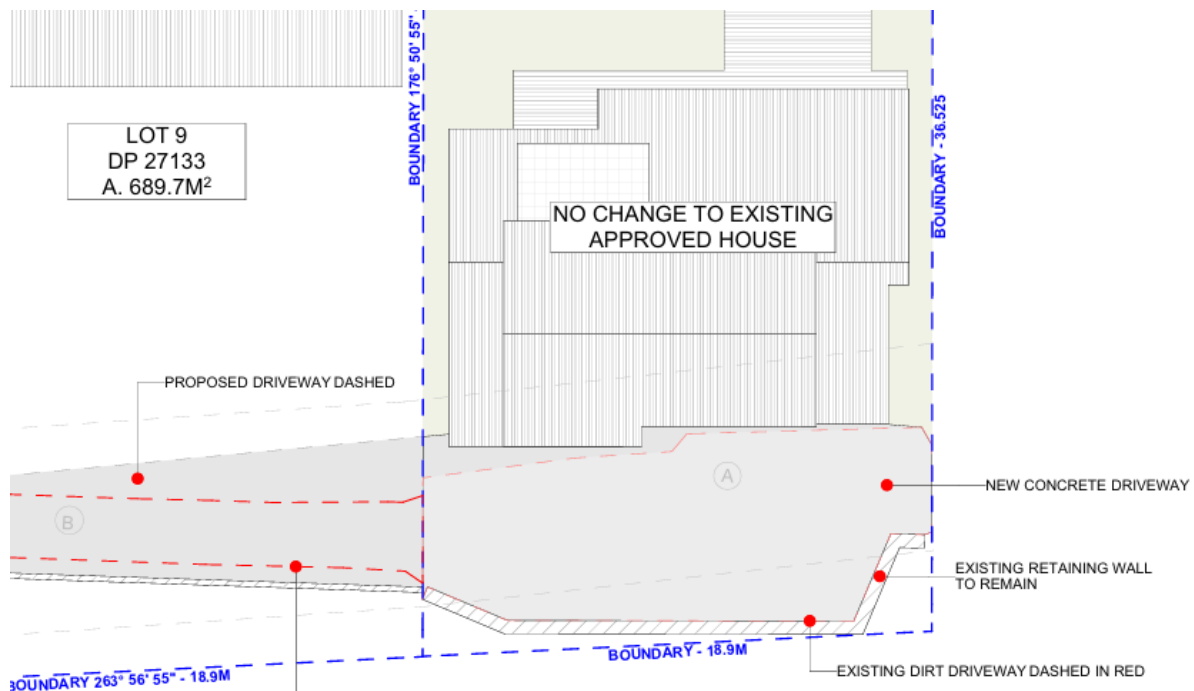
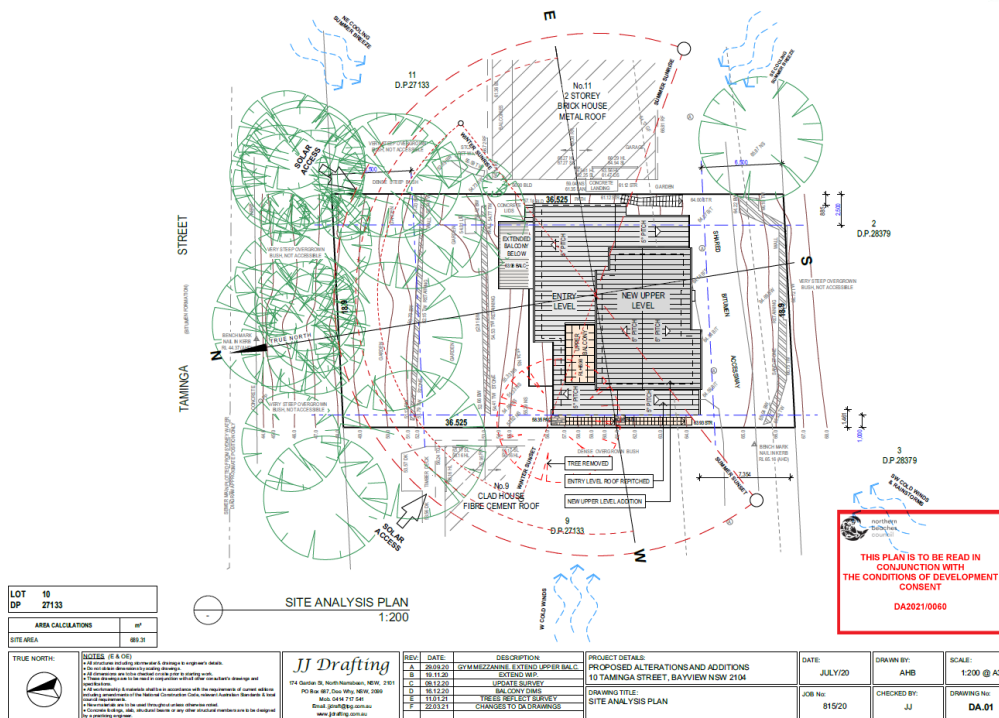


Figure 8: Modified Driveway Plan (structural)





**Figure 9: Approved site plan, retaining existing driveway levels**

### 4.3

The works are proposed in conjunction with a concurrent Development application that has been lodged for 9 Taminga Street, Bayview.

## 5. Statutory Framework

### 5.1 Section 4.55 of Environmental Planning and Assessment Act 1979

Section 4.55(2) of the Environmental Planning and Assessment Act, 1979 (as amended) (the Act) provides that a consent authority may modify the consent if:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with—*
  - (i) *the regulations, if the regulations so require, or*
  - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

The development to which the consent, as modified, is substantially the same development as that approved by DA2021/0060, as it remains for *alterations and additions to a dwelling house*, notwithstanding the proposed modifications.

The consent authority can notify and consider any submissions in relation to the application as required.

S4.55(3) of the Act requires Council to consider those matters referred to in Section 4.15(1) of the Act that are of relevance to the development which is the subject of the application.

It is not considered that the minor modifications proposed, will not alter the previously favourable assessment from the original Development Consent. In particular, the site and surrounding built and natural environments will remain essentially the same and the amenity for the local residents will be maintained.



## **5.2 State Environmental Planning Policies**

### **State Environmental Planning Policy (Sustainable Buildings) 2022**

Schedule 1 of SEPP (Sustainable Buildings) 2022 sets out the standards for thermal performance and energy requirements for BASIX development in NSW.

The proposed modifications relate to the driveway and retaining walls only, which will not impact the approved BASIX Certificate.

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

#### Chapter 2 – Vegetation in non-rural areas

State Environmental Planning Policy (Biodiversity and Conservation) 2021 aims to protect biodiversity values and preserve the amenity of non-rural areas, through the preservation of trees and other vegetation.

The development remains consistent with the provisions of the SEPP as it does not propose to remove any trees.

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

#### Chapter 4 Remediation of Land

The subject site has historically been used for residential purposes and no change of use is proposed. There is no known reason to suspect the site may be contaminated and the consent authority can be satisfied that the land is suitable for the continued residential use.

### 5.3 Pittwater Local Environment Plan 2014

The relevant clauses of the Pittwater Local Environmental Plan 2014 are addressed below.

#### Zoning

The site is zoned C4 Environmental Living pursuant to the provisions of the Pittwater Local Environment Plan 2014.

The modified development allows for ancillary works to the driveway and retaining walls, and are permitted with consent in the C4 zone.



Figure 10: Extract from the Pittwater LEP 2014 zoning map

#### Demolition

Minor demolition works are proposed, as described above and illustrated in the attached DA plan set, to allow for the construction of the proposed driveway and retaining walls.

#### Minimum Subdivision Lot Size

The site is mapped with a minimum subdivision lot size of 700m<sup>2</sup>. The subject site is an existing undersized parcel, comprising an area of 689.31m<sup>2</sup> and no subdivision is proposed.



### **Height of Buildings**

The subject site is mapped with a maximum building height of 8.5 metres and the development will not alter the existing approved building height.

### **Floor Space Ratio**

The site is not identified on the floor space ratio map.

### **Heritage Conservation**

The site is not a heritage item, is not located within a heritage conservation area and is not located in proximity to any heritage items.

### **Flood Planning**

The site is not identified on the NBC flood hazard map.

### **Acid Sulfate Soils**

The site is mapped with class 5 acid sulfate soils. The subject site is not located below 5 metres AHD and the proposed works are not likely to lower the watertable below 1 metre AHD on adjacent class 1,2,3 or 4 land.

### **Earthworks**

Minimal earthworks are proposed to prepare the sites for construction. All works will be undertaken in accordance with engineering specifications, Council controls and any consent conditions.

### **Biodiversity**

The subject site is mapped as Terrestrial Biodiversity, as such the consent authority must consider:

*(a) whether the development is likely to have:*

*(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*

The proposed modifications will have a minimal and appropriate impact on the existing environment, as it is generally located within the disturbed portion of the site and no tree removal is proposed.

*(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*

There will be no adverse impact on any vegetation on the site.

*(iii) any potential to fragment, disturb or diminish the biodiversity structure, function, and composition of the land, and*

Biodiversity will be unaffected by the proposed modifications as the works will occur on the already disturbed areas on the site.

*(iv) any adverse impact on the habitat elements providing connectivity on the land, and*

No adverse impact on habitat will result from the minor modifications proposed.

*(b) any appropriate measures proposed to avoid, minimise, or mitigate the impacts of the development.*

The modifications are appropriate as proposed.

Council must also consider and be satisfied of the following:

*(a) the development is designed, sited, and will be managed to avoid any significant adverse environmental impact, or*

The modifications are appropriate for the already disturbed site. It will not be to the detriment of the environmental qualities of the location.

*(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited, and will be managed to minimise that impact, or*

There are no detrimental impacts as a result of the proposed modifications.

*(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

There are no detrimental impacts.

### **Geotechnical Hazard**

The site is located within the geotechnical hazard zone H1 mapped by Council's LEP. Accordingly, clause 7.7 of Council's LEP must be considered regarding the site:

*(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether the development takes into account all geotechnical risks:*

*(a) site layout, including access,*



- (b) the development's design and construction methods,*
- (c) the amount of cut and fill that will be required for the development,*
- (d) wastewater management, stormwater, and drainage across the land,*
- (e) the geotechnical constraints of the site,*
- (f) any appropriate measures proposed to avoid, minimise, or mitigate the impacts of the development.*

*(4) Development consent must not be granted to development on land to which this clause applies unless:*

- (a) the consent authority is satisfied that the development will appropriately manage wastewater, stormwater, and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and*
- (b) the consent authority is satisfied that:*
  - (i) the development is designed, sited, and will be managed to avoid any geotechnical risk or significant adverse impact on the development and the land surrounding the development, or*
  - (ii) if that risk or impact cannot be reasonably avoided—the development is designed, sited, and will be managed to minimise that risk or impact, or*
  - (iii) if that risk or impact cannot be minimised—the development will be managed to mitigate that risk or impact.*

A Geotechnical Report provided with this application, demonstrates compliance with this clause.

### **Essential services**

All services are existing on the site.

## 5.4 Pittwater 21 Development Control Plan

The relevant sections of the DCP are addressed below.

### Objectives

The proposed modification is entirely consistent with the ecologically sustainable, environmental, social and economic objectives as specified in the DCP. The proposal is appropriate to the site and the locality and has been designed with fulfilment of these objectives as essential criteria.

### A4 Localities

#### Church Point and Bayview Locality

The site is located within the Church Point and Bayview Locality. The desired character statement for the area is:

*The Church Point and Bayview locality will remain a low-density residential area with dwelling houses a maximum of two storeys in any one place in a natural 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 occupancy dwellings will be located on lowlands in the locality on land that has less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Retail, 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. The locality is characterised by steeply sloping blocks so the provision of facilities such as inclinator, driveways and carparking need to be sensitively designed. The shared use of vehicular/pedestrian access, and the use of rooftops as parking areas can be solutions that minimise the physical and visual impact on the escarpment or foreshore.*

*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 the development. Views from the buildings shall be maintained below the tree canopy level capturing spectacular views up the Pittwater waterway. 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.*

*The locality is visually prominent particularly from Scotland Island, Bilgola Plateau, and*

*the Pittwater waterway. Therefore, 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, and to enhance wildlife corridors.*

*Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.*

*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.*

*Pedestrian/cycle access around the foreshore and to areas of open space will be upgraded and maintained.*

*Church Point will remain an important link to the offshore communities.*

The proposed development has been designed taking into consideration the desired character of the location. The scale of the proposal is well designed to ensure retention of the character sought by Council, providing upgraded vehicular access to the dwelling, whilst being mindful of the natural environment.

## **Section B General Controls**

### **B1 Heritage Controls**

#### **Heritage Conservation**

The site is not a heritage item, is not located within a heritage conservation area and are not located in proximity to any heritage items.

#### **Aboriginal Heritage Significance**

The site is not known or anticipated to be home to any aboriginal relics. Should any objects be discovered during construction, appropriate measures will be taken according to NSW Office of Environment and Heritage.

### **B3 Hazard Controls**

#### **Landslip Hazard**

The site is located within the Geotechnical Hazard H1 zone mapped by Council's LEP. A Geotechnical Report provided with this application, demonstrates compliance with this clause.

### **Bushfire Hazard**

The site is not mapped as bushfire prone.

### **Contaminated and potentially contaminated lands**

The site is not known to be contaminated and to our best knowledge has only ever been developed for low density residential uses.

### **Flood Hazard**

The site is not identified on the NBC flood hazard map.

### **B4 Controls relating to the natural environment**

As described above the subject site is identified on biodiversity maps. The development remains consistent with the DCP, as it does not propose to remove any trees.

### **B5 Water management**

The site is connected to the reticulated sewer system.

The architectural plans demonstrate that the proposed development will not increase the hard surface area by more than 50m<sup>2</sup>, as such onsite detention is not required.

Stormwater management is detailed in the stormwater plans provided with this application.

### **B6 Access and parking**

The DCP requires a maximum gradient of 1:5, a min. width of 3 metres and passing bays for driveways longer than 40 metres.

The development proposes to alter the approved driveway levels, to provide improved access to the site. The revised design proposes a compliant gradient and retains a compliant width of 3 metres. In addition, the existing passing bay will be retained.

The DCP requires 2 carparking spaces per dwelling (2 or more bedrooms) and no change is proposed to the existing approved carparking.

### **B8 Site works and management**

All site works will be undertaken as required by Council controls and compliant with any relevant conditions of consent. Appropriate devices will be used during the construction process to ensure no issues arise in regard to erosion and sedimentation.



## **Section C – Development Type Controls**

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

#### **Landscaping**

The DCP requires 60% landscaping on the site which is equivalent to 413.59m<sup>2</sup> for the site area of 689.31m<sup>2</sup> (of which 6% can be impervious area).

The landscaped area remains unchanged at 58.5%.

#### **Safety and Security**

The proposed driveway and retaining walls will not alter the existing, adequate safety and security of the site.

#### **View Sharing**

The subject site and surrounding properties enjoy broad water views across Pittwater to the north and east. The proposed driveway and retaining wall works will have no impact on views.

#### **Solar Access**

The DCP requires 3 hours of solar access is maintained for the windows to principal living areas, solar collectors and private open space of the site and adjoining properties, between 9am and 3pm on 21 June.

The proposed driveway and retaining wall works will have no impact on solar access.

#### **Visual Privacy**

The proposed driveway and retaining wall works will have no impact on privacy, as works are located within the vicinity of the existing driveway.

#### **Acoustic Privacy**

The development will not result in noise levels inappropriate to a residential area and the site is not located in close proximity to a noise generating activity.

#### **Private Open Space**

The DCP requires a minimum private open space requirement of 80m<sup>2</sup>. The development will not alter the existing compliant private open space area in the rear yards of the subject site.

## **Waste and Recycling Facilities**

Appropriate waste management will be undertaken during the demolition and construction process. All demolished materials will be recycled where possible which is detailed in the accompanying Waste Management Plan.

The dwelling retains a bin storage area, with waste to be collected by Councils regular service.

## **Section D – Locality Specific Development Controls**

### **D4 – Church Point and Bayview Locality**

The site is located in the Church Point and Bayview Locality and the minor works proposed are consistent with the desired character, built form and natural environment criteria as specified in the DCP. The proposed development is considered appropriate within residential and natural setting.

#### **Character**

The proposed driveway and retaining walls are an appropriate design for the locality. Materials and colours complement the area and are consistent with the site, while sitting comfortably in the locality.

#### **Scenic Protection**

The proposed development is consistent with this clause, in that there will be no negative visual impacts from a waterway, road or public reserve, as a result of the minor works.

#### **Building colours, materials and construction**

The proposed materials include retaining the sandstone retaining wall, new block retaining walls and a concrete finish to the driveway, consistent with the residential setting.

#### **Front Building Line**

The DCP requires a front building setback of 6.5 metres and no changes are proposed to the existing front building line.

#### **Side and rear building line**

The DCP requires side setbacks of 2.5 metres one side and 1 metre the other side and a rear setback of 6.5 metres. No changes are proposed to the existing side or rear setbacks.

### **Building envelope**

A building envelope of 45° measured at a height of 3.5 metres applies to the site and no changes are proposed to the existing building envelopes.

### **Landscaped Area – Environmentally Sensitive Land**

The DCP requires 60% landscaping on the site which is equivalent to 413.59m<sup>2</sup> for the site area of 689.31m<sup>2</sup> (of which 6% can be impervious area).

The landscaped area is unchanged as result of he updated works at 58.5%.

### **Fences**

No new fencing is proposed.

## **6. Section 4.15 Considerations**

- 6.1 The amendment to the approved development has been considered with reference to Section 4.15 of the Environmental Planning and Assessment Act 1979.

This assessment has found the proposed modifications will not alter the impacts of the proposed development from that which was originally deemed to be acceptable and worthy of approval in the original development.

There will be no impacts as a result of the proposed modification, with negligible impacts for the subject site, the neighbouring site and the streetscape with regards to all relevant factors including scale, design, amenity, and privacy.

## **7.0 Development substantially the same**

- 7.1 It is considered the modified development is substantially the same as that approved by DA 2021/0060, as it remains for *alterations and additions to a dwelling house*, notwithstanding the proposed modifications.

In a comparison to the previously approved development, the proposal will remain essentially and materially the same, as the proposed works are largely located within the footprint of the existing driveway and on a disturbed portion of the site. As such, the development will be substantially the same notwithstanding the modifications that are sought.



## **8. Conclusion**

- 8.1 The development, as modified, represents substantially the same development as was approved by Council in Development Consent DA 2021/0060. The proposed modifications will have no significant environmental impact.

The proposed modifications do not raise any additional issues relating to the relevant provisions of:

- State Environmental Planning Policies,
- Pittwater Local Environmental Plan 2014,
- Pittwater Development Control Plan 2014,
- The heads of consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).

When assessed under the relevant heads of consideration of s4.15 of the Environmental Planning and Assessment Act, the proposed development is meritorious and should be granted consent.

## Planner Declaration

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### Document Control Table

Document Purpose:	Section 4.55(2) Modification Report	
Date	Prepared by	Approved by
15 April 2025	Naomi Lyons Senior Planner	Sarah McNeilly Director

### Disclaimer

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