



STATEMENT OF ENVIRONMENTAL EFFECTS

**FOR THE REPLACEMENT OF THE PRINCIPAL
DWELLING**

AT No.34 WHALE BEACH RD , AVALON .

Prepared: July , 2019

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1.0 INTRODUCTION

This Statement of Environmental Effects accompanies a development application seeking Council's consent to the demolition of the single storey dwelling at the rear of the site to facilitate construction of a new 2 storey dwelling. In May, 2011 Council approved a single storey secondary dwelling in the front yard (DA No.N0069/11) hence the reference in the report title that the application relates to the principal dwelling on the site.

The land is zoned Low Density Residential (R2) under the provisions of Pittwater Local Environmental Plan 2014 (the LEP) and the proposal which involves the multiple residential use of the land is permitted with consent in this zone.

The proposal cannot be classified as either 'Exempt' or 'Complying Development' under the State Government's Housing Code due to the provisions of Clause 2.3 of the LEP and the associated landuse table, hence he lodgement of this Development Application.

The site is not subject to any heritage, hazard or environmental constraints and the proposal constitutes 'Local Development' which can be processed by Council without referral to any State Government department or agency.

This Statement of Environmental Effects has addressed all of the various operational and environmental consequences of the proposal and concludes that it complies with all of the relevant provisions and / or the aims and objectives of the LEP.

The proposal has been assessed against the Pittwater 21 Development Control Plan (the DCP), that assessment confirms that the proposal is fully compliant other than for the building envelope control and the rear boundary setback. This Statement will confirm however that the proposal as submitted complies with the objectives of these planning controls, that there are no negative impacts on the adjoining properties and that the proposal does not appear to have the potential to limit the development potential of any adjoining property.

This Statement will also confirm that the proposal would not have a significant impact on the public's perception of the site within the streetscape context.

In addition to the Council's planning controls, development of the site is also subject to State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017(the Vegetation SEPP), State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Exempt and Complying Development), State Environmental Planning Policy BASIX, 2004 (BASIX), State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55p8) and the exhibited draft amendments, State Environmental Planning Policy No 44 – Koala Habitat Protection (SEPP 44) and State Environmental Planning Policy No 19-Bushland in Urban Areas (SEPP 19). This Statement will confirm that these Planning Policies do not constitute an impediment to the proposal.

Under the circumstances, there is no impediment to Council granting consent to the proposal as submitted.



The site viewed from the intersection of Whale Beach Rd and Alexander Rd. The dwelling to be demolished is highlighted by the yellow arrow.



A photo montage of the proposed new dwelling. Note the vegetative backdrop and the proposed exterior colours which minimise the visual prominence of the building. All of this vegetation is located on the adjoining properties or within the road reserve and thus will not be affected by the proposed works.



2.0 SITE DESCRIPTION

This application relates to Lot 90 in DP 17189, known as No.34 Whale Beach Rd, Avalon. The site is trapezoid in shape, with an obliquely angled 14.93m wide frontage to Whale Beach Rd, a similar obliquely angled rear boundary having a width of 11.97m, a mean depth of 47.8m and the property has a total site area of 544m². (a copy of the site survey is provided over).

As confirmed by the survey over the site has a moderate slope from the eastern boundary to the western boundary with a slight cross fall to the S/W front cnr. As discussed over the design of the new building responds to site contour and excavation has been minimised.

Current site improvements comprise a single storey dwelling at the rear of the site and a Secondary Dwelling at the front of the site. Off-street parking for 1 vehicle is provided for the principal dwelling within an attached garage at the rear of the dwelling. Off-street parking for 1 vehicle is provided for the Secondary Dwelling on a raised concrete slab which is also located at the rear of the dwelling. Both of these parking facilities are accessed from Alexander Rd. As confirmed by the aerial photo over, the front yard area is a large lawned area with informal landscaping, the eastern & western side boundary setback corridors of the principal dwelling are also lawned & informally landscaped while the existing rear (northern) boundary setback is largely taken up by a concrete path and the building footprint. The proposal does not require the removal of any existing trees on the site or interference with vegetation on the 2 adjoining properties, however a 4m high Bottlebrush is to be removed to facilitate construction of the proposed driveway.

The northern & western site boundaries are delineated by a 1.8m high metal fence, the front or southern boundary is delineated by a 1.5m high timber picket fence, while the eastern side boundary is unfenced. This proposal does not involve any alteration to the current fencing arrangements.

Surrounding development comprises both one and two storey dwellings, although single storey dwellings predominate, therefore the existing dwelling and the proposed new dwelling are / will be consistent with development in the locality.

The topography of the area uniformly falls across the site from the east to the west. There are no extensive view corridors or viewing opportunities in the immediate locality and most dwellings appear to overview the road reserves or the houses opposite and that outlook comprises the built environment in a landscaped setting.

The landuse pattern is consistently repeated ie, that the front yard is the public interface while the rear yard is used for the residents' private open space needs. This is particularly relevant in relation to the potential amenity impacts which are discussed later in this Statement and were found to be satisfactory.

Having regard to the site constraints and the streetscape characteristics, the primary design considerations were to accommodate the clients' residential needs, create a built form which would be similar to that of the surrounding dwellings which does not significantly impact upon the amenity of the occupants of the surrounding properties whilst satisfying the Council's



planning controls. This Statement will confirm that the proposal achieves these objectives.



The site viewed from its Whale Beach Rd frontage. The dwelling to be demolished is again highlighted by the yellow arrow.



A photo montage of the proposed new dwelling viewed from its Whale Beach Rd frontage. Again from this aspect the building will be read against the landscaped background which minimises the perceived bulk & scale.



The principal dwelling to the right with the Secondary Dwelling to the left viewed from Alexander Rd. The multi trunked bottlebrush to be removed to facilitate construction of the new driveway is located to the far left of this photo.

A view across the front of the principal dwelling, Alexander Rd is located to the right of this photo.



The southern elevation of the principal dwelling. The proposed new dwelling will maintain this setback from Alexander Rd. The concrete driveway in the foreground serves the parking area for the existing Secondary Dwelling.

A view across the rear of the principal dwelling from the S/W cnr. The existing metal boundary fence is to be retained.





The site viewed from the N/E in Alexander Rd with the existing dwelling to be demolished highlighted.

The site viewed from the S/E in Alexander Rd.



The site viewed from the properties to the south in Whale Beach Rd.

The site viewed from the properties opposite & to the S/W in Whale Beach Rd.





The site viewed from in front of No.32 Whale Beach Rd to the west of the site. Note the existing principal dwelling is obscured from this aspect.

Residential development to the S/E of the site with the driveway serving the Secondary Dwelling in the foreground.



Residential development directly opposite the site in Alexander Rd.

Residential development to the N/E of the site in Alexander Rd.

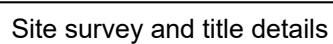




Locality plan with the site highlighted



An aerial view of the site showing the existing dwelling and its relationship to surrounding development. The proposed secondary dwelling is to be located in the area highlighted.





3.0 THE PROPOSAL

This application seeks Council consent to construct a 2 storey dwelling at the rear of the site generally within the existing building footprint although the building is located further from the rear boundary and slightly forward of the existing southern boundary setback. In addition it is intended to construct a new garage on the existing car stand area associated with the Secondary Dwelling and provide a home office & bathroom over.

The new dwelling is rectangular in shape with its location & design being largely dictated by the allotment width, ie, there is little opportunity to provide building modulation. However as discussed later and demonstrated by the photo montages on P.3 & 6 of this Statement the perceived bulk & scale of the new dwelling will be mitigated by the exterior building materials and the landscape backdrop.

The proposed dwelling

This building is to be located at the rear or northern part of the site.

This building comprises 2 levels and the lower level aligns with the existing ground level to the east while the western side is to be raised by 1.14m above existing ground level. This area is to be filled to create a level building platform and will be retained by a proposed masonry perimeter wall.

This new dwelling will contain :-

At ground floor level –

- a double garage
- the dwelling entry
- a bathroom & laundry
- an open plan kitchen / dining & living room
- an internal stairway to the floor above

At 1st floor level –

- a master bedroom, en-suite & a walk-in robe
- 3 bedrooms with a shared bathroom
- a study nook
- a family room
- an internal stairway to the floor below

Externally it is proposed to –

- provide a rectangular outdoor living area in what is essentially the rear yard area to serve as an extension to the adjacent living / dining room. This area aligns with the existing ground level to the east and will be raised by 1.14m above existing ground level. This area will be enclosed by a timber retaining wall
- provide a clothes drying area adjacent to the outdoor living area in the western side boundary setback corridor



- install two 3,5000ltr rainwater storage tanks in the western side boundary setback corridor which is well above the capacity required by the BASIX assessment

The garage addition

As advised earlier off-street parking for the existing Secondary Dwelling is provided at the rear of that building on a raised concrete slab.

Through this application it is intended to construct a garage on the slab and provide a home office / gym with bathroom facilities at 1st floor level which will be accessed by an external stair located between the garage and the proposed new dwelling.

The proposal will require the removal of one 4m high tree within the road verge to facilitate construction of the proposed driveway.

Vehicular access

All vehicles would have to reverse off the site, as currently occurs as there is no on-site turning area, however vehicular and pedestrian sightlines are extensive in this location as confirmed by the photos on P.28 of this Statement. This access arrangement is consistent with that predominant in the locality.

The proposed exterior materials and colours will be :-

- Dwelling walls – face brick – Grey/Charcoal colour
- Roof – metal, colorbond finish ‘Night Sky’
- Eaves – metal, colorbond finish ‘Surfmist’
- Gutters – metal, colorbond finish ‘Night Sky’
- Downpipes – metal, dark colorbond finish ‘Monument’
- Windows & door frames – aluminium framed Night Sky colour
- New doors – timber, painted Night Sky for the home office / gym & aluminium framed glass for the dwelling entry Night Sky colour
- Balustrading – timber, painted Night Sky
- Wall panelling – timber, Weathertex, colour ‘Monument’
- Awnings – metal, colorbond finish ‘Night Sky’
- External stairs – timber, natural stain
- Garden retaining walls – concrete block, painted ‘Charcoal’
- Driveway surface – concrete, float finish
- Garage door - metal, colorbond finish ‘Night Sky’
- Garage wall cladding - timber, Weathertex, colour ‘Monument’



4.0 PERMISSIBILITY OF USE

The land is zoned Low Density Residential (R2) under the provisions of the LEP and the proposal which involves the multiple residential use of the land is permitted with consent in this zone.

Accordingly there is no impediment to Council granting consent to the proposal on the basis of the landuse classification.

The proposal cannot be classified as either 'Exempt' or 'Complying Development' under the State Government's Housing Code as dwellings require Council's prior consent pursuant to the provisions of Clause 2.1 of the LEP and the associated Land Use Table.

As indicated earlier, there are no heritage, environmental or hazard constraints which apply to this site or development type.

In addition to the Council's planning controls, development of the site is also subject to the Vegetation SEPP, the Exempt and Complying Development Codes, BASIX, SEPP 55 and the exhibited draft amendments, SEPP 44 and SEPP 19. As detailed in Section 6.49 of this Statement these Planning Policies do not constitute an impediment to the proposal.



The site viewed from in front of Nos. 4 & 6 Alexander Rd to the north



These photos, those on P.7 & 8 of this Statement plus the photo montages on P.3 & 6 of this Statement confirm that the resultant built form will be secondary to the landscaped setting of the locality.



5.0 DEVELOPMENT STATISTICS

As detailed below and addressed in Section 6 of this Statement, the proposal complies with all of the relevant development standards and / or the associated aims and objectives specified by the LEP.

Note : The matters in italics are not addressed in Section 6 as they are either not relevant to this landuse zone, development type or locality.

Compliance Table – Pittwater LEP 2014

| STANDARD | REQUIRED | PROPOSED | COMPLIANCE |
|--|------------------------------|---|------------------|
| <u>Part 1 Preliminary</u> | | | |
| CI 1.9 Application of SEPP's | | | N/A |
| CI 1.9A Suspension of covenants, etc | | There are no easements, covenants or restrictions preventing the proposed development | Yes |
| <u>Part 2 Permitted or prohibited development</u> | | | |
| CI 2.1 & 2.2 Land use zones | Low Density Residential (R2) | New dwelling | Consent required |
| CI 2.3 Zone objectives | | | Yes |
| CI 2.4 Unzoned land | | <i>The land is zoned Low Density Residential and therefore this planning control is not relevant.</i> | N/A |
| CI 2.5 Additional permitted uses for particular land | | <i>The site is not listed in Schedule 1 of the LEP and as indicated earlier, the proposal is permitted in this landuse zone</i> | N/A |
| CI 2.6 Subdivision consent requirements | | <i>The proposal does not involve the subdivision of land and therefore this planning control is not relevant</i> | N/A |
| CI 2.7 Demolition requires consent | | This component of the proposal forms part of the application | Yes |
| CI 2.8 Temporary use of land | | <i>This planning control is not relevant as the proposal relates to a permitted use in the zone.</i> | N/A |



| STANDARD | REQUIRED | PROPOSED | COMPLIANCE |
|--|---|---|------------|
| <u>Part 3 Exempt and complying development</u> | | <i>These planning provisions are not relevant as Clause 2.1 of the LEP and the associated Land Use Table requires Council's prior consent for a dwelling in this zone</i> | N/A |
| <u>Part 4 . Principal development standards</u> | | | |
| CI 4.1 Minimum subdivision lot size | 700m ² | <i>The site has an area of 544m² however this proposal does not involve the subdivision of land</i> | N/A |
| CI 4.1AA Minimum lot size for Community title subdivision | | <i>The proposal does not involve a community titled subdivision therefore this planning control is not relevant</i> | N/A |
| CI 4.1A Minimum lot size for dual occupancy development | | <i>This planning control is not relevant as the proposal relates to a single dwelling and an existing principal & Secondary Dwelling</i> | N/A |
| CI 4.1B Minimum lot size for shop top housing | | <i>This planning control is not relevant as the proposal relates to a single dwelling</i> | N/A |
| CI 4.2 Rural subdivision | | <i>The land is zoned Low Density Residential and therefore this planning control is not relevant.</i> | N/A |
| CI 4.2A Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones | | <i>The proposal does not involve strata subdivision and the land is zoned Low Density Residential therefore this planning control is not relevant.</i> | N/A |
| CI 4.3 Height of buildings | 8.5m | 6.4 – 7.54m | Yes |
| CI 4.4 Floor space ratio | <i>None specified for this locality</i> | | N/A |
| CI 4.5 Calculation of floor space ratio and site area | | <i>The site calculations have been carried out in accordance with these requirements</i> | Yes |



| STANDARD | REQUIRED | PROPOSED | COMPLIANCE |
|---|--------------------|---|--------------|
| CI 4.5A Density controls for certain residential accommodation | | The land is zoned Low Density Residential and therefore this planning control is not relevant. | N/A |
| CI 4.6 Exceptions to development standards | | The proposal is fully compliant with the LEP controls | N/A |
| <u>Part 5 . Miscellaneous provisions</u> | | | |
| CI 5.1 Acquisition authorities | | The site is not subject to any acquisitions or reservation | N/A |
| CI 5.1A Development on land to be acquired for public purposes | | The site is not subject to any acquisitions or reservation | N/A |
| CI 5.2 Classification of public land | | The site is private freehold land | N/A |
| CI 5.3 Development near zone boundaries | Clause not adopted | | N/A |
| CI 5.4 Controls relating to miscellaneous permissible uses | | The proposed landuse is not listed in this clause | N/A |
| CI 5.5 Development within the coastal zone | | The site is not located within the coastal zone | N/A |
| CI 5.6 Architectural roof features | Clause not adopted | | N/A |
| CI 5.7 Development below MHW | | This clause is not relevant as no works are proposed below MHW | N/A |
| CI 5.8 Conversion of fire alarms | | | N/A |
| CI 5.10 Heritage conservation | | | Satisfactory |
| CI 5.11 Bushfire hazard reduction | | The proposal does not constitute bushfire hazard reduction works | N/A |
| CI 5.12 Infrastructure development and the use of buildings owned by the Crown | | The proposal does not constitute infrastructure development and the site is private freehold land | N/A |
| CI 5.13 Eco-tourist facilities | | The proposal relates to the residential use of the site | N/A |
| <u>Part 6 . Urban release areas</u> | | The site and the surrounding area are not located in an urban release area | N/A |



| STANDARD | REQUIRED | PROPOSED | COMPLIANCE |
|---|------------------|---|------------|
| Part 7 Additional local provisions | | | |
| CI 7.1 Acid sulphate soils | Class 5 land | | Yes |
| CI 7.2 Earthworks | Consent required | This component forms part of the application | Yes |
| CI 7.3 Flood planning | | <i>The site has not been classified as being potentially flood prone</i> | N/A |
| CI 7.4 Floodplain risk management | | <i>The site is not located on a floodplain</i> | N/A |
| CI 7.5 Coastal risk planning | | <i>The site is not considered to be at risk from coastal hazards</i> | N/A |
| CI 7.6 Biodiversity | | <i>The site has not been classified as having an environmental biodiversity value</i> | N/A |
| CI 7.7 Geotechnical hazards | | <i>The site has not been classified as geotechnically sensitive</i> | N/A |
| CI 7.8 Development on foreshore area | | <i>The site is not located in a foreshore area</i> | N/A |
| CI 7.9 Residual lots | | <i>Not applicable to this site</i> | N/A |
| CI 7.10 Essential services | | The site contains an existing dwelling and a Secondary Dwelling, all of the usual range of services and utilities are available | Yes |
| CI 7.11 Converting serviced apartments to residential flat buildings | | <i>The proposal relates to a future single dwelling</i> | N/A |
| CI 7.12 Location of sex services premises | | <i>The proposal relates to future single dwelling</i> | N/A |



Compliance Table – Pittwater 21 Development Control Plan, 2014

| STANDARD | REQUIRED | PROPOSED | COMPLIANCE |
|---|------------|---|--------------|
| Administrative controls | | | |
| Sections 4 & 5 - Integrated Development | | | N/A |
| Section A Character controls | | | |
| Desired future character | | | Satisfactory |
| Section B General controls | | | |
| Heritage controls | | | |
| Heritage conservation - general | | The site does not appear to meet any criteria for the creation of a heritage listing | N/A |
| Aboriginal Heritage significance | | | Satisfactory |
| Hazard controls | | | |
| <i>Landslip hazard</i> | | <i>The site has not been classified as geotechnically sensitive</i> | N/A |
| <i>Bushfire hazard</i> | | <i>The site has not been classified as being Bushfire prone</i> | N/A |
| Acid Sulphate Soils | | Class 5 | Satisfactory |
| Contaminated Land | | The land has not been used for a purpose likely to have contaminated site | Satisfactory |
| <i>Estuarine hazard</i> | | | N/A |
| Flood hazard | Category 3 | Not deemed flood affected | Satisfactory |
| Controls relating to the natural environment | | | |
| Flora & Fauna Conservation Category 3 land | | No technical reports / assessment required | Yes |
| Preservation of trees or bushland vegetation | | The proposal requires the removal of 1 tree within the road reserve, the remaining vegetation is retained | Satisfactory |
| Water management | | | |
| Wastewater disposal | | | Yes |



| STANDARD | REQUIRED | PROPOSED | COMPLIANCE |
|--|----------|---|--------------|
| <i>Greywater reuse</i> | | | N/A |
| Stormwater harvesting | | Two 3,500ltr rainwater storage tanks | Yes |
| Stormwater management - water quality | | Dispersal to the approved existing absorption trench | Satisfactory |
| <i>Stormwater discharge into public drainage system</i> | | <i>No, on-site absorption</i> | N/A |
| <i>Stormwater systems and natural water courses</i> | | <i>No, on-site absorption</i> | N/A |
| <i>Development on waterfront land</i> | | | N/A |
| <i>Stormwater drainage easements (Public stormwater drainage system)</i> | | | N/A |
| Access and parking | | | |
| Access driveways and works on the public road reserve | | New concrete kerb & layback required | Yes |
| Access driveways and works on the public road reserve - Development other than low density residential | | <i>Land zoned Low density residential</i> | N/A |
| Internal driveways - Low density residential | | | Satisfactory |
| <i>Internal driveways - Development other than low density residential</i> | | <i>Land zoned Low density residential</i> | N/A |
| Off-street vehicle parking requirements - Low density residential | | 2 spaces for the dwelling, 1 space for the Secondary Dwelling | Yes |
| <i>Off-street vehicle parking requirements - Development other than low density residential</i> | | <i>Land zoned Low density residential</i> | N/A |
| <i>Transport and traffic management - all development other than low density residential</i> | | <i>Land zoned Low density residential</i> | N/A |
| Site works management | | | |
| Excavation and landfill | | | Satisfactory |
| Erosion and sediment management | | | Satisfactory |



| STANDARD | REQUIRED | PROPOSED | COMPLIANCE |
|---|--|---|--------------|
| Waste minimisation | | | Satisfactory |
| Site fencing and security | | | Satisfactory |
| Works in the public domain | | New driveway crossing and kerb & gutter | Satisfactory |
| Traffic management plan | | Not required | N/A |
| Section C Development type controls | | | |
| Landscaping | | | Satisfactory |
| Safety & security | | | Satisfactory |
| View sharing | | | Satisfactory |
| Solar access | | | Satisfactory |
| Visual privacy | | | Satisfactory |
| Acoustic privacy | | | Satisfactory |
| Private open space | 80m ² | Private open space in the rear yard 83.5m ² | Yes |
| <i>Dual Occupancy specific controls</i> | | <i>Proposed single dwelling</i> | N/A |
| Adaptable housing and accessibility | | | Satisfactory |
| Waste and recycling facilities | | | Satisfactory |
| Pollution control | | | Satisfactory |
| <i>Separately accessible structures</i> | | <i>Proposed single dwelling</i> | N/A |
| <i>Incline passenger lifts and stairways</i> | | | N/A |
| Eaves | 450mm min width | No eaves proposed | Satisfactory |
| Public Road reserve landscaping and infrastructure | Not required | The removal of 1 lower growing Bottlebrush | Satisfactory |
| Plant, equipment boxes and lift overrun | | All located within the building profile | Yes |
| Section D Locality specific development controls | | | |
| Avalon Beach locality | | | |
| Character as viewed from a public place | | | Satisfactory |
| Scenic protection - General | | | Satisfactory |
| Building colours and materials | | | Satisfactory |
| Front, rear and side building lines | Front, 6.5m or established building line; side 1m & 2.5m ; rear 6.5m | Front 18.5m; Sides (E) 2.5m & (W) 1.5m – 2.33m Rear median 6.71m | Yes |



| STANDARD | REQUIRED | PROPOSED | COMPLIANCE |
|---|---|--|--------------|
| Building envelope | | Intrusions at upper floor level | Satisfactory |
| Landscaped area General | Min landscaped area component 50% of the site | Existing landscaped open space component 51.2% Proposed landscaped open space component 54.02% | Yes |
| Landscaped area Environmentally sensitive land | | | N/A |
| Fences - General | | All existing fences are retained, no new fences | Satisfactory |
| Scenic protection Category 1 areas | | | Satisfactory |
| Retaining walls, terracing and undercroft areas | | Dwelling footing retaining wall 1.14m ; timber retaining wall max 1.14m high at the rear to create a level outdoor living area. No undercroft proposed | Satisfactory |



6.0 DISCUSSION OF DEVELOPMENT CONTROLS

Pittwater LEP, 2014

Part 1 Preliminary

6.1 Application of State Environmental Planning Policies (SEPP's)

Clause 1.9 of the LEP confirms that the provisions of SEPP 1 - Development Standards do not apply for the purposes of implementation of the LEP.

Abolition of the Development Standards Policy is a consistent feature of the NSW Govt standard template for planning instruments and is superseded by a standard Clause 4.6 which operates in a similar fashion to the old Planning Policy.

As confirmed in the compliance table the proposal complies with the development standards specified by the LEP therefore this application does not rely on the provisions of Clause 4.6.

6.2 Suspension of covenants, agreements and instruments

Clause 1.9A of the LEP confirms that any agreement, covenant or similar instrument, which restricts or prohibits development which would otherwise be permitted by the LEP does not apply.

As confirmed by the survey submitted with this application there are no Covenants or other Restrictions of Use over the land that would prevent or otherwise constrain the proposed development.

Part 2 Permitted or prohibited development

6.3 CI 2.1 & 2.2 Land use zones

Under these provisions and the associated Land Zoning Map, the site and the surrounding properties are zoned Low Density Residential. This zoning permits a range of residential & residentially related, low traffic generating commercial uses and waterfront related uses. The proposed new dwelling and its ancillary facilities are therefore permitted with the prior consent of Council.

6.4 Zone objectives

Clause 2.1 and the associated Land Use Table identify the objectives for development, the uses that may be carried out without development consent, those that may be carried out only with consent and those that are prohibited in the various land-use zones.

As indicated above the land is zoned Low Density Residential and Council's prior consent is required for the erection of dwellings and ancillary facilities.

As confirmed later in this Statement, the proposal complies with the relevant zone objective as the proposed 2 storey dwelling and the garage additions are classified as low density residential development which would be consistent with the surrounding landuses with a built form which would integrate with the landform and landscape.

The other objectives of this zone are not relevant as the intended landuse does not provide a service which meets the day to day needs of residents or constitute another landuse which has a low intensity & scale which would be



compatible with surrounding land uses.

As confirmed later in this Statement the proposal will not have an adverse impact on the scale, character and streetscape of the locality as its visual prominence is minimised by the surrounding dwellings and the retained landscape setting and as detailed later the proposal has no potential for a significant adverse effect upon the residential amenity of surrounding properties beyond the construction phase.

6.5

Demolition

Clause 2.7 of the LEP confirms that Council's prior consent is required for demolition accordingly this component of the proposal, ie, the demolition of the existing dwelling and the attached garage form part of this development application.

Part 3 Exempt and complying development

Not applicable due to the provisions of Clause 2.1 of the LEP and the associated Land Use Table.

Part 4 Principal development standards

6.6

Height of buildings

Clause 4.3 of the LEP and the associated map specify the maximum height of buildings in the various locations throughout the Local Government area. The maximum building height specified for this site is 8.5m. As confirmed in the compliance table and on the submitted architectural plans the proposed dwelling has a height of between 6.4m – 7.54m therefore it easily complies with this planning control.

6.7

Calculation of floor space ratio and site area

Clause 4.5 of the LEP specifies those parts of the site or portions of the building, which are included and excluded in the calculation of floor space ratios and site areas.

There is no floor space ratio specified for buildings in this locality.

The site area calculations have been carried out in accordance with the requirements of this planning control.

Part 5 Miscellaneous provisions

6.8

Conversion of fire alarms

The provisions of Clause 5.8 are unlikely to be relevant as it is anticipated that the required fire alarms would be hard wired as expected by a condition of Council's consent but at this stage it is anticipated that these alarms would not be monitored by an external provider.

6.9

Heritage conservation

Clause 5.10 of the LEP details Council's aims, objectives and procedures relating to the conservation of environmental, heritage, archaeological and aboriginal heritage in the Local Government area.

Council's records confirm that the site does not contain an identified Heritage



item, it is significantly distanced from the nearest Heritage Items and Conservation Areas such that the proposed 2 storey dwelling has no potential for an adverse impact.

A check of the Aboriginal Heritage Information Management System has established that the site does not contain any known archaeological relic or constitute a known Aboriginal place of heritage significance and there is no indication that this site may have any potential archaeological significance.

A detailed site inspection has confirmed that there are no caves, sheltering opportunities or extensive exposed flat sandstone outcrops. The site does not contain any particular highly valuable resource other than for its proximity to the ocean frontage to the south and the creek system to the west of the site.

In the unlikely event that unknown archaeological relics are discovered during site works the project will be halted, Council, the Aboriginal Heritage Office and the Office of Environment & Heritage will be notified and further instruction obtained prior to the recommencement of works.

Part 7 Additional local provisions

6.10

Acid sulphate soils

Clause 7.1 of the LEP and the associated Acid Sulphate Soils Map indicates that for the purposes of implementation of this planning control the site is classified as Class 5 land, ie, the lowest risk category.

However acid sulphate soils are unlikely to be encountered on this mid slope, free draining site which like all of the surrounding properties is well above 5m AHD.

In this regard the NSW Department of Environment, Climate Change and Water, publication 18/12/2008, notes that acid sulphate soils are widespread along the margins of the NSW coast, in estuarine floodplains and coastal lowlands, including urban areas, farmland, mangrove tidal flats, salt marshes and tea-tree swamps, none of these scenarios occur on the site. In the unlikely event that acid sulphate soils are uncovered these would be removed and deposited in an authorised waste facility rather than being spread over the site.

6.11

Earthworks

Clause 7.2 of the LEP states that consent is required for the carrying out of earthworks in association with proposed development. Under these circumstances this component of the proposal forms part of the development application.

As indicated earlier the lower level of the proposed dwelling aligns with the existing ground level to the east while the western side is to be raised by 1.14m above existing ground level. This area is to be filled to create a level building platform and will be retained by the proposed masonry perimeter wall. The only other significant earthworks are associated with the proposed outdoor living area at the rear of the dwelling which aligns with the existing ground level to the east and will be raised by 1.14m on the western side of the building. This area will be enclosed by a timber retaining wall.

Fill material from these works will be sourced from the works associated with



the new driveway and the building footings, other fill material will have to be brought onto the site.

As shown on Dwg No.14C of the submitted plans it is intended to provide silt and sedimentation controls to the north & south of the proposed dwelling and adjacent to the western side boundary to ensure that there is no adverse impact on the adjoining properties as a consequence of the proposed earthworks.

6.12

Essential services

Clause 7.10 of the LEP states that Council will not grant consent to a proposal unless it is satisfied that the site does or can be connected to a water and electricity supply and a sewage and stormwater disposal system.

This planning control does not constitute an impediment to the proposal as the site is connected to all of the usual residential utilities. Under these circumstances the proposal simply requires new connections to the existing infrastructure. Consistent with the intent of this planning control all new utility services will be undergrounded.

Pittwater 21 DCP

Administrative Controls

6.13

Integrated development

Sections 4 & 5 of the DCP identify circumstances where proposed development is classified as 'Integrated Development' and therefore requires referral to a State Government agency.

As indicated earlier, the site is not subject to any environmental or hazard constraints therefore the proposal is classified as 'Local Development' which can be determined by Council without referral to any Government Department or external agency.

Section A Character Controls

6.14

Desired future character

Clause A3.2 of the DCP seeks to retain & enhance the desired character of the Local Government Area. For the purposes of implementation of this planning control the site is located within the Avalon Beach Locality. The existing and desired characteristics of this locality are specified in Clause A4.1 of the DCP.

The proposal will comply with the desired future character in that :-

- post development the locality will remain primarily a low density residential area with dwelling houses containing primarily 2 levels in a landscaped setting.
- the proposed dwelling integrates with the landform & the landscape and when viewed from the public domain it will be read in context with the surrounding dwellings and from more distant viewpoints it will be read against the heavily vegetated back drop to the north



- the site does not have a significant tree canopy coverage, as confirmed by the photos attached to this Statement and the survey lodged with the application most of the more significant vegetation is located on the adjoining properties and this is unaffected by the proposed works.
- when viewed from the public viewpoints and particularly from more distant locations the proposed dwelling will be below the height of the tree canopy and the perceived bulk & scale of the building will thus been minimised. This matter is further discussed and justified later in this Statement in relation to the Avalon Beach Locality Plan
- there is no interference with or impact upon pedestrian access around the foreshore as the site is significantly distanced from the coastal foreshore
- there is no potential to significantly alter the existing streetscape, as advised the building complies with most of the primary planning controls and due to height & location of surrounding dwellings there are only limited opportunities to view the site from within the public domain.

Section B General Controls

6.15

Heritage conservation

Clause B1.3 of the DCP is not relevant as the existing dwellings nor have any of the surrounding dwellings been identified as possibly meeting any of the criteria for a heritage listing.

6.16

Aboriginal Heritage significance

Clause B1.4 of the DCP is not relevant as the site nor have any of the surrounding properties been identified as possibly meeting any of the criteria for a heritage listing detailed in Appendix 2 of the DCP and when viewed from the public domain there is no evidence of any of the surrounding sites containing an aboriginal object or having been a previous meeting place.

6.17

Acid sulphate soils

As indicated earlier in relation to Clause 7.1 of the LEP the site has been classified as Class 5 land, ie, the lowest risk category. However acid sulphate soils are unlikely to be encountered on this mid slope, free draining site which like all of the surrounding properties is well above 5m AHD. In the event that Acid Sulphate soils are encountered given the limited extent of excavation these would be removed and deposited in an authorised waste facility rather than being spread over the site.

6.18

Contaminated land

The site and the surrounding properties have been used for residential purposes for many years. On the information available there is no evidence of a prior use of this site or any surrounding property for a use which may have resulted in land contamination and in any event this proposal does not involve any extensive site excavation beyond the creation of a level foundation for the construction of the new dwelling and site grading for the new driveway.



6.19

Flood hazard

The land has been classified as Flood Category 3 which is a general provision applied to all development in the Local Government area, however this site has not been deemed by Council to be flood prone, further this is unlikely, again due to the site's mid-slope location.

6.20

Landscape and Flora & Fauna Enhancement

This provision of the DCP is similarly applied to many properties in the Local Government area and seeks to ensure the long-term viability of locally native flora and fauna & their habitats. The provisions of this Clause do not relate directly to this site as it has not been identified as containing or potentially containing any significant locally native flora and fauna or habitats. The proposal does not result in the loss of any substantial trees and the proposed landscaping does not include any environmental weed species.

6.21

Water Management

The site is in a dip which cannot achieve a gravity fall to the Council's drainage infrastructure in Whale Beach Rd or Alexander St.

It is not known what the current dispersal arrangements are for the principal dwelling but most likely this is via on-site absorption. The approved Secondary Dwelling is served by a 3,000ltr rainwater storage tank and the overflow is connected to an on-site absorption trench.

Given these site constraints the proposal was referred to a Hydraulic Engineer to design the stormwater management plan.

That proposal collects the runoff from the roof of the proposed new dwelling, the garage and the new driveway and directs this to a main service line adjacent to the western side boundary. Stormwater runoff from the roof of the new dwelling & the garage is to be connected to two 3.500ltr rainwater tanks located within the western side boundary setback corridor.

The capacity of these tanks is well in excess that that specified by the BASIX assessment as the drainage regime is based upon minimising the impact on the existing absorption trench located in the front S/W cnr of the site.

In order to reduce the loading on the existing absorption trench stored water within these tanks will be connected to the W/C's in the dwelling and the garage, the laundry in the new dwelling and to an automatic garden watering system, whilst the BASIX assessment only requires the tank to be connected to a garden tap.

The proposal does not involve the reuse of greywater.

6.22

Access and parking

This section of the DCP relates to access driveways and works on the public road reserve, internal driveways and the provision of off-street parking.

The proposal involves the provision of a new vehicle crossing and driveway on the Alexander Rd frontage, servicing a double garage to be allocated to the occupants of the principal dwelling.

As shown on drawing No.DA08C due to the topography the new driveway is



descending and the grades shown thereon comply with those specified by Appendix 10 of the DCP. As indicated previously the installation of this driveway will require the removal of a multi trunked 4m high Bottlebrush located on the road verge.

As required by Clause B6.3 of the DCP 2 off-street car parking spaces have been provided for the proposed dwelling and the approved parking space for the Secondary Dwelling is to be enclosed within a garage.

All vehicles would have to reverse off the site, as currently occurs on this and all surrounding properties as there is no on-site turning area, however vehicular and pedestrian sightlines are extensive in this location, as confirmed by the photos below.



Vehicular & pedestrian sightlines to the north and below to the south of the site taken from the approx location of the new driveway.



6.23

Site works management

The proposal will require excavation to a depth of approx 300mm for the building footings and 500mm for the services. It is intended that excavated fill be retained on site and contained within the building footprint enclosed by the perimeter walls. As advised previously the proposal will involve the importation of fill to raise the ground level particularly along the western side of the proposed building footprint.

It is anticipated that the likely construction period would extend over 12 months.



The first phase of the proposal would be the demolition of the existing dwelling, the next stage would be creation of the proposed driveway off Alexander Rd. This facility would provide construction access and all materials would be stored within the site perimeter.

A building contractor is yet to be appointed to this project however, it is anticipated that waste generated would be stored in skip bins, located on or near the new driveway for likely disposal at the Kimbriki landfill site at Terrey Hills, as and when required. During this part of the project, erosion control devices would be installed around the disturbed parts of the site as shown on the plans submitted in support of this application.

All erosion and sedimentation controls would be installed in accordance with the standards specified by the Department of Environment and Conservation's "Managing Urban Stormwater : Soils and Construction Manual, Volume 1, 4th Edition, March 2004".

These control devices will be monitored and maintained for the duration of the works or until such time as any site disturbance is consolidated.

All construction activities would be subject to Council's usual hours of operation and the noise / dust emission controls, specified by the Environment Protection Authority.

Depending on the progress & staging of the work and the nature of the materials involved, it is anticipated that construction storage may also take place in the front lawned area and later in the project and depending on the materials involved, storage would also take place within the proposed dwelling.

A project manager will be appointed to oversee all construction works to ensure compliance with the requirements of Council's consent, the Construction Certificate details, the relevant Australian Standards and the WorkCover Authority requirements.

The proposal involves works within the public domain, namely the proposed new driveway & the crossing, which will require consultation with Council's Engineering Department and the issue of a contractor's permit and confirmation of the required driveway levels.

Section C Development type controls

6.24

Landscaping

This is a general provision of the DCP which is intended to ensure that the built form is dominated by vegetation and to generally retain & enhance existing site landscaping.

The site is generally devoid of any substantial vegetation and as advised previously only 1 tree on the road reserve has to be removed to facilitate construction of the new driveway. Nevertheless as shown in the photo montages on P.3 & 6 and other photos in this Statement the canopy trees provide a significant softening of the built form.

6.25

Safety and security

Clause C1.2 of the DCP specifies various requirements for the provision of site



safety and casual surveillance of the public domain.

Currently there are significant opportunities to carry out casual surveillance of the public domain from the principal dwelling and this is replicated in the proposed dwelling as :-

- the entry is orientated towards the street frontage
- the design facilitates casual surveillance from the ground floor open plan living / dining room, the 1st floor bedroom & the study nook and from the front yard
- the layout of the front yard and the landscaping minimises opportunities for concealment and blind corners
- adequate lighting will be provided to the entry, although this is a matter of detail to be addressed in the Construction Certificate drawings
- the dwelling entry will be clearly visible from the driveway and pedestrian access to the front door is clearly defined

6.26

View sharing

Clause C1.3 of the DCP seeks to ensure a reasonable sharing of views amongst dwellings and from roads & public places. The planning controls identified by this Clause require new development to achieve a reasonable sharing of views and where a view may be obstructed, structures are to maximise visual access through the structure by the provision of open or transparent building materials. This planning control also references the planning principle established by the Land and Environment Court in the matter of *Tenacity Consulting v Warringah Council*, to assist in the assessment of the sharing of views.

As indicated earlier, the topography of the area slopes generally from the east to the west and there are no extensive views or view corridors available within the locality. Under these circumstances most of the dwellings in this locality overview either a road reserve and / or the residential properties opposite.

As the proposed dwelling is located at the rear of the site it has no potential to obscure the primary views from those properties which front Whale Beach Rd. The dwelling on the S/E cnr of Whale Beach Rd & Alexander St has its primary views to the south & to the S/W so these also are unaffected. The primary view from the dwellings on the opposite side of Whale Beach Rd are over the road reserve and when viewed from this aspect the new dwelling will be framed by vegetation, while the dwellings further to the north have their primary views again over the road reserve to the dwellings opposite so these also are unaffected. Secondary or peripheral views from these properties are assisted by the proposed side boundary setbacks which are similar to those observed by the existing dwelling.

Accordingly I am able to conclude that the proposal satisfies the Court's planning principle decision. There are no extensive views available within the locality, none of these views contain an iconic element, the primary views which are those over the road reserve and /or the residential properties opposite are largely unaffected by the proposed dwelling and the proposal therefore results in the reasonable sharing of views.



6.27

Solar access

Clause C1.4 of the DCP specifies a minimum of 3 hours of solar access to the principal living area of dwellings and their private open space areas.

The aerial photos and other photos attached to this Statement confirm that the principal private open space area of the properties in the locality is located in the rear yard.

As confirmed by the shadow diagrams on Dwg Nos.11C – 13C due to the essentially north / south orientation of the subdivision pattern all properties are able to receive and maintain a minimum of 3 hours direct solar access on the winter solstice which has been long held as an appropriate standard within this Local Government Area.

The submitted shadow diagrams confirm that shadows cast from the proposed dwelling and the garage additions on the winter solstice will be restricted to the development site, the eastern side of Nos.30 & 32 Whale Beach Rd and part of the road reserve in Alexander St. The greatest extent of overshadowing occurs at 9am over Nos.30 & 32, this is significantly decreased by midday and non-existent at 3pm. No other properties are overshadowed by the proposal. I am therefore able to conclude that the proposal satisfies Council's planning control in that these dwellings and the majority of their yard areas will receive in excess of 3 hours of direct solar access on the winter solstice.

The solar access planning controls largely replicate the Land and Environment Court planning principle in relation to the assessment of overshadowing impacts. This principle which was introduced in the matter of Parsonage v Kuringai, 2004 and The Benevolent Society v Waverley Council, 2010, introduced seven matters which are to be taken into consideration during the assessment of overshadowing, which are addressed as follows :-

1. The ease at which sunlight access can be protected

For the purposes of this assessment, there is little doubt that the character of this area can only be considered to constitute low density residential development and therefore consistent with this principle there is a reasonable expectation of the adjoining property owners that their dwelling and some of its open space will retain its existing sunlight. The submitted shadow diagrams confirm that the adjoining dwellings and the majority of their private open space areas will receive in excess of the 3 hours direct solar access during the winter solstice specified by the DCP.

2. The amount of sunlight lost should be taken into account as well as the amount of sunlight retained

9am

The shadow diagram in plan confirms that at 9am on the winter solstice the shadow cast by the proposed dwelling is restricted to the development site and the rear yard of Nos.30 & 32 Whale Beach Rd. Approx 80% of the rear yard of these properties are overshadowed by the proposed dwelling.

Midday

The shadow diagram in plan confirms that at midday on the winter solstice the



shadow cast by the proposed dwelling is confined to the development site and a narrow strip adjacent to the common boundary with No.32. This amounts to approx. 8% of its rear yard area, that shadow extends to the rear wall and the deck at No.32.

3pm

The shadow diagram in plan confirms that at 3pm on the winter solstice the shadow cast by the proposed dwelling at the front of the site is limited to the development site and the road reserve in Alexander St.

Accordingly I am able to conclude that the majority of the rear yards of the adjoining properties will be unaffected by the shadow cast by the proposed development and they will receive in excess of the 3 hour standard specified by the DCP.

3. Overdevelopment arising out of poor design

There is nothing to suggest that the overshadowing cast by the proposed development is as a consequence of the poor design of any element of the proposal or that it constitutes an overdevelopment of the site. As confirmed in the compliance table in section 5 of this Statement the proposal complies with the primary planning controls other than in relation to the rear boundary setback and the building envelope control. Notwithstanding these numeric non-compliances the dwelling at Nos.30 & 32 Whale Beach Rd & their yard areas will receive a compliant level of solar access.

4. Impacts on windows, doors or glazed areas.

This principle relates to the proportion of glazed areas which are receiving sunlight access.

As discussed earlier there is no overshadowing of any building other those at Nos.30 & 32 Whale Beach Rd. at 9am on the winter solstice the rear & northern facing windows of the dwelling at No.32 are currently overshadowed by the approved Secondary Dwelling at the front of the site, the overshadowing from the proposed dwelling extends to the windows in the N/E cnr of the dwelling at No.30 and extends across the northern facing windows.

By midday the shadow from the proposed dwelling is limited to the windows in the N/E cnr of the dwelling at No.32 & from there onwards there is no overshadowing of either dwelling.

Accordingly I am able to conclude that the windows at the rear of the 2 adjoining dwellings will receive a minimum of 3 hours direct solar access between the hours of 9 am & 3pm on the winter solstice.

5. Impacts on private open space

This principle establishes that regard is to be had to the size of the open space and the proportion of this area receiving sunlight, with this assessment to be measured at ground level.

The aerial photo & the photos attached to this Statement confirm that the principal private open space area of the adjoining properties is located in the rear yard as is the case with the subject site.

As the shadow diagrams confirm overshadowing from the proposed dwelling



only affect Nos.30 & 32 Whale Beach Rd, however the extent of overshadowing is predominantly in the morning hours of the winter solstice and by midday there is no overshadowing of No.30 and approx 15% of the rear yard area of No.32 is within the shade cast by the new dwelling at midday from then on there is no overshadowing of the private open space area of any adjoining property.

Accordingly I am able to conclude that for most of the period between the hours of 9am – 3pm on the winter solstice the majority of the private open space area associated with the adjacent property will not be affected by the shadows cast by the proposed dwellings.

6. Overshadowing by fences, roof overhangs, changes in level and vegetation

As required by this principle, the shadow diagrams have included these built form and topographic influences.

7. Impacts associated with future development

Whilst I understand the intent of this principle, this issue is the hardest to forecast during the assessment of an application. Under the circumstances it must be assumed that future development will achieve the maximum potential permissible within the context of Council's current planning controls as the applicant has sought to achieve in relation to the subject application, although as noted the proposal satisfies the primary development controls.

It is apparent that the area is undergoing gradual change given that alterations and additions have been carried out at some of the surrounding properties. No doubt Council will draw the same conclusions during their inspection of the site as part of the assessment of this application.

It is reasonable to conclude therefore that any future development will seek to maximise the built form so as to be commensurate with other dwellings in the locality, as the applicant has done in this case. Accordingly within this likely scenario I am able to conclude that the proposed works do not appear to have the potential to limit future development of an adjacent property, nor any future works on the subject property, of course in both cases subject to compliance with the then current Council planning controls.

6.28

Visual privacy

This provision of the DCP seeks to ensure an appropriate level of privacy is provided between dwellings and specifically in relation to their living rooms and private open space areas.

This matter has been one of the primary objectives during the design development stage of the project. The new building has a smaller building footprint than the existing principal dwelling whilst the side boundary setbacks approximate those of the existing dwelling. The new dwelling observes a greater setback from the rear boundary than that existing to create a larger private open space area for the future occupants.

The windows on the southern side of the garage & the home office / gym over are restricted to highlight windows thus avoiding overlooking of the Secondary Dwelling. Similarly the western facing windows of the new dwelling (*which have*



the potential to overview the rear yard of No.32 Whale Beach Rd) are again highlight windows other than for a ground floor window in the N/W cnr of the new dwelling, which serves the proposed dining room. The windows on the eastern elevation overview the road reserve with its footpath plantings which provide an appropriate level of privacy to the properties on the opposite side of Alexander St. The panel doors on the northern elevation at ground floor level are the primary outlook and source of light & ventilation to the open plan living area which opens out to the rear yard. Privacy to & from these windows is achieved through the retention of the existing 1.8m high boundary fence and the vegetation on the adjoining properties. The windows at 1st floor level on the northern elevation are conventional sized windows which serve proposed bedrooms, views from these windows to the surrounding properties are also restricted by vegetation on the adjoining properties.

Accordingly I am able to conclude that the proposal will achieve an appropriate level of privacy both to & from the property.

6.29

Acoustic privacy

Clause C1.6 of the DCP seeks to ensure that noise is substantially contained within each dwelling and noise from any communal or recreation areas are limited.

The only significant potential noise source will be during the anticipated 12 month construction period and during this time all construction equipment will be subject to the WorkCover and EPA maximum emissions.

The proposal does not include the installation of any significant noise generating plant & equipment or air-conditioning.

The building will be constructed to meet the acoustic standards specified by the National Construction Code (NCC) and the Building Code of Australia (BCA) with these details to be included in the Construction Certificate documentation. In addition as noted on Dwg No.07C it is intended to install an acoustic barrier in the ceiling between the upper & lower floor of the proposed dwelling.

Any noise generated from the secondary dwelling upon occupation would be commensurate with other residential development in the locality.

Accordingly I am able to conclude that the proposal will achieve an appropriate level of acoustic privacy both to & from the property.

6.30

Private open space

Clause C1.7 of the DCP seeks to ensure that dwellings are provided with a private, usable and well-located area of private open space for the use and enjoyment of the occupants, which is directly accessible from the living areas of dwellings and that this area receives sufficient solar access and privacy.

This Clause also specifies that dwellings have a minimum 80m² at ground level, with no dimension less than 3m ; that no more than 75% of this private open space be provided in the front yard ; have a minimum principal area of 16m² with a minimum dimension of 4m and grade no steeper than 1 in 20 (5%). Preferably this private open space area should be located to the rear of the dwelling to maximise privacy for the occupants.



6.31

The proposal complies with this requirement, as indicated on the submitted plans the near level private open space area available to the new dwelling is 83.5m². Access to this area is directly from the proposed open plan living area. This area which constitutes the rear yard of the site has an eastern, northern and western orientation therefore it will receive sufficient solar access and privacy can be achieved by the existing boundary fences and the existing landscaping.

Adaptable housing and accessibility

Clause C1.9 of the DCP seeks to ensure that the Community's lifecycle housing needs are met through well designed adaptable housing and that where possible all members of the Community enjoy equitable access to buildings and the public domain.

Due to site topography, this objective cannot easily be met due to the slope of the road verge in Alexander St. However level access can be obtained to the proposed dwelling from the proposed driveway to the dwelling entry and the ground floor area which contains the primary living areas and toilet facilities.

6.32

Waste and recycling facilities

Clause C1.12 of the DCP requires that waste and recycling bins be accessible convenient and stored within the property boundaries.

The bins for the principal dwelling are currently stored adjacent to the northern wall of the garage in the N/E corner of the site, these bins will now be stored within the proposed double garage. In this location, the waste and recycling receptacles would be wheeled out to Alexander Rd utilising the new driveway for collection by Council's contractors.

6.33

Pollution control

Clause C1.13 of the DCP seeks to ensure that development does not adversely impact on public health, the environment or other land.

As indicated, the lower level of the proposed dwelling aligns with the existing ground level to the east while the western side is to be raised by 1.14m above existing ground level. This area is to be filled to create a level building platform and will be retained by the proposed masonry perimeter wall. the proposal will involve the importation of fill to raise the ground level particularly along the western side of the proposed building footprint. An excavation to a depth of approx. 300mm for the building footings and 500mm for the services is anticipated.

Erosion control and sedimentation barriers are to be provided prior to the commencement of site works to address potential water or land pollution as shown on Dwg No.14C lodged in support of this application. All site works will be carried out in accordance with the requirements of Council's consent, the Construction Certificate details, the relevant Australian Standards and the WorkCover Authority requirements to ensure that there is no excessive air or noise pollution.

Upon completion and occupation of the new dwelling, given the nature of the use, it will not give rise to any excessive air, water, noise or land pollution.



6.34

Eaves

Clause C1.23 of the DCP requires a minimum eave width of 450mm.

Due to the design of the dwelling no eaves are provided around the perimeter of the new dwelling however the proposal satisfies its thermal comfort target specified by the BASIX assessment through the provision of awnings over various windows.

6.35

Public road reserve - landscaping and infrastructure

Clause C1.24 of the DCP seeks to maintain existing street tree planting and provide for new trees where required.

As indicated earlier and as shown on the submitted plans only 1 tree (ie, a multi trunked, 4m high Bottlebrush is to be removed to facilitate the proposed new driveway, the remainder of the street tree planting in Alexander St is retained.

6.36

Plant, equipment boxes and lift over-run

This provision of the DCP relates to the provision, location and noise attenuation of plant and equipment, air-conditioning units and lift over runs.

The requirements of this Clause of the DCP are not relevant as the proposal does not involve the installation of any plant, air conditioning or other equipment of this nature.

Section D Locality specific controls

6.37

Locality Plan – Avalon Beach

The Pittwater DCP indicates that the site is located in the Avalon Beach Locality and the various requirements of these controls are addressed as follows :-

6.38

Character as viewed from a public place

Clause D1.1 of the DCP encourages development to achieve the desired future character of the locality, ensuring that the visual impact of the built form is secondary to landscaping and vegetation. High quality buildings are desired which have regard to the locality's natural context and accommodating any natural hazards. Buildings should not dominate the streetscape and appear at a human scale and of a 2 storey design. Parking structures are to be minimised and appear secondary to the built form, landscaping and vegetation.

The proposal satisfies the desired future character of the locality in that upon completion the area will remain primarily a low-density residential area, the new dwelling and the garage addition are 2 storeys high and have a commensurate and appropriate bulk & scale which is minimised by the site's landscaped setting.

The side setbacks of the proposed dwelling are similar to those observed by the existing dwelling and its design, scale and the proposed exterior materials are consistent with those of the existing Secondary Dwelling and those predominant in the locality.

Accordingly I am able to conclude that the visual impact of the proposed built form will be secondary to landscaping and vegetation. The design and location of the new dwelling has regard to the locality's natural context and there are no natural hazards which apply to this site or those adjoining. The street setback



| | |
|-------------|---|
| | <p>proposed ensures that the dwelling will not dominate the streetscape, in fact it will be setback consistent with the pattern of development in the street.</p> |
| 6.39 | <p>Scenic Protection General</p> <p>This as the title suggests is a general planning provision which applies to all land in the Local Government area and seeks to ensure that development achieves the desired future character of the locality and that the bushland landscape is the predominant feature.</p> <p>The proposal satisfies this requirement as the majority of the existing vegetation is to be retained. Further as confirmed by the photo montages on P.3 & 6 of this Statement when viewed from both the public and private domain the new building will have a minimal visual impact.</p> |
| 6.40 | <p>Building colours and materials</p> <p>Clause D1.5 of the DCP also seeks to achieve the desired future character of the Locality by enhancing the visual quality and identity of the streetscape, promoting colours and materials which harmonise with the natural environment and lessen its visual impact.</p> <p>As detailed above the proposal satisfies the desired future character of the locality. The exterior materials and colours which are detailed on P.12 of this Statement are either recessive or naturally occurring and thus will be compatible with those predominant in the locality and promoted by the DCP.</p> |
| 6.41 | <p>Height</p> <p>Clause D1.6 of the DCP seeks to achieve the desired future character of the locality, with buildings to be located below the tree canopy level whilst maintaining an equitable preservation of views and vistas to and / or from public / private places, ensuring that the built form does not dominate the natural setting. The Clause specifies a maximum building height of 8.5m above natural ground level.</p> <p>This Statement has confirmed that the proposal satisfies the desired future character of the locality and the new building will be located below the tree canopy. As discussed at point 6.26 of this Statement the proposal maintains an equitable preservation of views and as indicated in various locations within this Statement the proposed built form will not dominate the natural setting of the area.</p> <p>As shown on the submitted architectural plans and confirmed in the compliance table in Section 5 of this Statement the proposed dwelling has a height of between 6.4m – 7.54m thus it easily complies with the maximum building height specified by this planning control.</p> |
| 6.42 | <p>Front building line</p> <p>Clause D1.8 seeks to achieve the desired future character of the locality by minimising the bulk and scale of the built form whilst maintaining an equitable preservation of views and vistas to and / or from public / private places. Vegetation is to be retained and enhanced to visually reduce the built form and vehicle manoeuvring in a forward direction is encouraged. Attractive street frontages are encouraged with improved levels of pedestrian amenity and new</p> |



development is to respond to and reinforce the spatial characteristics of the existing streetscape. This Clause also specifies a minimum front building setback of 6.5m or compliance with the established building line, whichever is the greater , (*for the purposes of assessment the 'frontage' is the property's titular frontage, ie, Whale Beach Rd*).

This Statement has confirmed that the proposal satisfies the desired future character of the locality, the bulk and scale of the building is appropriate to its setting, its location ensures an equitable preservation of views and the retained vegetation visually reduces the built form.

It is not possible to exit the site in a forward direction and this applies to all of the surrounding properties, however as has been indicated earlier the pedestrian and vehicular sightlines in Alexander Rd are satisfactory.

When measured from the Whale Beach frontage the enclosed garage has a setback of approx 15m while the new dwelling has a setback of approx 18.5m. In both cases these buildings are well behind the established building line.

6.43

Side and rear building line

Clause D1.9 of the DCP seeks to achieve the desired future character of the locality by minimising the bulk and scale of the built form whilst maintaining an equitable preservation of views and vistas to and / or from public / private places. A reasonable level of privacy, amenity and solar access is to be provided and maintained to residential properties. Substantial landscaping, retention and enhancement of vegetation, the provision of a mature tree canopy and an attractive streetscape are encouraged.

The minimum side boundary setbacks are 1m from one boundary and 2.5m from the other and a minimum rear boundary setback of 6.5m is specified.

Issues related to the character of the area, privacy, landscaping, solar access and the like have been addressed previously and were found to be satisfactory.

For the purposes of assessment against this requirement of the DCP, the site frontage has again been determined as being the property's titular frontage, ie, Whale Beach Rd.

As shown on the submitted plans the setback of the garage addition (*minus the eave overhang*) is 2.5m from the eastern side boundary and 2.33m from the western side boundary. The proposed new dwelling has a 2.5m from the eastern side boundary and 1.505m from the western side boundary. Therefore both buildings comply the DCP requirement.

Due to the oblique angle of the rear boundary the proposed dwelling has a rear setback of 5.06m – 8.37m, which equates to a median of 6.71m. As indicated earlier that portion of the private open space area closest to the proposed dwelling is to be supported by a timber retaining wall which aligns with the ground line to the east and will project 1.14m above ground level at the western edge of the building. That retaining wall has a rear setback of between 1.38m – 4.47m. Whilst this structure is less than 6.5m from the boundary it will not be seen from the public domain or the adjoining properties due to the 1.8m high metal panelled fence along the western & northern



boundaries both of which are supplemented by the proposed hedge planting shown on Dwg No.16C.

Notwithstanding the numeric non-compliance the rear setback of the dwelling satisfies the objectives of this planning control in that :-

- as confirmed by the discussion at Section 6.38 of this Statement the proposal satisfies the desired future character of the locality
- the bulk and scale of the building is not significantly influenced as a consequence of the proposed rear boundary setback.
- there will be an equitable preservation of views and vistas to and/or from public/private places noting that the primary view from the surrounding properties is from the front of each site over the road reserve to the dwellings opposite
- privacy to & from the lower level, northern facing doors will be achieved by the existing 1.8m high metal panelled fence along the northern boundary and the proposed hedge planting and the vegetation in the front yard of No.2 Alexander St. The line of sight from the upper level windows to the front yard of the adjacent property will be similarly restricted by the boundary fence, the proposed hedge planting and the vegetation in the front yard of No.2 Alexander St. There are no windows on the eastern elevation which are located within 6.5m of the rear boundary. There is only 1 window on the western elevation which is located within 6.5m of the rear boundary. This window is a highlight window serving a proposed bedroom therefore there is no potential to overview the adjoining rear yard of No.32 Whale Beach Rd. Accordingly I am able to conclude that there will be no excessive loss of privacy to or from the dwelling as a consequence of the windows located in that portion of the building which intrudes into the usual 6.5m rear boundary setback
- in relation to solar access, as confirmed by the shadow diagrams submitted in support of this application the proposed rear boundary setback does not result in an unacceptable of non-compliant level of overshadowing of the adjacent properties.
- no additional vegetation is to be removed to facilitate construction of the dwelling. As shown on the submitted plans, the mature tree canopy within the Alexander Rd road reserve is retained as is the tree canopy on the property to the north, ie, No.2 Alexander St. This retained vegetation and the supplementary screen planting will ensure that an attractive streetscape can be maintained and enhanced to visually reduce the built form.

6.44 Building envelope

Clause D1.11 of the DCP imposes building envelope controls for all new development. These controls relate to the height & setback relationship of buildings to achieve the desired future character of the locality, minimise the bulk & scale of the built form, the preservation of views & vistas to and / or from public / private places and to ensure a reasonable level of privacy,



amenity and solar access is provided and maintained between adjoining properties.

These environmental and amenity objectives have been addressed previously and were found to be satisfactory.

The building envelope controls are projected at 45° from a height of 3.5m above natural ground level at the side boundaries.

As shown on the submitted plans there are intrusions into the building envelope along both side boundaries, these vary between 0.35m – 1.05m on the eastern side of the building to 0.3m – 1.1m on the western side. Nevertheless the proposal satisfies the objectives of this planning control in that :-

- as confirmed by the discussion at Section 6.38 of this Statement the proposal satisfies the desired future character of the Locality
- these intrusions into the building envelope would be largely imperceptible when viewed from the public domain as views into the site are limited by the height & location of the adjoining dwellings and the existing landscaping
- notwithstanding this non-compliance the dwelling will be below the height of the trees in the locality
- the proposal complies with the required side boundary setbacks
- these intrusions into the building envelope do not significantly increase the perceived bulk & scale of the building
- the primary view from the properties fronting Whale Beach Rd are to the north & south over the road reserve to the dwellings opposite. Similarly the primary view from the properties fronting Alexander Rd are to the east & west over the road reserve to the dwellings opposite. Due to the orientation of the site relative to the surrounding subdivision pattern the non-compliance with the building envelope control does not result in a significant loss of view from any surrounding property.
- the intrusions into the building envelope do not significantly impact upon corridor views from the surrounding properties as the proposal complies with the maximum overall building height and the required side boundary setbacks
- the proposal has no potential to diminish views and vistas to and/or from public/private places
- the building envelope intrusions do not compromise the amenity of the adjoining property owners. The potential to impact upon the privacy of the adjoining properties is further minimised as only the upper portion of the eastern facing windows (*which overlook the road reserve*) extend above the building envelope while the windows on the western elevation (*which have the potential to overlook the rear yard of the neighbouring property*) are restricted to highlight windows
- no vegetation of the subject site or those adjacent is to be removed or



lopped to facilitate the building envelope intrusions

- a reasonable level of privacy, amenity and solar access is provided within the development site and can be maintained on the surrounding properties

6.45

Site coverage

Clause D1.13 of the DCP specifies a maximum site coverage of 50% and a minimum landscaped open space component of 50% of the site area.

As indicated in the compliance table and on Dwg No.09C the existing landscaped open space component is 280.77m² which equates to 51.62% of the site area. As shown on Dwg No.10C, the proposed landscaped open space component is 293.91m² which equates to 54.02% of the site area.

6.46

Fences

Clause D1.15 of the DCP seeks to achieve the desired future character of the locality, create an open streetscape that allows casual surveillance of the street, safe sight distances and a clear view of the street for motorists and pedestrians. Fences, where provided, are to also to be suitably screened from view from a public place and facilitate the retention of native vegetation.

The Clause states that front and side fences in the front building setback are restricted to a height of 1m, are to be compatible with the streetscape and not obstruct views available from the road. Provision has also made in the DCP in circumstances such as this, where the proposal involves a corner lot with more than one frontage and it requires the applicant to nominate their side, rear and front boundaries if fences are proposed.

As indicated for the purposes of implementation of various planning controls the frontage of this site is its titular frontage, ie, Whale Beach Rd.

The western side boundary is delineated by a stepped 1.8m high metal panelled fence, the northern or rear boundary is also delineated by a 1.8m high metal panelled fence, the front boundary is delineated by a 1.5m high timber picket fence, while the eastern side boundary is un-fenced.

This proposal does not involve any changes to the current fencing arrangements.

6.47

Scenic protection Category 1 areas

For the purposes of implementation of this planning control the site has been classified as being in a scenic protection Category 1 area.

The objective of Clause D1.20 is to ensure that development achieves the desired future character of the locality, that exterior building materials & colours blend with the natural environment and that the bushland landscape is the predominant feature.

The proposal satisfies the relevant controls in that :-

- Screen planting is to be provided along the northern, eastern & western boundaries
- The existing canopy trees minimise the visual impact of the new



dwelling as demonstrated by the photo montages on P.3 & 6 of this Statement

- Only 1 existing tree is to be removed to facilitate construction of the proposed driveway
- The new dwelling is located below the tree canopy in this locality
- The exterior building materials and colours which are detailed on P.12 of this Statement are unobtrusive, non-reflective materials and the colours blend with the natural environment

6.48 Retaining walls, terracing & undercroft areas

Clause D1.17 of the DCP seeks to achieve the desired future character of the locality by ensuring that the natural topography of the land is retained. The DCP suggests that retaining walls and terracing should be kept to a minimum. Where retaining walls and terracing are visible from a public place, preference should be given to the use of sandstone or sandstone like materials.

The proposal requires contextually minor site modification to create a level building platform, however these are largely restricted to the western side of the proposed dwelling. As indicated earlier the ground level to the west is to be raised by 1.14m to create a level building platform and this will be retained by a masonry perimeter wall. The only other retaining wall is proposed at the rear of the building to create a level outdoor living area which aligns with the existing ground level to the east and will be raised by 1.14m above existing ground level on the western side of the building. This area will be enclosed by a timber retaining wall.

For the purposes of implementation of this planning control this raised outdoor area constitutes terracing of the site and no undercroft areas are to be created.

6.49 State Government planning instruments

Development of the site is also subject to the provisions of the Vegetation SEPP, the Exempt and Complying Development codes, BASIX, 2004, SEPP 19, SEPP 44, SEPP 55 and the exhibited draft amendments.

The Vegetation SEPP

As indicated earlier the proposal involves the loss of just one tree which is located within the road verge.

The Vegetation SEPP integrates the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act, 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

The Vegetation SEPP applies to clearing of native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act, 2016. A proposal involving the removal of vegetation below the BOS threshold requires a permit from Council if that vegetation is identified in the Council's development control plan.



The Biodiversity Offset Scheme does not apply to non-native trees or vegetation.

As indicated earlier this proposal does not require the removal of any trees or vegetation on the site or on the adjoining properties. However a Bottlebrush located on the road verge is to be removed to facilitate construction of the new driveway. As this species is classified as a 'native tree or vegetation' a Biodiversity Assessment has been carried out and is attached as Appendix 1 of this Statement. This assessment confirms that a Biodiversity Development Assessment Report is not required to accompany this application and Council will therefore consider the impact of removing this tree as part of their assessment of the development application.

Under these circumstances the provisions of the Vegetation SEPP have no bearing on the assessment of this application.

Exempt and Complying Development

Whilst this planning policy applies to the site it does not apply to this proposal as Clause 2.1 of the LEP and the associated Land Use Table requires Council's prior consent for a dwelling in this zone.

BASIX

The BASIX assessment lodged with this application confirms that the new dwelling will satisfy its water, thermal comfort targets. This is to be achieved by the provision of various facilities / features which have been incorporated in the plans submitted with the development application, together with other facilities / requirements which are to be detailed at Construction Certificate stage and implemented during the course of construction.

SEPP 19

The site does not adjoin bushland or any public reserves therefore the provisions of SEPP 19 have no bearing on the assessment of this application.

SEPP 44

The provisions of this Planning Policy applies to land which :-

- (i) has an area of more than 1 hectare, or
- (ii) has, together with any adjoining land in the same ownership, an area of more than 1 hectare whether or not the development application applies to the whole, or only part, of the land.

SEPP 44 does not apply as the site has an area of only 544m² and the adjoining sites are owned by different entities.

SEPP 55 and the exhibited draft amendments

SEPP 55 applies to the whole of the State. The objective of this Policy is to provide for a State wide planning approach to the remediation of contaminated land.

In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment by :-

- specifying when consent is required and when it is not required for a



remediation work, and

- specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and
- requiring that a remediation work meet certain standards and notification requirements

The proposal is permissible within the current zoning and it does not involve the rezoning of land therefore the associated provisions of dot point 2 above are not relevant.

Clause 7 of the Policy requires that Council when assessing a development application must consider :-

- if the land is contaminated
- if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the
- purpose for which the development is proposed to be carried out, and
- if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose

Further, before determining an application for consent to carry out development that would involve a change of use on any of the land Council must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines. As confirmed by the project description on P.11 of this Statement the proposal does not involve a change of use, ie, the land is currently used for a residential purpose and will remain so.

The following checklist addresses the considerations contained in SEPP 55

Is the proposal classified as designated development ?

No

Is the proposal to be carried out on land declared to be a critical habitat ?

No

Is the proposal likely to have a significant effect on a critical habitat or a threatened species, population or ecological Community ?

No

Does the proposal require consent under the provisions of another State Environmental Planning Policy or a Regional Environmental Plan ?

No

Although the proposal is subject to the provisions of the BASIX,2004, SEPP 19, SEPP 44, SEPP 55, the exhibited draft amendments to SEPP 55 and the Vegetation SEPP none of these planning policies require a



separate planning approval

Is the site located within an investigation area ?

No

Is the proposal to be carried out in an area or zone to which any classifications to the following effect apply under an environmental planning instrument ?

(i) coastal protection

No

(ii) conservation or heritage conservation

No

(iii) habitat area, habitat protection area, habitat or wildlife corridor

No

(iv) environment protection

No

(v) escarpment, escarpment protection or escarpment preservation

No

(vi) floodway

No

(vii) littoral rainforest

No

(viii) nature reserve

No

(ix) scenic area or scenic protection

No

(x) wetland,

No

Is the land is within an investigation area or remediation site

No

Is the land is subject to an investigation order or remediation order

No

Is there a site audit statement for the land which has been supplied to the Council ?

No

What landuses has the site been put to, including the current use ?

From the evidence available it appears the site has a long history of residential usage and prior to that was most likely in its natural bushland state

Is the proponent aware of the uses to which properties adjoining the site have been put ?

Yes, the surrounding properties have been used for residential purposes since the time of their purchase of the property.

Do any of these uses correlate with the potentially contaminated activities set out in Table 1 of the 1998 Planning Guidelines prepared



by the Department of Planning and the Environment Protection Authority ?

No.

If this is the case, has there been any testing or assessment of the subject site and if so, what were the results ?

No testing or assessment required due to its prior landuse and that of the surrounding properties

Is the proponent aware of any contamination on the subject site ?

No.

What remediation work, if any, either carried out voluntarily ordered by a Government agency has been taken in respect to contamination which is or may have been present on the site ?

None

The exhibited draft amendments

SEPP 55 has been reviewed as part of the NSW Dept of Planning's rolling review program relating to State Environmental Planning Policies.

The draft SEPP was placed on public exhibition which ran from 31 January to 13 April, 2018 therefore it has the status of an exhibited draft policy and must be assessed in relation to this application.

The draft Policy whilst maintaining the existing provisions of SEPP 55 will require Councils to consider :-

- whether a site is or is likely to be contaminated
- whether additional information is required to satisfy themselves as to whether the land is contaminated

It will retain the 2 existing categories of remediation work, ie work that requires consent and work that can be carried out without consent. Works that do not require prior consent will have to be reviewed and certified by a certified contaminated land consultant.

Remediation works will be categorised based on the scale, risk and complexity of the work and it will require environmental management plans relating to post-remediation management of sites or for the on-going operation, maintenance and management of on-site remediation measures to be provided to Council.

Further it will include a requirement that Councils consider contamination issues when rezoning land, this will be included as a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979.

The draft SEPP does not include any strategic planning objectives or provisions Strategic planning matters will instead be dealt with through a direction under Section 9.1 of the Act which is yet to be released.

The above assessment has confirmed that the site and those surrounding have not been used for a purpose which is or was likely to result in soil contamination therefore the provisions of this draft policy do not constitute an



impediment to Council's assessment of this application.



7.0 SECTION 4.15 EVALUATIONS

- 7.1 **The provisions of any Environmental Planning Instrument**
The land is zoned Low Density Residential (R2) under the provisions of the LEP and the proposal which involves the multiple residential use of the land is permitted with consent in this zone.
Accordingly there is no impediment to Council granting consent to the proposal on the basis of the landuse classification.
The preceding assessment confirms that the proposal complies with all of the relevant provisions of this LEP.
The proposal cannot be classified as either 'Exempt' or 'Complying Development' under the State Government's Housing Code as dwellings require Council's prior consent pursuant to the provisions of Clause 2.1 of the LEP and the associated Land Use Table.
There are no heritage, environmental or hazard constraints which apply to this site or development type.
In addition to the Council's planning controls, development of the site is also subject to the Vegetation SEPP, the Exempt and Complying Development Codes, BASIX, SEPP 55 and the exhibited draft amendments, SEPP 44 and SEPP 19. This Statement has confirmed that these Planning Policies do not constitute an impediment to the proposal.
- 7.2 **The provisions of any Draft Environmental Planning Instrument**
There are no draft planning instruments which apply to this site or development type.
- 7.3 **Any Development Control Plan**
The preceding section of this Statement has confirmed that the proposal complies with all of the relevant provisions of the Pittwater 21 Development Control Plan other than for the building envelope control and the rear boundary setback. This Statement has confirmed that the proposal complies with the objectives of these planning controls, that there are no negative impacts on the adjoining properties and that the proposal does not appear to have the potential to limit the development potential of any adjoining property.
- 7.4 **Planning agreements**
The site and this proposal are not subject to any planning agreement or draft planning agreement under the provisions of Clause 93F of the Environmental Planning and Assessment Act, 1979.
- 7.5 **Any matters prescribed by the Regulations**
The subject site has not been designated as Coastal Land therefore the provisions of Regulation 92(1)(a)(ii) are not applicable.
The proposal involves demolition of the existing dwelling therefore the provisions of Regulation 92(1)(b) are relevant.
The development site is not the subject of a subdivision order therefore the



provisions of Regulation 92(1)(c) are not relevant.

The proposal involves the construction of a new dwelling therefore the fire safety provisions of Regulation 93 & 94 are relevant and Council in its consideration of this application will impose a condition of consent requiring the dwelling to comply with the relevant BCA provisions.

The proposal does not involve the erection of any temporary structure therefore the provisions of Regulation 94(A) are not relevant.

It is not anticipated that Council in its determination of the application would impose a deferred commencement condition(s) therefore the provisions of Regulation 95 are unlikely to apply.

It is unlikely that Council in its determination of the application would impose a condition under Section 80A(2) of the Act as there is no ancillary aspect of the proposal therefore the provisions of Regulation 96 are unlikely to apply.

The proposal does not involve a modification or surrender of a prior development consent therefore the provisions of Regulation 97 are not applicable.

The proposal is subject to a BASIX assessment therefore the provisions of Clause 97A will apply and it is anticipated that Council's approval will include a condition requiring compliance with the BASIX commitments during construction and prior to issue of the Occupation Certificate.

7.6

Likely impacts of the development, including environmental impacts on both the natural and built environments and social and economic impacts on the locality.

These matters have been addressed in the preceding section of this Statement. This analysis confirmed that the construction of this new dwelling will not result in any significant or long term impacts on the natural or built environment.

The proposal involves contextually minor site disturbance and the removal of 1 tree on the road verge, this loss of vegetation will be offset by the proposed site landscaping. The proposed dwelling will also be consistent with the predominant scale, spatial separation and landscaped setting of other dwellings in this locality.

The potential social and economic impacts have been addressed as a consequence of the nature, location & design of the proposed works. There is no significant loss of views from any of the surrounding properties. Acoustic impacts in this low density residential locality can be addressed by the related Building Code of Australia construction standards. Additional overshadowing of the development site and the property to the east will occur however this Statement has demonstrated that the additional overshadowing satisfies Council's solar access standards.

There is no element of the proposal that appears to restrict the future development of an adjoining property and the proposal has no potential for



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| | <p>an adverse impact in the public domain.</p> <p>Accordingly I am able to conclude that the proposal has no potential for an adverse social or amenity impact upon surrounding property owners / occupiers or a member of the general public.</p> |
| 7.7 | <p>The suitability of the site for the development</p> <p>The site is zoned for residential purposes; the application is therefore consistent with Council's broad objectives for the area.</p> <p>Other than for the creation of a level building platform for the new dwelling and regrading to accommodate the proposed new driveway the proposal requires no disturbance to the site surface and tree removal is restricted to a 4m high Bottlebrush on the road verge however the landscaped character of this property will be maintained.</p> |
| 7.8 | <p>Any submissions made in accordance with the Environmental Planning and Assessment Act or its associated Regulations</p> <p>There are no submissions that have been made in accordance with the Legislation, which apply to this site or type of development.</p> |
| 7.9 | <p>The Public Interest</p> <p>It is in the public interest to provide 'compact' and 'affordable' forms of housing which result in a minimal environmental impact, particularly in this highly desirable residential area. It is also in the public interest to provide for a greater diversity of housing types and a wider housing choice in a location which has adequate physical and social infrastructure as is the case in this instance.</p> <p>The proposal will not increase the occupancy rate rather it will provide a higher level of residential amenity for the future occupants which will be commensurate with that enjoyed by other residents where the existing buildings have been re-built or extended.</p> <p>As there is no increase in the occupancy rate the proposal will not place additional demands on the services infrastructure or the road & public transport network</p> <p>This Statement has confirmed that the consequential amenity & environmental impacts are minimal and the perceived bulk & scale of the proposed dwelling is minimised by the site's landscaped setting.</p> |
| 7.10 | <p>Non-discretionary development standards</p> <p>This Statement has confirmed that the proposal complies with all of the relevant development standards specified by Council's LEP</p> <p>As confirmed in point 7.5 above there are no matters prescribed by the Regulations which would prevent approval of the application as submitted</p> <p>This application is not reliant on a performance criteria accreditation.</p> |



8.0 CONCLUSION

This application seeks Council's consent to the construction of a 2 storey dwelling at the rear of the site generally within the footprint of the principal dwelling and a new garage on the existing car stand area associated with the approved Secondary Dwelling with a home office & bathroom over.

The proposal involves demolition of the existing principal dwelling, the construction of a new driveway crossing off Alexander St and contextually minor site modification / earthworks. The design & location of the new driveway will require the removal of a multi-trunked, 4m high bottlebrush which is located on the road verge. No trees or other on-site vegetation is to be removed and supplementary screen planting is proposed along the eastern, northern & western sides of the site.

The development site is located on the N/W cnr of Whale Beach Rd & Alexander Rd, both the proposed dwelling & the approved Secondary Dwelling will be accessed from Alexander St.

The land is zoned Low Density Residential (R2) under the provisions of the LEP and the proposal which involves the multiple residential use of the land is permitted with consent in this zone.

Accordingly there is no impediment to Council granting consent to the proposal on the basis of the landuse classification.

The proposal cannot be classified as either 'Exempt' or 'Complying Development' under the State Government's Housing Code as dwellings require Council's prior consent pursuant to the provisions of Clause 2.1 of the LEP and the associated Land Use Table.

This Statement has confirmed that the proposal complies with all of the relevant provisions of the LEP and there are no heritage, environmental or hazard constraints which apply to this site or development type. The proposal therefore constitutes 'Local Development' which can be processed by Council without referral to any State Government department or agency.

The proposal has been assessed against the relevant provisions of the DCP which indicated that there is a non-compliance in relation to the building envelope control and the rear boundary setback. This Statement has confirmed that the proposal complies with the objectives of these planning controls and that there are no negative impacts on the adjoining properties.

Development of the site is also subject to the provisions of the Vegetation SEPP, the Exempt and Complying Development Codes, BASIX, SEPP 55 and the exhibited draft amendments, SEPP 44 and SEPP 19. This Statement has confirmed that these Planning Policies do not constitute an impediment to the proposal.

Accordingly, it is submitted that there is no impediment to Council granting consent to the proposal and it is recommended that the application be determined accordingly.



APPENDIX 1 THE BIODIVERSITY ASSESSMENT

Question 1 - Are you carrying out a development that requires development consent from a council (under Part 4 of the Environmental Planning and Assessment Act 1979)?

Yes

Question 6a - Is your proposed development fulfilling the purpose of a subdivision that was approved prior to 25 August 2017 in a R1 to R4, RU5, B1 to B8 or IN1 to IN3 zone?

No

Question 6b - Will any part of your proposed development take place on land included on the Biodiversity Values Map? No

Question 7a - Will your proposed development involve clearing native vegetation (not including 'Category 1' land under the Local Land Services Act 2013) in excess of the area clearing thresholds?

No

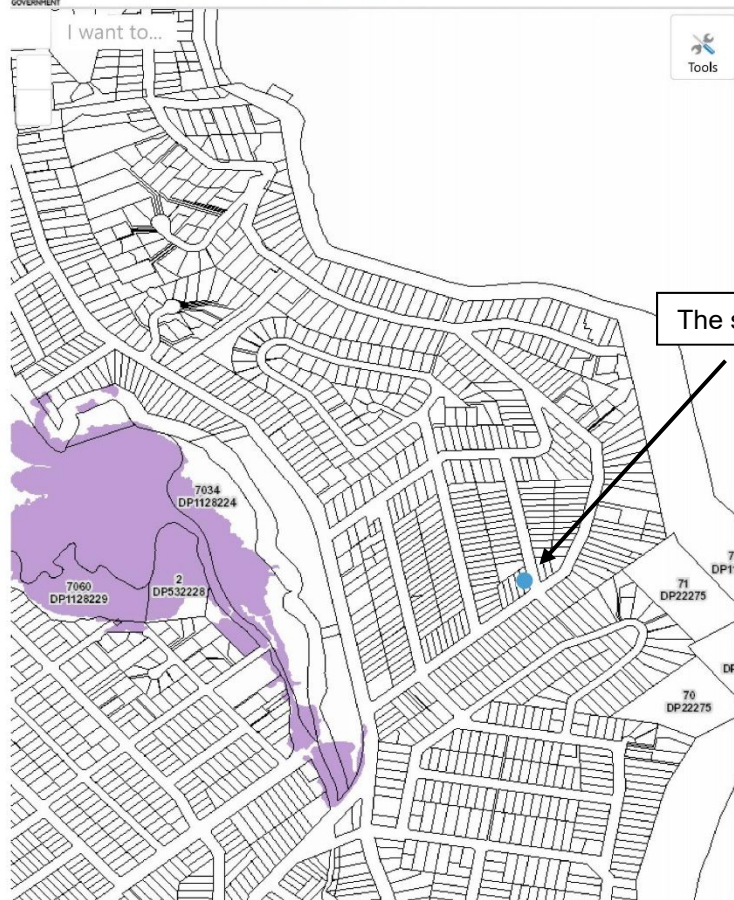
Question 8 - Is your proposed development likely to significantly affect threatened species or ecological communities, or their habitats, or being carried out in a declared area of outstanding biodiversity value?

No

No - You do not need to obtain a Biodiversity Development Assessment Report to submit with your development application. The consent authority (which may be your local council) will consider whether to grant development consent. Your application of the test under section 7.3 of the *Biodiversity Conservation Act 2016* and evidence that your proposal does not trigger the offset scheme threshold must be included with your development application.



Biodiversity Values Map and Threshold Tool



0 100 200m